

Moser v. Howard County Board, 235 Md. 279 (1964), the Court of Appeals spelled out five tests for determining whether a position constitutes a public office:

1. The position was created by law and casts upon the incumbent duties which are continuing in nature and not occasional.
2. The incumbent performs an important public duty.
3. The position calls for the exercise of some portion of the sovereign power of the State.
4. The position has a definite term for which a commission is issued, a bond required, and an oath required.
5. The position is one of dignity and importance.

The additional test for determining whether a particular office is one "of profit" has been discussed in two recent opinions of this office. See 60 Opinions of the Attorney General 121 (1975) and 61 Opinions of the Attorney General 152 (1976). A position will not be considered an office of profit if no fee, salary or other compensation is provided.

It has been held that the most important characteristic of a public office is the exercise of some part of the sovereign power of the state by the holder of the office. Nesbitt v. Fallon, 203 Md. 534 (1954).

Applying these tests to the members of the Committee, we find that Chapter 437 of the Acts of 1937 established the Committee (Section 8-201, Agriculture Article). Among the duties provided by law for the Committee are to: employ administrative, technical and clerical employees for the Committee and for assignment to the soil conservation districts; cooperate with local governments to provide personnel, space and other items or assistance for the districts; accept local financial or other aid to supplement State funding to the districts; expend State funds to administer the soil conservation program (8-203); accept, manage and dispose federal funds and commodities (8-204); "perform acts, hold public hearings, and, subject to the approval of the Secretary, adopt rules and regulations necessary for the execution of its functions under this subtitle" (8-205(a)); assist and advise the soil conservation district supervisors, coordinate the programs of the districts, secure the cooperation and assistance of United States and State agencies, encourage the formation of districts where needed, grant available funds to the districts for use in implementing the soil conservation program, provide for the execution of surety bonds for personnel entrusted with funds or property (8-205(c)).