# WORDS AND PHRASES

PERMANENT EDITION

35

PROXY TO PUBLIC OWNERSHIP

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# WORDS AND PHRASES™

**PERMANENT EDITION**


## Volume 35

## PROXY — PUBLIC OWNERSHIP

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F.Supp. 1357, affirmed Time Warner Cable of New York City, a division of Time Warner Entertainment Co., L.P. v. Bloomberg L.P., 118 F.3d 917.—Tel 1230.

### PUBLIC EDUCATIONAL PROGRAM

Ga. 1964. A county junior college was a "public educational program" within statute authorizing county boards to condemn for any public educational program authorized by law. Const. art. 8, § 5, par. 1; Laws 1958, pp. 47-50 as amended by Laws 1964, p. 686.—Sheppard v. DeKalb County Bd. of Ed., 138 S.E.2d 271, 220 Ga. 219.—Em Dom 40.

### PUBLIC ELECTION

N.C. 1911. A primary election for nomination of county officers is a "public election," and any conduct on the part of the managers thereof which interferes with the freedom or purity thereof is punishable at common law.—State v. Cole, 72 S.E. 221, 156 N.C. 618.—Elections 310.

### PUBLIC ELECTIVE OFFICE

Tex. 1950. Dispute over membership of state executive committee of Democratic Party did not involve a contest for place on primary ticket for "public elective office" and action of convention thereon was final. Vernon's Ann.Civ.St. arts. 3107, 3146.—Carter v. Tomlinson, 227 S.W.2d 795, 149 Tex. 7.—Elections 121(2).

### PUBLIC ELECTRIC FACILITY

Colo.App. 2002. Electrical vault was a "public electric facility" within meaning of statute waiving town's immunity under the Governmental Immunity Act in personal injury action by woman after she tripped over metal manhole cover on vault, even though cover was located on restaurant's private property and transformer in vault provided electricity exclusively to restaurant; use of transformers and electrical vaults were necessary for efficient delivery of electrical power over town's electrical supply system, and thus vault provided public benefit through efficient delivery of electricity. West's C.R.S.A. § 24-10-106(1)(e, f).—Ellis v. Town of Estes Park, 66 P.3d 178, modified on denial of reconsideration en banc, and certiorari denied.—Mun Corp 775.

### PUBLIC ELEVATOR

Kan. 1912. An elevator in which the grain of different owners is kept entirely separate, but in which the grain of the same owner, delivered at different times, is mixed together, is not a "public elevator" within Laws 1907, c. 222, § 19, Gen.St. 1909, c. 37, art. 1, § 3345, relating to inspection.—State v. Atchison, T. & S.F. Ry. Co., 125 P. 98, 87 Kan. 348, 87 Kan. 565.—Inspect 3.

### PUBLIC EMERGENCY

Me. 1939. In determining whether a statute preventing the enforcement of claims against a city was justified as emergency legislation, fact that the statute was not enacted "in case of emergency" in denial of right of referendum, while not conclusive on question of "public emergency," was of some significance. Pub.Laws 1933, Sp.Sess., c. 284, as amended by Pub.Laws 1937, c. 233; Const. Me. Amend. 31; U.S.C.A. art. 1, § 10.—Waterville Realty Corp. v. City of Eastport, 8 A.2d 898, 136 Me. 309.—Const Law 117.

Me. 1939. In determining whether the enactment of a statute allegedly impairing obligation of contracts was justified by public emergency, the fact that act was entitled as one "Creating a Board of Emergency Municipal Finance," without expression of facts in a preamble constituting a public emergency, does not compel a conclusion that there was a "public emergency" rather than one solely private affecting only certain municipalities. Pub.Laws 1933, Sp.Sess., c. 284, as amended by Pub.Laws 1937, c. 233; U.S.C.A.Const. art. 1, § 10.—Waterville Realty Corp. v. City of Eastport, 8 A.2d 898, 136 Me. 309.—Const Law 117.

Wash. 1932. That over 50,000 persons in county need public aid held "public emergency" warranting county commissioners to appropriate $200,000 beyond statutory debt limit of county for poor relief. Const. art. 8, § 7; Rem.Comp.Stat. §§ 9981–9992; Rem.Comp.Stat.Supp.1927, § 3997–8.—Rummens v. Evans, 13 P.2d 26, 168 Wash. 527.—Counties 150(2).

### PUBLIC EMOLUMENTS OR PRIVILEGES

Conn. 1947. The provision of state constitution that no men are entitled to exclusive "public emoluments or privileges" means the same as equal protection clause of 14th Amendment and neither provision prevents legislation applicable only to particular class of persons, if there is some material and substantial difference, germane to subject and purpose of legislation, between those within and those without such class. Const. art. 1, § 1; U.S.C.A.Const. Amend. 14.—Franco v. City of New Haven, 52 A.2d 866, 133 Conn. 544.—Const Law 208(1), 213.1(2).

### PUBLIC EMPLOYE

Or. 1979. For purposes of statute governing transfer of public employees, phrase "public employe" does not include teachers in public schools. ORS 236.610(2).—Davis v. Wasco Intermediate Educ. Dist., 593 P.2d 1152, 286 Or. 261.—Schools 147.2(1).

### PUBLIC EMPLOYEE

C.A.8 (Mo.) 1982. Accounting firm hired to audit books and records of school board was not a "public employee," but, rather, an independent contractor and could be denied auditing contract with city in succeeding years solely because of the political affiliation. 42 U.S.C.A. § 1983; U.S.C.A.Const.Amend. 1; V.A.M.S. § 165.181.—Fox & Co. v. Schoemehl, 671 F.2d 303.—Const Law 82(11); Schools 77.

C.A.9 (Or.) 1978. Where, during time in question, taxpayer was employed in Washington, D.C.,

by United States Senate as an administrative assistant to United States Senator, where taxpayer was compensated in the amount of approximately $1,200 per year, where taxpayer had definite work assignment and there was no indication that taxpayer accepted public employment as a tax dodge, and where taxpayer earned approximately 98% of his income from his Oregon based business activities, taxpayer was a "public employee" and was therefore entitled to deduct all ordinary and necessary expenses incurred by him in performing his duties as administrative assistant. 26 U.S.C.A. (I.R.C. 1954) §§ 162, 7701(a)(26).—Frank v. U.S., 577 F.2d 93, 52 A.L.R. Fed. 387.—Int Rev 3316.

C.C.A.5 (Tex.) 1936. School district's operation of nonprofit cafeterias serving pupils and teachers exclusively *held* proper exercise of "governmental function," and superintendent of cafeteria system was not "independent contractor," but was "public employee" of political subdivision of state engaged in performing governmental functions, and hence her salary was exempt from federal income tax; fact that cafeteria receipts were kept separate not making cafeteria system a separate entity. Sp.Laws Tex.1925, c. 230.—Hoskins v. Commissioner of Internal Revenue, 84 F.2d 627.—Int Rev 3564.

D.D.C. 2005. Employee of St. Elizabeths Hospital in District of Columbia was "public employee" for purposes of her free speech retaliation claim, since, during relevant time period, Hospital was under court-ordered receivership. U.S.C.A. Const. Amend. 1.—Lerner v. District of Columbia, 362 F.Supp.2d 149, appeal dismissed 2005 WL 3789087.—Const Law 90.1(7.2); Health 266.

M.D.La. 1982. A gubernatorial appointment to a prestigious, nonsalaried position on board of supervisors of a state university, requiring Senate consent under the Constitution, is not "public employment" and the appointee is not a "public employee." LSA-Const. Art. 8, § 7(A, C); LSA-R.S. 17:3206, 17:3351, subd. A.—Dumas v. Treen, 551 F.Supp. 1162.—Colleges 7.

D.N.J. 1981. While employed by the American Stock Exchange as compliance attorney, lawyer was "public employee" within disciplinary rule stating that lawyer should not accept private employment in matter in which he had substantial responsibility while he was a public employee. ABA Code of Professional Responsibility, DR9-101(B).—Flego v. Philips, Appel & Walden, Inc., 514 F.Supp. 1178.—Atty & C 21.5(2).

Ala.Civ.App. 1986. Individual, to be "officer," subject to constitutional oath requirement, must exercise his duties in his own right and not by permission and under supervision and control of another, while "public employee," is not given any part of sovereign power. Const. § 279; U.S.C.A. Const. Art. 6, cl. 1 et seq.; 4 U.S.C.A. § 101.—Burdette v. State Dept. of Revenue, 487 So.2d 944.—Offic 36(1).

Cal.App. 2 Dist. 1970. Public administrator was "public employee" within statute exempting public employee from liability for injury resulting from his act or omission which resulted from exercise of discretion vested in him. West's Ann.Gov.Code, § 820.2.—Saltares v. Kristovich, 85 Cal.Rptr. 866, 6 Cal.App.3d 504.—Offic 114.

Colo. 1997. Director of county department of social services was not "public employee" of state within meaning of Governmental Immunity Act, and therefore state had no duty to indemnify director in employment discrimination lawsuit brought by former employee of department, though department was division of state for administrative purposes, where county board controlled director's performance and was responsible for hiring, paying and dismissing director. West's C.R.S.A. §§ 24–10–103(4)(a), 24–10–110(1)(a), (1)(b)(I).—Norton v. Gilman, 949 P.2d 565.—States 62.

Colo. 1934. Compensation claimant injured while employed by private mining corporation to whom lease of state school lands was assigned was not "public employee" entitled to compensation from state board of land commissioners as public employer, C.L. §§ 4382, 4383, 4423, 4424.—Industrial Com'n v. State Compensation Ins. Fund, 29 P.2d 372, 94 Colo. 194.—Work Comp 377.

Fla. 1979. Deputy sheriff was not a "public employee" within statutory definition and, hence, was not entitled to a fair and equitable grievance procedure to determine whether probable cause existed for his termination by incoming sheriff. West's F.S.A. §§ 447.01 et seq., 447.401.—Ison v. Zimmerman, 372 So.2d 431.—Sheriffs 21.

Fla.App. 1 Dist. 1979. "Public employee," as defined under statute governing public employee labor organizations, includes graduate assistants. West's F.S.A. § 447.203(2, 3).—Board of Regents v. Public Emp. Relations Com'n, 368 So.2d 641, certiorari denied 379 So.2d 202.—Labor & Emp 975.

Ind.App. 1 Dist. 1991. Sheriff is a "public employee" within notice provisions of Tort Claims Act. West's A.I.C. 34–4–16.5–2, 36–2–13–5.—Hupp v. Hill, 576 N.E.2d 1320.—Sheriffs 129.

Iowa 1959. There is a clear distinction between a "public officer" and a "public employee", and a public officer, as distinguished from a public employee, must be invested by law with a portion of the sovereignty of the state and authorized to exercise functions either of an executive, legislative or judicial character.—Francis v. Iowa Employment Sec. Commission, 98 N.W.2d 733, 250 Iowa 1300.—Offic 1.

Iowa 1959. Woman who had held positions of county superintendent of schools and state superintendent of public instruction which were statutory elective positions with officeholder delegated some of sovereign functions of government performed without control of superior officer was a "public officer" and not a "public employee" within statute providing for pensions for employees in public schools of state with record of service of 25 years or more, and time woman served in such position could not be included in determining her qualifications for pension. I.C.A. §§ 97B.41, subds. 2, 3, par. b, 97C.2, subd. 3, 294.15.—Francis v. Iowa Employ-

ment Sec. Commission, 98 N.W.2d 733, 250 Iowa 1300.—Schools 47, 48(5).

Kan. 1975. While investigating complaints of discriminatory employment practices, the Kansas Commission on Civil Rights is a "public employee" in the performance of its public duties within the meaning of the exception as to confidentiality of information contained in employment security law. K.S.A. 44–714(f).—Kansas Commission on Civil Rights v. Carlton, 533 P.2d 1335, 216 Kan. 735.—Records 31.

La. 1956. The statute conferring a privilege on reports filed with the state and providing that they shall not be open to public inspection other than to "public employees in the performance of their public duties" does not apply to information acquired by the District Attorney who is a "public employee" and who in using such reports in a prosecution for conducting a lottery, was engaged in the performance of his "public duties". LSA–R.S. 23:1660.—State v. Mills, 86 So.2d 895, 229 La. 758, certiorari denied Vernaci v. State of Louisiana, 77 S.Ct. 51, 352 U.S. 834, 1 L.Ed.2d 53, certiorari denied Callia v. State of Louisiana, 77 S.Ct. 52, 352 U.S. 834, 1 L.Ed.2d 53.—Records 31.

La.App. 1 Cir. 1996. Term "public employee" in ethics law encompasses those engaged in performance of governmental function, as well as those under supervision of elected official or another employee of governmental entity. LSA-R.S. 42:1102(18)(c, d).—Fulda v. State, 668 So.2d 1381, 1995-1740 (La.App. 1 Cir. 2/23/96), writ granted, decision reversed 673 So.2d 201, 1996-0647 (La. 5/10/96).—Offic 110.

La.App. 3 Cir. 1992. Statute defining "public officer" and "public employee," for purposes of offense of public intimidation, is sufficiently broad to include police officers. LSA-R.S. 14:2(9), 14:122.—State v. Love, 602 So.2d 1014.—Extort 25.1.

Mass.App.Ct. 1984. Where physician at state hospital was paid fixed weekly salary by Commonwealth as permanent employee and his compensation was drawn from Commonwealth's salary account, was participant in contributory retirement plan and medical insurance plan offered to employees of Commonwealth, was assigned office at hospital and was available to patients on 24–hour basis, worked minimum of 40 hours per week, and did not treat private patients and attended only those patients assigned to him by hospital, physician was "public employee" immune from liability under Tort Claims Act for alleged negligent treatment of patient. Rules Civ.Proc., Rule 12(b), 43A M.G.L.A.; M.G.L.A. c. 258, §§ 1 et seq., 2.—Florio v. Kennedy, 464 N.E.2d 1373, 18 Mass.App. Ct. 917.—Health 770.

Mich.App. 1991. Deputy county sheriff was not a "public official" but, rather, was a "public employee" whose resignation was effective on date it was submitted and, thus, after deputy submitted unconditional letter of resignation, he could not bring wrongful discharge action. M.C.L.A. § 51.70.—Schultz v. Oakland County, 466 N.W.2d 374, 187 Mich.App. 96.—Sheriffs 21.

Mich.App. 1989. City finance director, who was executive and thus could not be member of residual supervisory bargaining unit, was however, "public employee" entitled to participation in lawful organizational activity without interference or restraint or coercion by public employer, and was entitled to be free from discrimination in regard to hiring, terms, or other conditions of employment in order to encourage or discourage membership in labor organization. M.C.L.A. §§ 423.202, 423.209, 423.210(1)(a, c).—International Union, United Auto., Aerospace and Agr. Implement Workers of America, UAW-Technical Office, Professional Dept. v. City of Sterling Heights, 439 N.W.2d 310, 176 Mich.App. 123, appeal denied.—Labor & Emp 999.

Mich.App. 1983. "Public employee" under Public Employment Relations Act includes person holding position by employment in state public school service. M.C.L.A. §§ 380.1 et seq., 423.202.—West Ottawa Educ. Ass'n v. West Ottawa Public Schools Bd. of Educ., 337 N.W.2d 533, 126 Mich.App. 306.—Labor & Emp 975.

*Minn. 1943. A "public officer" is distinguished* from a "public employee" in the greater importance, dignity, and independence of the former's position.—Tillquist v. Department of Labor and Industry, Industrial Commission, Division of Boiler Inspection, 12 N.W.2d 512, 216 Minn. 202.—Offic 1.

Minn.App. 1985. A high school vice-principal and teacher is a "public employee" within meaning of statute defining and punishing misconduct of a public employee. M.S.A. § 609.43(2).—State v. Ford, 377 N.W.2d 62, review granted, reversed 397 N.W.2d 875.—Offic 121.

Miss. 1941. Whether secretary of Board of Barber Examiners is a member of the board is immaterial as affecting right of state auditor to sue for misapplication of funds, since in either event, secretary would be a "public officer" or "public employee". Code 1930, § 7179; Laws 1932, c. 118, § 4.—Causey v. Phillips, 4 So.2d 215, 191 Miss. 891.—Admin Law 118.1; Licens 21.

N.H. 2002. Town clerk was not a "chief executive" within meaning of statutory definition of public employee excluding those appointed by the chief executive, and thus deputy town clerk/tax collector, who was appointed by town clerk, was a "public employee" who could be included in bargaining unit. RSA 41:18, 273–A:1, IX (b).—In re Town of Litchfield, 790 A.2d 135, 147 N.H. 415.—Labor & Emp 1182.

N.H. 1999. Term "irregular" is defined as lacking continuity or regularity of occurrence, activity, or function, and term "on call" means ready to respond to a summons or command as those terms are used in statute defining "public employee" as any person employed by a public employer except persons in a probationary or temporary status or employed seasonally, irregularly, or on call. RSA

273–A:1, subd. 9(d).—In re Town of Stratham, 743 A.2d 826, 144 N.H. 429.—Offic 1.

N.H. 1996. As used in Public Employee Labor Relations Act, terms "public employer" and "public employee" refer to the executive, not the legislative, branch of State government. RSA 273–A:1, subds. 9, 10.—Appeal of House Legislative Facilities Subcommittee, 685 A.2d 910, 141 N.H. 443.—Labor & Emp 975.

N.J. 1999. Under "relative nature of the work" test, clinical professor who was employed by state university, but who practiced medicine at affiliated private hospital, was "public employee" entitled to timely notice under Tort Claims Act (TCA) of medical malpractice claim arising from surgery he performed in hospital; surgeon was economically dependent on university not only because it paid his salary, but also because it assumed responsibility for all economic aspects of his practice, and numerous goals of faculty practice program would be defeated if faculty practicing at affiliated hospitals were not public employees. N.J.S.A. 18A:64G–2, 59:1–3, 59:8–3, 59:8–8.—Lowe v. Zarghami, 731 A.2d 14, 158 N.J. 606.—States 197.

N.J.Super.L. 1992. Counsel for Turnpike Authority was "public employee" who was thus entitled to immunity under Tort Claims Act with respect to landowner's claim that counsel engaged in criminal, fraudulent, malicious or willful misconduct in advising landowner that Authority might be required to condemn portion of landowner's land. N.J.S.A. 59:1–3.—National Amusements, Inc. v. New Jersey Turnpike Authority, 619 A.2d 262, 261 N.J.Super. 468, affirmed 645 A.2d 1194, 275 N.J.Super. 134, certification denied 649 A.2d 1288, 138 N.J. 269.—States 53, 79.

N.J.Super.L. 1983. Although railroad policemen are state officials, a railroad man is not a "public employee" for purpose of holding the state vicariously liable under Tort Claims Act and, also, the state is not directly liable because it commissions policemen as such commissioning is a "similar authorization" within meaning of provision granting absolute immunity for injuries allegedly caused by issuance of a permit, etc., or similar authorization. N.J.S.A. 59:1–3, 59:2–2, 59:2–5.—Vacirca v. Consolidated Rail Corp., 470 A.2d 50, 192 N.J.Super. 412.—States 112.1(3).

N.M. 1991. Guardian ad litem was not "public employee," within meaning of Tort Claims Act. NMSA 1978, § 41–4–3, subd. E(3).—Collins on Behalf of Collins v. Tabet, 806 P.2d 40, 111 N.M. 391.—Offic 116.

N.M.App. 1997. Participant in state-mandated workfare program who was required to work at public agency to continue his family's public assistance was not "public employee" for purposes of felony charge of misappropriation of public assistance; workfare participant's work was not voluntary, and he did not receive "remuneration" for services performed. NMSA 1978, § 30–40–3, subd. A.—State v. Dartez, 952 P.2d 450, 124 N.M. 455, 1998-NMCA-009, certiorari denied 950 P.2d 284, 124 N.M. 311.—Offic 121.

N.M.App. 1994. Wrongfully terminated police officer was "public employee," whose back pay could be reduced by amount employee earned between discharge and reinstatement, rather than "public officer" who was entitled to full back pay without deduction of interim wages.—Walck v. City of Albuquerque, 875 P.2d 407, 117 N.M. 651, certiorari denied 884 P.2d 1174, 118 N.M. 695.—Mun Corp 186(4).

N.Y. 1977. "Public employee" within statute precluding public employees from receiving licenses from the State Racing Commission refers to employment relation in the public sector and not to any status in horseracing activities, and includes patrolmen in city police department. McK.Unconsol.Laws, § 8052, subd. 1.—Suffel v. New York City Police Dept., 397 N.Y.S.2d 628, 42 N.Y.2d 851, 366 N.E.2d 288.—Pub Amuse 33.

N.Y.A.D. 1 Dept. 1978. Branch manager of Catskill regional offtrack betting corporation was neither a "public officer" nor "public employee" within meaning of statute that no public officer or employee shall hold a license from State Racing and Wagering Board. McK.Unconsol.Laws, §§ 8052, 8052, subds. 1, 3, 3(b), 8113, 8162, subd. 1.—Petillo v. New York State Racing and Wagering Bd., 406 N.Y.S.2d 471, 63 A.D.2d 952, appeal dismissed 45 N.Y.2d 838.—Offic 18.

N.Y.A.D. 2 Dept. 1989. County director of probation was not a "public officer" who was required to file official oath within 30 days after commencement of term, but was only a "public employee" who had to take and file oath upon original appointment to public employment and since he had taken oath upon appointment as assistant director of probation, he could not be terminated as county director for neglecting to take and file oath of office. McKinney's Public Officers Law § 1 et seq.; McKinney's Executive Law §§ 256, 257, subds. 1, 6; McKinney's Civil Service Law §§ 52, 62; McKinney's CPLR 7803, subd. 3.—Fanelli v. O'Rourke, 537 N.Y.S.2d 252, 146 A.D.2d 771.—Courts 55; Offic 36(1), 69.7.

N.Y.A.D. 3 Dept. 1992. Probationary teacher at youth detention facility operated by state was "public employee" as defined by Civil Service Law, and thus, was entitled to its protection. McKinney's Civil Service Law § 75–b, subd. 1(b).—Hanley v. New York State Executive Dept., Div. for Youth, 589 N.Y.S.2d 366, 182 A.D.2d 317.—Offic 69.6.

N.Y.A.D. 3 Dept. 1931. County attorney appointed by board of supervisors held not "public officer," but "public employee," as respects right to hold over and to compensation. Public Officers Law, § 5; County Law, § 210.—People ex rel. Dawson v. Knox, 247 N.Y.S. 731, 231 A.D. 490, affirmed 196 N.E. 582, 267 N.Y. 565.—Dist & Pros Attys 2(5).

N.Y.Sup. 2003. Civilian airport firefighter employed by State Division of Military and Naval Affairs (DMNA) was "public employee" as he held position by appointment in the employment of a public employer within purview of Taylor Law. McKinney's Civil Service Law § 201, subd. 7(a).—

Lebrun v. McGuire, 764 N.Y.S.2d 565, 196 Misc.2d 874.—Militia 12.

N.Y.Sup. 1978. In light of the duties of city's director for youth, he was a "public officer" rather than a "public employee," and thus had no vested property rights in his employment and was not entitled to due process protection which would flow from such rights, nor was he protected by the Civil Service Law, and his dismissal, allegedly on patronage grounds, was not precluded. Civil Service Law § 1 et seq.—Gallagher v. Griffin, 402 N.Y.S.2d 516, 93 Misc.2d 174.—Const Law 102(1), 277(2); Mun Corp 125, 156.

N.Y.Sup. 1950. Nature of duties is an important element in distinguishing a public officer from a public employee, and if duties involve exercise of sovereign powers the incumbent is a "public officer," whereas if duties are routine, subordinate, advisory or directed, he is a "public employee".—Application of Barber, 100 N.Y.S.2d 668, 198 Misc. 135, affirmed 101 N.Y.S.2d 924, 278 A.D. 600, appeal denied 103 N.Y.S.2d 661, 278 A.D. 727.—Offic 1.

N.Y.Sup. 1950. Where chief engineer of fire department of fire district was by statute clearly under jurisdiction, direction and control of board of fire commissioners, chief engineer was merely a "public employee" and not a "public officer" entitled to restrictions with respect to removal contained in public officers' law, but was subject to removal by the board of commissioners. Public Officers Law §§ 2, 36; Town Law, §§ 174, 176, subd. 11–a, 176–a.—Application of Barber, 100 N.Y.S.2d 668, 198 Misc. 135, affirmed 101 N.Y.S.2d 924, 278 A.D. 600, appeal denied 103 N.Y.S.2d 661, 278 A.D. 727.—Towns 28.

N.C.App. 2005. County building inspector was a "public official," rather than a "public employee," and, therefore, was not personally liable in individual capacity for allegedly negligent inspection; even though the inspector was not the chief inspector, he had a position created by statute, exercised a portion of the sovereign power delegated to him, and used discretion, and the complaint against him did not allege malicious or corrupt conduct. West's N.C.G.S.A. § 160A–411.—McCoy v. Coker, 620 S.E.2d 691.—Counties 92.

N.C.App. 1996. Several basic distinctions exist for purposes of categorizing worker as either public officer or public employee; "public officer" is someone whose position is created by Constitution or statutes of sovereign, and essential difference between public office and mere employment is fact that duties of incumbent of office shall involve exercise of some portion of sovereign power, as officers exercise certain amount of discretion, while "public employee" is one who performs ministerial duties.—Meyer v. Walls, 471 S.E.2d 422, 122 N.C.App. 507, review allowed 476 S.E.2d 119, 344 N.C. 438, affirmed in part, reversed in part 489 S.E.2d 880, 347 N.C. 97.—Offic 1.

N.C.App. 1996. Supervisor of adult protective services unit of county department of social services and social worker for department were each considered to be "public employee" and not "public officer", and both could be held personally liable in their individual capacities, for purposes of action brought against them by administrator of estate of mental patient who committed suicide after being committed to custody of county; positions were neither expressly created by statute nor ones involving exercise of sovereign power.—Meyer v. Walls, 471 S.E.2d 422, 122 N.C.App. 507, review allowed 476 S.E.2d 119, 344 N.C. 438, affirmed in part, reversed in part 489 S.E.2d 880, 347 N.C. 97.—Counties 93.

N.C.App. 1993. "Public officer" is usually required to take oath of office and is vested with discretionary power, while "public employee" is responsible for executing only ministerial duties; while "discretionary" duties entail exercising some portion of sovereign power and involve personal deliberation, decision, and judgment, "ministerial" duties are those which are absolute, certain, and imperative, involving merely execution of specific duty arising from fixed and designated facts.—Messick v. Catawba County, N.C., 431 S.E.2d 489, 110 N.C.App. 707, review denied 435 S.E.2d 336, 334 N.C. 621.—Offic 1, 110.

N.C.App. 1988. Parole case analyst was "public employee," rather than "public official," and thus, analyst could be held liable for alleged negligence and false imprisonment in connection with delay in consideration of inmate for release on parole; analyst's position was not created by statutory provision, and record was devoid of any sovereign power exercised by analyst.—Harwood v. Johnson, 374 S.E.2d 401, 92 N.C.App. 306, review allowed 377 S.E.2d 754, 324 N.C. 247, affirmed in part, reversed in part 388 S.E.2d 439, 326 N.C. 231, rehearing denied 392 S.E.2d 90, 326 N.C. 488.—Pardon 56.

Ohio 1998. Attorney was "public employee" for purposes of compulsory membership in Public Employees Retirement System (PERS) during the 14 years she was employed by county public defender's office. R.C. § 145.01(A)(1).—State ex rel. Mallory v. Pub. Emp. Retirement Bd., 694 N.E.2d 1356, 82 Ohio St.3d 235, 1998-Ohio-380.—Offic 101.5(1).

Ohio 1952. Member of board of elections was not an elective officer and hence not a public officer but a "public employee" within code provision making membership in public employees' retirement system compulsory for all public employees unless they are exempted by retirement board for specified reasons. Gen.Code, §§ 486–32 to 486–33a, 486–51, 486–59, 486–65, 4785–6 to 4785–8.—State ex rel. Boda v. Brown, 105 N.E.2d 643, 157 Ohio St. 368, 47 O.O. 262.—Elections 55.

Or.App. 2000. Teachers in public schools are excluded from the definition of "public employee" under the Public Employee Transfer Law. ORS 236.605(1).—Bain v. Willamette Educ. Service Dist., 13 P.3d 1021, 170 Or.App. 689.—Schools 147.2(1).

Or.App. 1977. Substitute teachers employed by school district, a public employer, were "public employees" under collective bargaining section of Public Employees Rights and Benefits Law which

defines "public employee" as employee of public employer not including elected officials, persons appointed to serve on boards or commissions, or confidential or supervisory employees, in that there was no evidence of legislative intent requiring that exception for those employees not having substantial and continuing relationship with public employer be read into plain language of statute, and thus substitute teachers could be represented by collective bargaining agent if they were appropriate bargaining unit. ORS 243.650(17).—Eugene School Dist. No. 4J v. Eugene Substitute Teacher Organization, 572 P.2d 650, 31 Or.App. 1255.—Labor & Emp 1109.

Pa. 1999. Chairman of city parking authority received no compensation, and, therefore, was not a "public official" or "public employee," so as to preclude him from being member of regional asset district board. 16 P.S. §§ 6102–B, 6117–B; 53 P.S. § 348(b).—Allegheny Institute Taxpayers Coalition v. Allegheny Regional Asset Dist., 727 A.2d 113, 556 Pa. 102, certiorari denied Schaefer v. DeStefano, 121 S.Ct. 1663, 532 U.S. 998, 149 L.Ed.2d 644.—Mun Corp 142.

Pa. 1999. Attorney who was acting as city solicitor was "public employee," subject to investigation under conflict of interest provisions of Ethics Act; attorney was hired by mayor to fill position of solicitor as full-time public employee of city, attorney received salary, benefits, and other emoluments of employment, and, as solicitor, attorney was responsible for taking or recommending official action of a nonministerial nature. 65 P.S. §§ 402, 403.—P.J.S. v. Pennsylvania State Ethics Com'n, 723 A.2d 174, 555 Pa. 149.—Mun Corp 170.

Pa. 1958. One who had been initially appointed as a policeman and subsequently appointed as chief of police was a "public employee", not a "public officer", and, therefore, any sums earned by him in a private capacity during his period of improper dismissal from his position as chief of police was properly deducted from salary due him as chief of police during his suspension due to the purported dismissal.—Vega v. Borough of Burgettstown, 147 A.2d 620, 394 Pa. 406.—Mun Corp 182.

Pa.Cmwlth. 1997. Borough solicitor is not a "public employee" within scope of State Ethics Act, and therefore is not subject to jurisdiction of State Ethics Commission. 65 P.S. § 402.—C.P.C. v. State Ethics Com'n, 698 A.2d 155, appeal denied 704 A.2d 640, 550 Pa. 686.—Mun Corp 170.

Pa.Cmwlth. 1992. Duties of city fire captain in charge of arson investigations rendered captain a "detective" as term was used in State Ethics Commission's regulations, and captain thus was not a "public employee" subject to Ethics Act. 65 P.S. §§ 403(a), 404(a).—Hitchings v. Pennsylvania State Ethics Com'n, 607 A.2d 866, 147 Pa.Cmwlth. 384.—Mun Corp 202.

Pa.Cmwlth. 1984. Where class specifications of petitioner's position as claim settlement agent with Department of Public Welfare revealed that he had authority to investigate standing of present and past public assistance clients in order to obtain restitution and reimbursement, to analyze information on individual claims, to negotiate for sale and rental of property, and to use his discretion and judgment in carrying out such activities, petitioner was "public employee" for purposes of Ethics Act, notwithstanding his contention that certain employees who exercised more discretion than he did were not considered to be public employees. 43 P.S. § 892(11); 64 P.S. § 402.—Phillips v. Com., State Ethics Com'n, 470 A.2d 659, 79 Pa.Cmwlth. 491.—Social S 5.

Tex.App.–Fort Worth 2001. Alderman who was elected, not appointed, and who received no compensation, wages, or salary from the city for his performance of his duties as alderman was not "paid" to perform services for the city as either an employee or an elected official, and was thus not a "public employee" under the Whistleblower Act, such that reporting on his violation of law would be protected. V.T.C.A., Government Code § 554.001(4).—City of Cockrell Hill v. Johnson, 48 S.W.3d 887, review denied.—Offic 69.7.

Tex.App.–Beaumont 2004. Municipal court judge was not a "public employee" within meaning of the Whistleblower Act, although city controlled the hours the judge worked, provided his supplies, his office, and support personnel, and had general power to appoint or not reappoint judge; city did not control details of the judge's judicial work, and, pursuant to separation of powers doctrine, municipal judge had to be independent of city council in exercising judicial power. Vernon's Ann.Texas Const. Art. 2, § 1; V.T.C.A., Government Code § 554.001(4).—City of Roman Forest v. Stockman, 141 S.W.3d 805.—Judges 7.

Tex.App.–Houston [14 Dist.] 1992. Custodian did not satisfy statutory requirements to be designated a "public employee" of school district where evidence indicated that servicing company hired, paid wages, withheld taxes, and solely directed and supervised work responsibility details for custodian, as well as providing him equipment and instigating his discharge; additionally, agreement between school district and servicing company disclosed that servicing company was an independent contractor for school district. Vernon's Ann.Texas Civ.St. art. 6252–16a, §§ 1(3), 2.—Alaniz v. Galena Park Independent School Dist., 833 S.W.2d 204.—Schools 63(1).

Wash. 1998. County deputy prosecutors were appointed for "specified term of office," within meaning of Public Employees' Collective Bargaining Act provision excluding public employees who are appointed for specified term of office from the Act's definition of "public employee," and thus, Public Employment Relations Commission (PERC) did not have jurisdiction over county deputy prosecutors' unfair labor practice complaints; terms of office for deputy prosecutors coincided with the term of office for the elected prosecutor, who had authority to appoint an entirely new staff of deputy prosecutors upon election. West's RCWA 36.27.040, 41.56.030(2)(b).—Spokane County v. State, 966 P.2d 305, 136 Wash.2d 644.—Labor & Emp 1676(1).

Wis.App. 1987. Jurors perform "official function" on behalf of the Government when they take oath to hear and decide case in accord with state law; therefore, juror was "public employee," within meaning of bribery statute. W.S.A. 939.22(30), 946.10(2).—State v. Sammons, 417 N.W.2d 190, 141 Wis.2d 833.—Brib 1(2).

Wyo. 1985. Any governmental entity employee whose sovereign immunity has been abrogated and against whom liability has been alleged is a "public employee" within statute requiring government entity to provide a defense to the employee and to save him harmless and indemnify the employee against any tort claim or judgment. W.S.1977, §§ 1–39–104(a, b), 1–39–105, 27–12–103(a).—Hamlin v. Transcon Lines, 697 P.2d 606, rehearing denied 701 P.2d 1139.—Offic 119.

## PUBLIC EMPLOYEES

C.A.4 (Va.) 1973. Federal police officers are "public employees" within regulation proscribing impeding and disturbing public employees in the performance of their duties. 40 U.S.C.A. § 318.—U.S. v. Schembari, 484 F.2d 931.—Obst Just 7.

W.D.Mich. 1974. For purposes of Michigan's Public Employment Relations Act, all teachers are "public employees," irrespective of the existence or terms of a collective bargaining agreement or of an understanding or of individual contracts or terms of employment. M.C.L.A. § 423.201 et seq.—Lake Michigan College Federation of Teachers v. Lake Michigan Community College, 390 F.Supp. 103, reversed 518 F.2d 1091, certiorari denied 96 S.Ct. 3189, 427 U.S. 904, 49 L.Ed.2d 1197.—Labor & Emp 975.

E.D.Pa. 1982. Library administered by school district was not "agency" by virtue of its relationship with school district and, as such, was not shielded from suit by school district's immunity where school district, but not library, complied with relevant provisions of Pennsylvania Ethics Act, which circumscribe and regulate conduct of "public employees," notices of school district complied with requirement of Open Meeting Law but those of library did not, library filed with Internal Revenue Service, and court order establishing library clearly intended that two entities, i.e., library and school district, would maintain separate identities. 42 Pa. C.S.A. § 8541 et seq.; 65 Pa.P.S. §§ 251 et seq., 401 et seq., 402.—Bliss v. Allentown Public Library, 534 F.Supp. 356.—Schools 89.

E.D.Pa. 1981. For First Amendment purposes, specifically, discharge because of political affiliation, local registrars within the Pennsylvania Department of Health are "public employees" and not independent contractors where although they are compensated on a fee basis per certificate filed there is a statutory ceiling on amount which any single registrar may be compensated, social security deductions are taken out of registrars' compensations and W–2 forms are filled out by Commonwealth and registrars are within embrace of workmen's compensation system and seem to be covered by unemployment compensation. 42 U.S.C.A. § 1983; U.S.C.A.Const. Amend. 14; 35 Pa.P.S. § 450.101 et seq.—McMullan v. Thornburgh, 508 F.Supp. 1044.—Const Law 91.

Cal. 1939. Persons specially employed by public officer acting under a statute as the trustee of a private trust are not "public employees."—Evans v. Superior Court in and for City and County of San Francisco, 96 P.2d 107, 14 Cal.2d 563, appeal dismissed 60 S.Ct. 893, 309 U.S. 640, 84 L.Ed. 995.—Offic 1.

Colo. 1997. Supervisory employees of county department of social services were not "public employees" of state within meaning of Governmental Immunity Act, and therefore state had no duty to indemnify the employees in employment discrimination lawsuit brought by former employee of department, though department was division of state for administrative purposes, where department had right to control performance of supervisory employees, county director and county board had power to hire and dismiss the employees, and county had significant responsibility for the employees' salaries. West's C.R.S.A. §§ 24–10–103(4)(a), 24–10–110(1)(a), (1)(b)(I).—Norton v. Gilman, 949 P.2d 565.—States 62.

Colo.App. 1999. General contractor and subcontractors were "independent contractors" rather than "public employees" with respect to substantial remodeling of city-owned theater, where by contract the contractors supplied everything necessary to complete the work, and thus, city was immune under Governmental Immunity Act from vicarious liability for general contractor's and subcontractors' alleged negligence in installing, and failing to detect, protruding threshold cover plate that wheelchair allegedly struck. West's C.R.S.A. §§ 24–10–103(4), 24–10–105, 24–10–106(3).—Springer v. City and County of Denver, 990 P.2d 1092, rehearing denied, and certiorari granted, reversed 13 P.3d 794.—Mun Corp 751(1).

Del.Ch. 1972. Members of defendant union, who had entered into contract with city which fixed terms and conditions of employment for workers at marine terminal which was owned by city and which was a revenue producing enterprise, were "public employees" and thus were subject to statute which provided, inter alia, that public employees could not strike, where, inter alia, members of the union had long been paid by city under terms of contracts entered into between them and the city, as had their predecessors, where union members under such contracts were deemed to be eligible for city pensions, and where review of expired contracts indicated that union members had been granted, through negotiations, many benefits provided in the classified service system, including the right to have disputes submitted to arbitration. 19 Del.C. §§ 1301 et seq., 1312; 29 Del.Laws, c. 123.—City of Wilmington v. General Teamsters Local Union 326, 290 A.2d 8.—Labor & Emp 1421(3).

Del.Super. 1967. Members of boards or commissions have historically been regarded as "public officers" and not "public employees".—Wharton v.

Everett, 229 A.2d 492, affirmed 238 A.2d 839.—Offic 1.

Fla. 2000. Employees in the ordinary sense of the word are considered "public employees" under the Public Employees Relations Act, and their right to collectively bargain is protected, but managerial level employees are not considered "public employees" and their right to collectively bargain is not protected under the Act. West's F.S.A. § 447.203(3, 4).—Service Employees Intern. Union, Local 16, AFL-CIO v. Public Employees Relations Com'n, 752 So.2d 569.—Labor & Emp 978, 1109.

Fla. 1978. Appointed deputy sheriffs are not "public employees" within meaning of chapter governing labor organizations, in view of fact that deputy sheriff holds office by appointment rather than employment and is invested with the same sovereign power as the chief law enforcement officer of the county, and in view of fact that deputy sheriffs had not been identified as public employees by state court and thus courts could not assume that legislature intended to include deputy sheriffs within definition of public employee without express language to that effect. West's F.S.A. §§ 447.01 et seq., 447.203(3).—Murphy v. Mack, 358 So.2d 822.—Labor & Emp 999.

Fla.App. 1 Dist. 1988. Individuals employed by county property appraisers were appointed deputies of elected constitutional officer and, therefore, were not "public employees" under state public labor law. West's F.S.A. §§ 193.024, 447.203(3).—Florida Public Employees Council 79, AFSCME v. Martin County Property Appraiser, 521 So.2d 243.—Labor & Emp 975.

Fla.App. 1 Dist. 1982. Graduate assistants employed by state university are "public employees" within meaning of the constitutional guarantee of right to organize and bargain collectively. West's F.S.A.Const.Art. 1, § 6.—United Faculty of Florida, Local 1847 v. Board of Regents, State University System, 417 So.2d 1055, decision clarified 423 So.2d 429.—Labor & Emp 999, 1109.

Ga.App. 1998. Employees of federal credit union were not "public employees" to whom exception to statutory doctrine of employment at will applied. O.C.G.A. § 34-7-1.—Robins Federal Credit Union v. Brand, 507 S.E.2d 185, 234 Ga. App. 519, reconsideration denied, and certiorari denied.—B & L Assoc 23(2); Offic 66.

Ill.App. 1 Dist. 1980. Town, and its zoning board and building commissioners were either "local public entities" or "public employees" as defined in the Local Governmental and Governmental Tort Immunity Act, under which both local public entities and public employees are immune from suit regarding issuance, denial, suspension, or revocation of permits and licenses. S.H.A. ch. 85, §§ 1-101 et seq., 1-206, 1-207, 2-104.—U-Haul Co. of Chicago Metroplex v. Town of Cicero, 43 Ill.Dec. 286, 410 N.E.2d 286, 87 Ill.App.3d 915.—Towns 31, 45; Zoning 353.1.

Kan. 1983. Staff physicians of state mental hospitals are "public employees" rather than public officers and hence have no common-law immunity. K.S.A. 21-3110(18, 19), 75-4301, 75-4322(a-f).—Durflinger v. Artiles, 673 P.2d 86, 234 Kan. 484, answer to certified question conformed to 727 F.2d 888.—Mental H 20.

Ky. 1938. The consequences of the doctrine of "incompatibility of offices," either under common law or under statutory or constitutional provisions, apply as between "public employees" when their functions partake of nature of an officer's functions, although incumbent is designated merely as employee. Ky.St. §§ 3744, 3746; Const. §§ 165, 237.—Knuckles v. Board of Educ. of Bell County, 114 S.W.2d 511, 272 Ky. 431.—Offic 55(2).

La. 1978. Private nonprofit corporation, which was established by corporate charter, in compliance with state law, but which was not created by special act of Legislature or by resolution of city-parish council, was not a state or parish "agency," even though it was designated as a community action agency by resolution of city-parish council and it received funds from several federal agencies, state agencies and local government to operate 30 anti-poverty programs, and thus its employees were not "public employees" within purview of statute governing malfeasance in office by public employees with result that its employees could not be indicted under such statute. LSA-R.S. 12:1 et seq., 14:2(9), 14:134; Economic Opportunity Act of 1964, § 201 et seq., 42 U.S.C.A. § 2781 et seq.—State v. Smith, 357 So.2d 505.—Counties 102; States 81.

Me. 1982. City operations and maintenance employees who have been employed for less than six months or who are temporary, seasonal or on-call employees are not considered "public employees" and therefore do not have protected right to join unions, are not members of any bargaining unit and thus do not receive wages and benefits of unionized employees. 26 M.R.S.A. §§ 961-972, 962, subd. 6, pars. F, G.—City of Bangor v. American Federation of State, County, and Mun. Employees, Council 74, 449 A.2d 1129.—Labor & Emp 1017, 1182.

Mass. 1976. Probation officers, as employees of judiciary, are not "public employees," within meaning of public employee collective bargaining statute; legislature intended to exclude nonexecutive state employees from coverage under such statute. M.G.L.A. c. 150E § 1.—Massachusetts Probation Ass'n v. Commissioner of Administration, 352 N.E.2d 684, 370 Mass. 651.—Labor & Emp 1109.

Mich. 1971. District court employees are "public employees" within constitutional provision that the legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the classified civil service. M.C.L.A.Const.1963, art. 4, § 48.—Judges of 74th Judicial Dist. v. Bay County, 190 N.W.2d 219, 385 Mich. 710.—Labor & Emp 978.

Mich. 1968. Teachers are "public employees", under Public Employees' Relations Act, even though they do not possess individual written contracts. M.C.L.A. §§ 340.569, 423.201 et seq., 423.202.—School Dist. for City of Holland, Ottawa

and Allegan Counties v. Holland Ed. Ass'n, 157 N.W.2d 206, 380 Mich. 314.—Labor & Emp 975.

Mich. 1952. Employees of municipal street railway system are employees of municipality, and therefore are "public employees" within act prohibiting strikes by public employees, which includes as a public employee any person holding a position of employment in service of any authority, commission, or board in public service. Comp.Laws 1948, § 423.202.—City of Detroit v. Division 26 of Amalgamated Ass'n of Street, Elec. Ry. & Motor Coach Employees of America, 51 N.W.2d 228, 332 Mich. 237, appeal dismissed 73 S.Ct. 37, 344 U.S. 805, 97 L.Ed. 627, rehearing denied 73 S.Ct. 164, 344 U.S. 882, 97 L.Ed. 683.—Labor & Emp 1421(3).

Mich.App. 2003. Employees of private subcontractor working on a municipal construction project were not "public employees" under the Public Employment Relations Act (PERA), and thus Michigan Employment Relations Commission (MERC) lacked subject matter jurisdiction over unfair labor practice charge filed by subcontractor against city, which claimed city had violated PERA by requiring subcontractor to sign a project labor agreement. M.C.L.A. §§ 423.201(1)(e), 423.210(1), 423.216.—City of Lansing v. Carl Schlegel, Inc., 669 N.W.2d 315, 257 Mich.App. 627, appeal denied 678 N.W.2d 442, 469 Mich. 1023.—Labor & Emp 975, 1676(1).

Mich.App. 1990. Rights granted under Public Employment Relations Act, including right to organize for collective bargaining, apply to all "public employees," including executive or supervisory employees. M.C.L.A. § 423.202.—Muskegon County Professional Command Ass'n v. County of Muskegon (Sheriff's Dept.), 464 N.W.2d 908, 186 Mich. App. 365.—Labor & Emp 975, 999.

Mich.App. 1975. Prison inmates are not "public employees" within meaning of the Public Employees Relations Act; legislature used the word "employee" in at least the conventional sense in PERA; relationship between inmates and Department of Corrections, as created and governed by the Correctional Industries Act is not an employment relationship but, rather, is a custodial, rehabilitative relationship with employment utilized as a means to reach those ends. M.C.L.A. §§ 423.201 et seq., 800.321 et seq., 800.331.—Prisoners' Labor Union at Marquette v. State, Dept. of Corrections, 232 N.W.2d 699, 61 Mich.App. 328.—Labor & Emp 979.

Mich.App. 1970. School principals, coordinators, head librarian, and physical education director were "public employees" within Public Employment Relations Act. M.C.L.A. § 423.202.—Hillsdale Community Schools v. Michigan Labor Mediation Bd., 179 N.W.2d 661, 24 Mich.App. 36.—Labor & Emp 975.

Mich.App. 1969. Law enforcement officers were "public employees" within meaning of Public Employment Relations Act providing that public employees may form, join or assist in labor organizations and bargain collectively through representatives of their own free choice and officers could properly join labor organization which included in membership persons who were neither policemen nor public employees. M.C.L.A. §§ 423.201 et seq., 423.202, 423.209.—City of Escanaba v. Michigan Labor Mediation Bd., 172 N.W.2d 836, 19 Mich.App. 273, 40 A.L.R.3d 717.—Labor & Emp 1017.

Mich.App. 1969. Regents of state university, though a constitutional body politic deriving duties and responsibilities from Constitution rather than from legislative enactments, constituted "public employer," and nonacademic employees thereof were "public employees" within provisions of Constitution authorizing legislature to enact laws providing for resolution of disputes concerning public employees, and within statutory provisions governing collective bargaining by such employees. M.C.L.A. §§ 423.201–423.216, 423.202; M.C.L.A.Const.1963, art. 4, § 48; art. 8, §§ 4, 5, 6.—Regents of University of Mich. v. Labor Mediation Bd., 171 N.W.2d 477, 18 Mich.App. 485.—Labor & Emp 975, 979, 1115.

Mich.App. 1969. Board of Control of Eastern Michigan University is a "public employer" and its nonteaching employees are "public employees" within meaning of Act providing for mediation of grievances of "public employees". M.C.L.A.Const. 1963, art. 4, § 48; art. 8, § 6.—Board of Control of Eastern Mich. University v. Labor Mediation Bd., 171 N.W.2d 471, 18 Mich.App. 435, affirmed 184 N.W.2d 921, 384 Mich. 561.—Labor & Emp 1521.

Mich.App. 1967. Teachers are "public employees" as that term is used in Public Employees' Relations Act, even though they have not yet commenced work for the fall term. M.C.L.A. § 423.202.—School Dist. for City of Holland, Ottawa and Allegan Counties v. Holland Ed. Ass'n, 152 N.W.2d 572, 7 Mich.App. 569, reversed 157 N.W.2d 206, 380 Mich. 314.—Labor & Emp 2083.

Minn.App. 2002. In general, part-time employees who fail to satisfy statutory minimum hour requirement of at least 14 hours per week or 35 percent of the normal work week are not "public employees" under Public Employment Labor Relations Act (PELRA) and must not be included in the particular bargaining unit. M.S.A. § 179A.03, subd. 14(e).—Education Minnesota Chisholm v. Independent School Dist. No. 695, 649 N.W.2d 474, review granted, affirmed 662 N.W.2d 139.—Labor & Emp 1182.

Minn.App. 1987. Licensed teachers who taught for one academic year in public schools as part of university master's degree program were not "public employees" included in school district teachers' bargaining unit; teachers had contractual relationship with university, not school district, and university retained control over teachers' acceptance into program and requirements for completing program. M.S.A. § 179A.03, subd. 14.—Rochester Educ. Ass'n v. Independent School Dist. No. 535, 415 N.W.2d 743.—Labor & Emp 1182.

N.H. 2002. Part-time firefighters were "on call" and thus they were not "public employees" who could be included in a bargaining unit; although they attended regular training sessions, part-time

firefighters responded to a variable number of emergencies each week, and because most had other employment they were not expected to respond to every emergency. RSA 273-A:1, IX(d).—In re Town of Litchfield, 790 A.2d 135, 147 N.H. 415.—Labor & Emp 1182.

N.J. 1965. Employees of Authority which operated ferries were "public employees" prohibited from striking.—Delaware River and Bay Authority v. International Organization of Masters, Mates and Pilots, 211 A.2d 789, 45 N.J. 138.—Labor & Emp 1421(3).

N.J.Super.A.D. 1997. House-staff resident physicians who attended plaintiff patient's roommate at medical center were under "control" of University of Medicine and Dentistry of New Jersey (UMDNJ), and thus, physicians were "public employees" entitled to immunity under Tort Claims Act (TCA) with respect to claim that their negligence in supervising plaintiff's roommate enabled roommate to assault plaintiff; physicians were subject to written employment contract with UMDNJ, that agreement defined terms and conditions of residency program including starting date, duration of residency, salary and job level, and vacation benefits, and UMDNJ had entered into affiliation agreement with medical center under which several members of center's staff received clinical appointments to UMDNJ faculty. N.J.S.A. 59:1-3.—Wajner v. Newark Beth Israel Medical Center, 689 A.2d 143, 298 N.J.Super. 116.—Colleges 8(1).

N.J.Super.A.D. 1989. Attorneys employed by law firm retained by county board of freeholders to serve as special counsel were not "public employees" within meaning of statute obligating public employees to testify before grand jury on matters directly related to employment. N.J.S.A. 2A:81-17.2a1, 10:4-7, 10:4-12, subd. b(7).—Matter of Grand Jury Subpoenas Duces Tecum Served by Sussex County Grand Jury on Farber, 574 A.2d 449, 241 N.J.Super. 18.—Gr Jury 36.1.

N.J.Super.Ch. 1964. Classification of "public employees" in constitutional provision respecting rights of private employees refers to governmental employees as opposed to all others. Const.1947, Art. I, par. 19.—Johnson v. Christ Hospital, 202 A.2d 874, 84 N.J.Super. 541, affirmed 211 A.2d 376, 45 N.J. 108.—Labor & Emp 4.

N.Y.A.D. 2 Dept. 1974. Prisoners' labor unions were not entitled to certification as exclusive negotiating representatives of inmates on theory that inmates were "public employees" within Civil Service Law. Civil Service Law, § 201, subd. 7.—Prisoners' Labor Union at Bedford Hills (Women's Division) v. Helsby, 354 N.Y.S.2d 694, 44 A.D.2d 707, appeal denied 361 N.Y.S.2d 1025, 35 N.Y.2d 641, 320 N.E.2d 283.—Labor & Emp 1160.

N.Y.A.D. 2 Dept. 1964. Probationary teachers are within definition of "public employees" entitled to present grievances pursuant to article of General Municipal Law enacted to establish grievance procedure under which "public employees" can present grievances against their superiors or employers. General Municipal Law, § 681 et seq.—Pinto v. Wynstra, 255 N.Y.S.2d 536, 22 A.D.2d 914.—Schools 147.6.

N.Y.A.D. 3 Dept. 1992. Volunteer fire fighters are considered "public employees" and must be afforded due process in disciplinary proceedings. U.S.C.A. Const.Amends. 5, 14.—Bigando v. Heitzman, 590 N.Y.S.2d 553, 187 A.D.2d 917.—Const Law 278.4(3); Mun Corp 198(3).

N.Y.A.D. 3 Dept. 1992. Evidence supported determination of Public Employment Relations Board (PERB) that state university employees operating regents college degrees program were "public employees" within meaning of Civil Service Law and that state university was "public employer"; lack of state-appropriated funding did not making program private function, high-level supervisor was paid on regular state payroll, and other state employees provided services to university as part of their regular duties. McKinney's Civil Service Law § 201, subds. 6(a), 7(a).—University of State of N.Y. v. Newman, 585 N.Y.S.2d 235, 180 A.D.2d 396.—Offic 11.1.

N.Y.A.D. 3 Dept. 1987. Police officers who apply for disability benefits under General Municipal Law are "public employees," and, therefore, Public Employment Relations Board had jurisdiction over dispute between city and police officers' union about whether proposed disability procedure was matter of mandatory collective bargaining. McKinney's Civil Service Law § 201, subd. 7(a); McKinney's General Municipal Law § 207-c.—City of Schenectady v. New York State Public Employment Relations Bd., 522 N.Y.S.2d 325, 132 A.D.2d 242, appeal denied 527 N.Y.S.2d 769, 71 N.Y.2d 803, 522 N.E.2d 1067.—Labor & Emp 979, 1666.

N.Y.A.D. 3 Dept. 1984. The Public Employment Relations Board's determination that civilian employees of the Division of Military and Naval Affairs were "public employees" and not in the organized militia, and therefore, were subject to provisions of the Taylor Law, was not arbitrary and capricious. McKinney's Civil Service Law § 201, subd. 6(a)(i).—State v. Public Employment Relations Bd., 477 N.Y.S.2d 899, 103 A.D.2d 876.—Labor & Emp 1729.

N.Y.A.D. 4 Dept. 1972. County water authority employees were "public employees" and thereby not entitled to strike, even though union had right to represent the employees in collective bargaining, and statute in effect at time of the strike provided that the authority was an employer within the meaning of state labor relations law. Labor Law § 700 et seq.; Public Authorities Law §§ 1053, subds. 1, 3, 1059; Civil Service Law §§ 201, subds. 7(e), 8, 210, subd. 1.—Local 930, Am. Federation of State, County and Municipal Emp., AFL-CIO v. Erie County Water Authority, 330 N.Y.S.2d 695, 38 A.D.2d 487.—Labor & Emp 1421(3).

N.Y.Sup. 1970. Deputy sheriffs are "public employees" under provision of Civil Service law defining term public employee. Civil Service Law § 201, subd. 8.—Ulster County v. CSEA Unit of Ulster County Sheriff's Dept., Ulster County CSEA Chap-

ter, 315 N.Y.S.2d 981, 64 Misc.2d 799, modified 326 N.Y.S.2d 706, 37 A.D.2d 437.—Offic 11.1.

N.Y.Sup. 1970. Librarians, who were exclusively supervised and directed by library board of trustees, which controlled not only their work, but also their appointment, removal, authority, duties and salaries within limits of available appropriations, and which was not branch of county government, but was distinct and separate corporation, receiving budgetary contribution from county, were "public employees" of library which was "public employer" within Public Employees' Fair Employment Act. Civil Service Law §§ 200 et seq., 201, 203.—County of Erie v. Board of Trustees of Buffalo and Erie County Public Library, 308 N.Y.S.2d 515, 62 Misc.2d 396, affirmed 35 A.D.2d 782, appeal denied Erie, County of, v. Board of Trustees of Buffalo & Erie County Public Lib, 28 N.Y.2d 483.—Labor & Emp 975.

N.Y.Sup. 1966. Employees, who were employed by city transit authority subsidiary, to which city had leased omnibus facilities for operation during temporary period until they could be sold by city, and who went on strike at same time and in conjunction with operating employees of all city transit facilities operated by city transit authority, were "public employees" within prohibition against strikes by public employees.—Manhattan and Bronx Surface Transit Operating Authority v. Quill, 266 N.Y.S.2d 423, 48 Misc.2d 1021.—Labor & Emp 2083.

N.C.App. 2006. Under the doctrine of public official immunity, when a governmental worker is sued individually, or in his or her personal capacity, North Carolina courts distinguish between "public employees," who perform ministerial duties, and "public officials," who exercise a certain amount of discretion.—Farrell v. Transylvania County Bd. of Educ., 625 S.E.2d 128.—Offic 114.

N.C.App. 2003. A "public official" is one who exercises some portion of sovereign power and discretion, whereas "public employees" perform ministerial duties.—Dalenko v. Wake County Dept. of Human Services, 578 S.E.2d 599, 157 N.C.App. 49, stay denied 585 S.E.2d 380, writ denied 585 S.E.2d 380, appeal dismissed, review and certiorari denied 585 S.E.2d 386, 357 N.C. 458, reconsideration denied 587 S.E.2d 664, 357 N.C. 504, review dismissed 585 S.E.2d 386, 357 N.C. 458, certiorari denied Bennett v. Wake County Dept. of Human Services, 124 S.Ct. 1411, 540 U.S. 1178, 158 L.Ed.2d 79.—Offic 1.

N.C.App. 2001. For purposes of public official immunity, a "public official" is one whose position is created by the North Carolina Constitution or the North Carolina General Statutes and exercise some portion of sovereign power and discretion, whereas "public employees" perform ministerial duties.—Vest v. Easley, 549 S.E.2d 568, 145 N.C.App. 70.—Offic 114.

N.C.App. 1992. Environmental engineer and branch head of on-site sewage branch of Department of Environment, Health, and Natural Resources (DEHNR) were "public employees" and therefore were subject to liability for mere negligence in performance of their jobs; positions of environmental engineer and branch head were not established by law and did not require oath of office and their duties were more ministerial than discretionary in nature.—EEE-ZZZ Lay Drain Co. v. North Carolina Dept. of Human Resources, 422 S.E.2d 338, 108 N.C.App. 24.—Health 367.

Ohio 1994. Fact that National Labor Relations Board (NLRB) had not declined jurisdiction over transit workers working pursuant to contract between city and private management company was not determinative of whether transit workers were "public employees," and whether State Employment Relations Board (SERB) had jurisdiction over transit union's request for voluntary recognition; statute defining public employee to include person working pursuant to contract between public employer and private employer and over whom NLRB had declined jurisdiction was merely illustrative of who might be considered to be "public employees," for purposes of collective bargaining. R.C. § 4117.01(C).—Hamilton v. State Emp. Relations Bd., 638 N.E.2d 522, 70 Ohio St.3d 210, 1994-Ohio-397, reconsideration denied 640 N.E.2d 849, 70 Ohio St.3d 1477, certiorari denied City of Hamilton, Ohio v. Amalgamated Transit Union, Local No. 738, 115 S.Ct. 1104, 513 U.S. 1152, 130 L.Ed.2d 1070, certiorari denied 115 S.Ct. 1104, 513 U.S. 1152, 130 L.Ed.2d 1070.—Labor & Emp 1671.

Ohio 1993. State historical society was not an "other branch of public employment" and thus not a "public employer" subject to jurisdiction of State Employment Relations Board (SERB) on that basis; although National Labor Relations Board (NLRB) had declined to take jurisdiction over society's employees, employees were not "public employees," since they were not employed solely as result of society's contractual relationship with state. R.C. § 4117.01(B, C).—Ohio Historical Soc. v. State Emp. Relations Bd., 613 N.E.2d 591, 66 Ohio St.3d 466, 1993-Ohio-182.—Labor & Emp 1666.

Ohio 1992. "Physicians" in employ of hospital constituting "public employer" who have been awarded their medical degrees but whose provision of care to hospital patients is necessary to obtain state certification in specialty or subspecialty in medicine are "public employees" and are not "students" exempt from operation of Public Employees' Collective Bargaining Act. R.C. §§ 4117.01 et seq., 4117.01(B), (C)(11).—Univ. Hosp., Univ. of Cincinnati College of Medicine v. State Emp. Relations Bd., 587 N.E.2d 835, 63 Ohio St.3d 339, rehearing denied University Hosp., Univ. of Cincinnati College of Medicine v. State Emp. Relations Bd., 590 N.E.2d 753, 63 Ohio St.3d 1459.—Labor & Emp 979.

Or.App. 2000. Teachers employed by the Department of Education (DOE) in educational programs located within youth correctional facilities were not "public employees" under the Public Employee Transfer Law. ORS 236.605(1), 326.712, 327.026.—Bain v. Willamette Educ. Service Dist., 13 P.3d 1021, 170 Or.App. 689.—Offic 11.7.

Or.App. 1983. Under Public Employee Collective Bargaining Act, juvenile court judge, who was statutorily authorized to appoint counselors of county juvenile department, was a "public employer," and juvenile court counselors were "public employees." ORS 243.650(17, 18), 419.604(1).—Circuit Court of Oregon, Fifteenth Judicial Dist., Juvenile Judge v. AFSCME, Local 502-A, 657 P.2d 1237, 61 Or.App. 311, affirmed Circuit Court of Oregon, Fifteenth Judicial District v. AFSCME Local 502-A, 669 P.2d 314, 295 Or. 542.—Labor & Emp 975.

Pa. 1992. Police officers of city governed by home rule charter were "public employees" within meaning of Public Employee Pension Forfeiture Act. 43 P.S. § 1312.—Mazzo v. Board of Pensions and Retirement of City of Philadelphia, 611 A.2d 193, 531 Pa. 78.—Mun Corp 187(2).

Pa. 1965. In view of city's control over employment of paid drivers of fire-fighting equipment of third class city and supervision exercised over their fire-fighting duties, drivers were "public employees" within act preventing public employees from striking and providing grievances procedure. 43 P.S. § 215.1 et seq.—Gremminger v. Eyre, 208 A.2d 263, 417 Pa. 461.—Labor & Emp 1421(3).

Pa.Cmwlth. 1976. In that principals of senior and junior high schools were associated with collective bargaining on behalf of school district, secretaries to such principals were "confidential employees" within meaning of Public Employee Relations Act granting public employees right to organize and bargain with public employer and defining "public employees" to exclude "confidential employees"; thus, secretaries were not includable in bargaining unit of school service personnel in school district. 43 P.S. §§ 1101.101 et seq., 1101.301(2, 13).—Pennsylvania Labor Relations Bd. v. Altoona Area School Dist., 352 A.2d 560, 23 Pa.Cmwlth. 445, reversed in part, vacated in part 389 A.2d 553, 480 Pa. 148.—Labor & Emp 999, 1019, 1179.

Pa.Cmwlth. 1974. Where interns, residents, and clinical fellows at various hospitals had no continuous contemplated relations with hospitals and they worked at hospitals primarily to further their medical expertise with incidental effect of rendering services to hospitals, they were not "public employees" under Public Employe Relations Act, and thus in forming a collective bargaining unit, they were not entitled to receive the Act's organizational and collective bargaining protections. 43 P.S. §§ 1101.101 et seq., 1101.301(2).—Wills Eye Hospital v. Pennsylvania Labor Relations Bd., 328 A.2d 539, 15 Pa.Cmwlth. 532.—Labor & Emp 975, 999, 1109.

Tex.App.–Texarkana 1984. Consultants, who were to assist school board in securing a new superintendent by recruiting candidates, making telephone inquiries, and conducting interviews without direct supervision by the board and were then to provide the board with a suggested list of candidates, were independent contractors and not "public employees"; therefore, school board's discussion, in executive session, of their selection of consultants violated provisions of the Open Meetings Act. Vernon's Ann.Texas Civ.St. art. 6252–17, § 2(a, g, *l* ).—Board of Trustees of Austin Independent School Dist. v. Cox Enterprises, Inc., 679 S.W.2d 86, writ granted, affirmed in part, reversed in part 706 S.W.2d 956.—Schools 57.

Tex.App.–El Paso 2004. City housing authority commissioners were not "public employees" for purposes of determining whether commissioners' violations of the law that were reported by terminated executive director for financial services of the authority were violations of the law by public employees under the Whistleblower Act, as they were not paid for their services as commissioners. V.T.C.A., Local Government Code § 392.035; V.T.C.A., Government Code §§ 554.001(4), 554.002.—Housing Authority of City of El Paso v. Rangel, 131 S.W.3d 542, rehearing overruled, and review granted, judgment reversed, and remanded by agreement.—Mun Corp 218(10).

Wyo. 2000. State prison officers named as defendants in action by inmate alleging violation of his right to due process were "public employees" of state penitentiary, acting within scope of their duties, and thus Governmental Claims Act, which required inmate to submit claim to state within two years of date of alleged act upon which he asserted liability, applied. Wyo.Stat.Ann. § 1–39–113.—Garnett v. Brock, 2 P.3d 558.—States 197.

## PUBLIC EMPLOYEES IN THE PERFORMANCE OF THEIR PUBLIC DUTIES

La. 1956. The statute conferring a privilege on reports filed with the state and providing that they shall not be open to public inspection other than to "public employees in the performance of their public duties" does not apply to information acquired by the District Attorney who is a "public employee" and who in using such reports in a prosecution for conducting a lottery, was engaged in the performance of his "public duties". LSA–R.S. 23:1660.—State v. Mills, 86 So.2d 895, 229 La. 758, certiorari denied Vernaci v. State of Louisiana, 77 S.Ct. 51, 352 U.S. 834, 1 L.Ed.2d 53, certiorari denied Callia v. State of Louisiana, 77 S.Ct. 52, 352 U.S. 834, 1 L.Ed.2d 53.—Records 31.

## PUBLIC EMPLOYER

E.D.Pa. 1994. Pennsylvania Turnpike Commission was unquestionably an instrumentality of the Commonwealth and, therefore, a "public employer" within meaning of Pennsylvania Public Employee Relations Act (PPERA). 43 Pa.C.S.A. § 1101.101 et seq.—Curry v. Pennsylvania Turnpike Com'n, 843 F.Supp. 988.—States 53.

Fla. 1978. County sheriff is a "public employer" within meaning of chapter governing labor organizations, in view of fact that office of sheriff is an agency of the state and possesses requisite control over terms and conditions of employment of its personnel and is distinct from other county offices. West's F.S.A. §§ 447.01 et seq., 447.203(2).—Murphy v. Mack, 358 So.2d 822.—Labor & Emp 975.

Ga. 2000. Regional educational service agency (RESA) was not a "state agency" and, therefore, did not fall within state whistleblower statute's definition of "public employer," which defined public employer as meaning the executive branch of the state and any other agency of the state; RESA was like local school system in that it received local and state funds, was subject to the same policies and regulations of the State Board of Education, and had to follow locally established priorities and objectives. O.C.G.A. § 45–1–4.—North Georgia Regional Educational Service Agency v. Weaver, 527 S.E.2d 864, 272 Ga. 289, reconsideration denied, on remand 534 S.E.2d 463, 243 Ga.App. 770.—Schools 63(1).

Ga.App. 1999. Regional education service agency (RESA) was a "public employer," for purposes of whistleblower statute that prohibits retaliatory action by public employer against a public employee who makes a complaint or provides information regarding any activity constituting waste, fraud, and abuse. O.C.G.A. § 45–1–4.—Weaver v. North Georgia Regional Educational Service Agency, 517 S.E.2d 794, 238 Ga.App. 72, certiorari granted, reversed 527 S.E.2d 864, 272 Ga. 289, reconsideration denied, on remand 534 S.E.2d 463, 243 Ga. App. 770, vacated 534 S.E.2d 463, 243 Ga.App. 770.—Schools 63(1).

Ga.App. 1999. Employee of regional education service agency (RESA) gave information regarding activity constituting waste, fraud, and abuse to a "public employer," within the meaning of the whistleblower statute, by telling her immediate supervisor that she thought that executive director was having his personal work photocopied on RESA's machine by one of RESA's employees, where immediate supervisor was the head of employee's division, managed its budget, and supervised and evaluated its staff, including employee. O.C.G.A. § 45–1–4.—Weaver v. North Georgia Regional Educational Service Agency, 517 S.E.2d 794, 238 Ga. App. 72, certiorari granted, reversed 527 S.E.2d 864, 272 Ga. 289, reconsideration denied, on remand 534 S.E.2d 463, 243 Ga.App. 770, vacated 534 S.E.2d 463, 243 Ga.App. 770.—Schools 63(1).

Kan. 1983. Board of Regents was a "public employer" under Public Employer-Employee Relations Act of the teaching faculty at the institutions of higher learning under Board's jurisdiction. K.S.A. 75–4321 et seq.—Kansas Bd. of Regents v. Pittsburg State University Chapter of Kansas-National Educ. Assn., 667 P.2d 306, 233 Kan. 801.—Labor & Emp 975.

Me. 1989. Educational academy which operated under contract with school administrative district to serve as district's high school was not a "public employer" within meaning of labor relations law, and thus faculty of academy was not subject to organization by local union of state teachers association; academy was not subject to control of school administrative district, inasmuch as more than half academy's students did not come from district, academy owned its own campus and physical plant, 70% of academy's operating budget came from sources other than district tuitions, more than two dozen of academy's trustees did not come from district's board, and academy retained its independent educational judgment. 26 M.R.S.A. §§ 961, 962–974, 962, subd. 7.—Lee Academy Educ. Ass'n v. Academy, 556 A.2d 218.—Labor & Emp 975.

Me. 1980. By including within definition of "public employer" a corporation, as well as natural person, who "act on behalf of" a municipality, statute defining "public employer" invokes general principles of agency, which are defined in identical terms of "acting on behalf of."—Baker Bus Service, Inc. v. Keith, 416 A.2d 727.—Labor & Emp 975.

Me. 1973. The Board of Education of the city of Biddeford is a "public employer" as defined by the Municipal Public Employees Labor Relations Law. 26 M.R.S.A. § 961.—City of Biddeford by Board of Ed. v. Biddeford Teachers Ass'n, 304 A.2d 387, 68 A.L.R.3d 833.—Labor & Emp 975.

Mass. 1998. Boston Redevelopment Authority (BRA) was "public employer" for purposes of Massachusetts Tort Claims Act, and thus was immune from liability for intentional tort of intentional interference with contractual relations. M.G.L.A. c. 258, §§ 1, 10(c).—Lafayette Place Associates v. Boston Redevelopment Authority, 694 N.E.2d 820, 427 Mass. 509, certiorari denied 119 S.Ct. 1112, 525 U.S. 1177, 143 L.Ed.2d 108.—Mun Corp 723.

Mass. 1988. Regional "school district," not towns that agreed to form district, was "public employer" within meaning of statute rendering public employers liable for injury or loss of property caused by negligent or wrongful act or omission of public employees while acting within scope of office or employment; language which follows "district" in definition of public employer, listing public health districts and joint districts or regional health districts, is illustrative, not limiting. M.G.L.A. c. 258, §§ 1, 2.—Doe v. Town of Blandford, 525 N.E.2d 403, 402 Mass. 831.—Towns 45.

Mass. 1985. Authority which operated municipal nursing home was a "public employer" entitled to notice and presentment of claim under Massachusetts Tort Claims Act, so that failure to present written claim to authority precluded claims against authority for negligent invasion of privacy and negligent infliction of emotional distress. M.G.L.A. c. 258, §§ 1, 4.—Spring v. Geriatric Authority of Holyoke, 475 N.E.2d 727, 394 Mass. 274.—Mun Corp 741.25.

Mass.App.Ct. 1998. City water and sewer commission was "public employer," for purposes of statute establishing presentment of claim as condition precedent to recovery against such an entity. M.G.L.A. c. 258, §§ 1, 4.—Alex v. Boston Water & Sewer Com'n, 698 N.E.2d 404, 45 Mass.App.Ct. 914.—Mun Corp 741.25.

Mass.App.Ct. 1993. City housing authority is "public employer" which has benefit of protection from liability provided by discretionary function exception to Massachusetts Tort Claims Act if conduct in case qualifies as discretionary function. M.G.L.A. c. 258, §§ 1, 10(b).—Wheeler v. Boston Housing Authority, 606 N.E.2d 916, 34 Mass.App.

Ct. 36, review denied 609 N.E.2d 89, 414 Mass. 1104.—Mun Corp 728.

Mass.App.Ct. 1984. City sewer and water commission which was designated in enabling statute as "body politic and corporate and political subdivision of the commonwealth," made financially independent from Commonwealth, and afforded considerable political independence was not "public employer" for purposes of Massachusetts Tort Claims Act, and thus, plaintiff bringing negligence claim against commission was not first required to present administrative claim against it. M.G.L.A. c. 258, §§ 1 et seq., 4.—Kargman v. Boston Water and Sewer Com'n, 463 N.E.2d 350, 18 Mass.App. Ct. 51.—Mun Corp 845(1).

Mass.App.Ct. 1984. Water and sewer commission was an "independent body politic and corporate" and thus by statutory definition not a "public employer" subject to provisions of statutory scheme governing suits against the Commonwealth. M.G.L.A. c. 258, § 1 et seq.—Ravesi v. Boston Water and Sewer Com'n, 462 N.E.2d 1137, 18 Mass.App.Ct. 909.—Mun Corp 1016.

Mich. 1973. University of Michigan is a "public employer" within meaning of the Michigan Public Employees Relations Act. M.C.L.A. § 423.201 et seq.—Regents of University of Michigan v. Michigan Employment Relations Commission, 204 N.W.2d 218, 389 Mich. 96.—Labor & Emp 975.

Mich. 1971. Eastern Michigan University is a "public employer" within statute regulating public employees. M.C.L.A. § 423.215.—Board of Control of Eastern Mich. University v. Labor Mediation Bd., 184 N.W.2d 921, 384 Mich. 561.—Labor & Emp 975.

Mich. 1971. Wayne county road commission is a "public employer" of its own employees for purpose of statute prohibiting strikes by public employees and providing for right of employees to organize and to engage in collective bargaining with their public employers through representatives of their own choice. M.C.L.A.Const.1908, art. 8, § 26; Const.1963, art. 7, § 16; M.C.L.A. §§ 224.10a, 423.201 et seq.—Civil Service Commission for Wayne County v. Wayne County Bd. of Sup'rs, 184 N.W.2d 201, 384 Mich. 363.—Labor & Emp 1109, 1421(3).

Mich. 1953. City board of police and fire commissioners was a public employer within statute providing that only the employer shall be deemed a necessary party respondent to any action to compel reinstatement of public employee upon release from military service and defining "public employer" as any department, agency or instrumentality of any municipality employing public employee, and was, therefore, subject to suit to compel reinstatement, though it was not a corporate legal entity under city charter. Comp.Laws 1948, § 613.35; Comp.Laws Supp.1952, § 35.351 et seq.—Borseth v. City of Lansing, 61 N.W.2d 132, 338 Mich. 53.—Mand 152.

Mich.App. 1972. While the regents of University of Michigan continued to enjoy the entire control and management of its affairs and property, they are a "public employer" and thus are subject to regulation as a public employer. M.C.L.A. § 423.201 et seq.; M.C.L.A.Const.1963, art. 8, § 5.—Regents of University of Mich. v. Michigan Employment Relations Commission, 195 N.W.2d 875, 38 Mich.App. 55, reversed 204 N.W.2d 218, 389 Mich. 96.—Labor & Emp 975.

Mich.App. 1970. School district was a "public employer" within Public Employment Relations Act. M.C.L.A. § 423.201 et seq.—Hillsdale Community Schools v. Michigan Labor Mediation Bd., 179 N.W.2d 661, 24 Mich.App. 36.—Labor & Emp 975.

Mich.App. 1969. Regents of state university, though a constitutional body politic deriving duties and responsibilities from Constitution rather than from legislative enactments, constituted "public employer," and nonacademic employees thereof were "public employees" within provisions of Constitution authorizing legislature to enact laws providing for resolution of disputes concerning public employees, and within statutory provisions governing collective bargaining by such employees. M.C.L.A. §§ 423.201–423.216, 423.202; M.C.L.A.Const.1963, art. 4, § 48; art. 8, §§ 4, 5, 6.—Regents of University of Mich. v. Labor Mediation Bd., 171 N.W.2d 477, 18 Mich.App. 485.—Labor & Emp 975, 979, 1115.

Mich.App. 1969. Board of Control of Eastern Michigan University is a "public employer" and its nonteaching employees are "public employees" within meaning of Act providing for mediation of grievances of "public employees". M.C.L.A.Const. 1963, art. 4, § 48; art. 8, § 6.—Board of Control of Eastern Mich. University v. Labor Mediation Bd., 171 N.W.2d 471, 18 Mich.App. 435, affirmed 184 N.W.2d 921, 384 Mich. 561.—Labor & Emp 1521.

Minn. 1975. City civil service commission is agency or instrumentality of city and is therefore a "public employer" within meaning of Public Employment Labor Relations Act. M.S.A. § 179.63, subd. 4.—International Union of Operating Engineers, Local No. 49 v. City of Minneapolis, 233 N.W.2d 748, 305 Minn. 364.—Labor & Emp 975.

Minn.App. 1995. County board of commissioners, which funded library budget, was a "public employer" under the Public Employee Labor Relations Act (PELRA). M.S.A. § 179A.03, subd. 15.—AFSCME Council No. 14, Local Union No. 517 v. Washington County Bd. of Com'rs, 527 N.W.2d 127.—Labor & Emp 975.

Mont. 1976. Although board of trustees of city library had independent power to manage and operate library, board was adjunct of city which paid salaries of library personnel so that city, not board, was "public employer" of library employee within meaning of the Collective Bargaining for Public Employees Act and collective bargaining agreement between city and library employee's union was binding upon library trustees. R.C.M.1947, §§ 44–212 et seq., 44–223, 59–1601 et seq., 59–1602(3).—Local 2390 of Am. Federation of State, County, Munici-

pal Emp., A.F.L.-C.I.O. v. City of Billings, 555 P.2d 507, 171 Mont. 20.—Labor & Emp 1288.

N.H. 1996. Legislature is not "public employer" for purposes of Public Employee Labor Relations Act. RSA 273–A:1, subds. 9, 10.—Appeal of House Legislative Facilities Subcommittee, 685 A.2d 910, 141 N.H. 443.—Labor & Emp 975.

N.H. 1996. As used in Public Employee Labor Relations Act, terms "public employer" and "public employee" refer to the executive, not the legislative, branch of State government. RSA 273–A:1, subds. 9, 10.—Appeal of House Legislative Facilities Subcommittee, 685 A.2d 910, 141 N.H. 443.—Labor & Emp 975.

N.J.Super.L. 1970. Governor, rather than State Board of Higher Education, was "public employer" authorized to bargain with association of college faculty members under Constitution and statutes. N.J.S.A. 18A:3–14, subd. h, 34:13A–3(c); Const. 1947, Art. V, § IV, pars. 1, 2.—Association of New Jersey State College Faculties, Inc. v. Board of Higher Ed., 270 A.2d 744, 112 N.J.Super. 237.—Labor & Emp 1165.

N.Y.A.D. 2 Dept. 1984. A borough public library was not a "public employer" within meaning of Taylor Law and thus was not subject to jurisdiction of the Public Employment Relations Board in proceeding alleging violation of collective bargaining obligations where mayor did not have power to remove trustees of library, and although mayor had power to veto any removal, veto-of-removal authority was granted by library bylaws and could be repealed by two-thirds vote of board of trustees present. McKinney's Civil Service Law § 201, subd. 6(a).—Queens Borough Public Library v. Public Employment Relations Bd. of State of N.Y., 480 N.Y.S.2d 771, 104 A.D.2d 993, affirmed 489 N.Y.S.2d 907, 64 N.Y.2d 1099, 479 N.E.2d 252.—Labor & Emp 1666.

N.Y.A.D. 3 Dept. 1993. State police department was not entitled to use sealed records from prosecution of state trooper for sex crimes in disciplinary proceeding based on same alleged conduct; police department acted as "public employer" in disciplining its employee, rather than as "law enforcement agency" or "prospective employer," for purposes of statute governing release of such records, and department had not shown that information sought was unavailable from other sources, as required to justify exercise of court's inherent power to unseal records. McKinney's CPL § 160.50, subd. 1(d)(ii, v).—New York State Police v. Charles Q, 600 N.Y.S.2d 513, 192 A.D.2d 142.—Records 32.

N.Y.A.D. 3 Dept. 1992. Historic functions of state university, including power to sue and be sued, to elect officers, to hold, buy and sell real and personal property, to confer degrees and to hold property in trust did not alone establish that university was private employer, nor did trust function that it retained create private corporate purpose inconsistent with "public employer" status under Civil Service Law. McKinney's Civil Service Law § 201, subd. 7(a); McKinney's Education Law §§ 101, 201, 202, subd. 1, 203, 207; McKinney's Public Officers Law § 2.—University of State of N.Y. v. Newman, 585 N.Y.S.2d 235, 180 A.D.2d 396.—Offic 11.1.

N.Y.A.D. 3 Dept. 1992. Evidence supported determination of Public Employment Relations Board (PERB) that state university employees operating regents college degrees program were "public employees" within meaning of Civil Service Law and that state university was "public employer"; lack of state-appropriated funding did not making program private function, high-level supervisor was paid on regular state payroll, and other state employees provided services to university as part of their regular duties. McKinney's Civil Service Law § 201, subds. 6(a), 7(a).—University of State of N.Y. v. Newman, 585 N.Y.S.2d 235, 180 A.D.2d 396.—Offic 11.1.

N.Y.A.D. 3 Dept. 1989. The Liquidation Bureau of the State Insurance Department was properly found to be a "public employer" for purposes of protection of bargaining rights of employees under the Taylor Law, despite lack of civil service status of Bureau employees and argument that activities of the Bureau are entirely proprietary and that it is accountable only to the courts, in light of fact that the Superintendent of Insurance is accountable to the Governor and the State Senate. McKinney's Civil Service Law §§ 201, 201 subd. 6(a), 203, 209–a, subd. 1.—State (Ins. Dept. Liquidation Bureau) v. Public Employment Relations Bd., 537 N.Y.S.2d 326, 146 A.D.2d 961.—Labor & Emp 1115.

N.Y.Sup. 2003. State Division of Military and Naval Affairs (DMNA) is a "public employer" within the purview of the Taylor Law. McKinney's Civil Service Law § 201, subd. 6.—Lebrun v. McGuire, 764 N.Y.S.2d 565, 196 Misc.2d 874.—Militia 12.

N.Y.Sup. 1979. Under the Taylor Law, New York City Off-Track Betting Corporation was a public corporation exercising governmental powers sufficient to satisfy statutory definition of "public employer." Civil Service Law §§ 201, subds. 6, 7(a), 210, subd. 1.—New York City Off-Track Betting Corp. v. Local 2021 of Dist. Council 37, Am. Federation of State, County and Municipal Emp. (AFSCME),AFL-CIO, 416 N.Y.S.2d 974, 99 Misc.2d 605.—Labor & Emp 1421(3).

N.Y.Sup. 1977. Resolution of county legislature, as implemented by county manager, calling for a percentage reduction in annual salaries of county employees constituted an act of a "public employer" within Civil Service Law and claim in respect thereto, that it amounted to a failure to negotiate in good faith, was within exclusive jurisdiction of Public Employment Relations Board. Civil Service Law §§ 201, subds. 6, 12, 209–a, subd. 1(d).—Koenig v. Morin, 393 N.Y.S.2d 653, 90 Misc.2d 185, affirmed Healy v. Morin, 398 N.Y.S.2d 342, 59 A.D.2d 644.—Offic 94.

N.Y.Sup. 1970. Librarians, who were exclusively supervised and directed by library board of trustees, which controlled not only their work, but also their appointment, removal, authority, duties and salaries

within limits of available appropriations, and which was not branch of county government, but was distinct and separate corporation, receiving budgetary contribution from county, were "public employees" of library which was "public employer" within Public Employees' Fair Employment Act. Civil Service Law §§ 200 et seq., 201, 203.—County of Erie v. Board of Trustees of Buffalo and Erie County Public Library, 308 N.Y.S.2d 515, 62 Misc.2d 396, affirmed 35 A.D.2d 782, appeal denied Erie, County of, v. Board of Trustees of Buffalo & Erie County Public Lib, 28 N.Y.2d 483.—Labor & Emp 975.

Ohio 1993. Entity is a "public employer," over which State Employment Relations Board (SERB) may exercise jurisdiction, if it is the state, a political subdivision of the state, or another branch of public employment. R.C. § 4117.01(B).—Ohio Historical Soc. v. State Emp. Relations Bd., 613 N.E.2d 591, 66 Ohio St.3d 466, 1993-Ohio-182.—Labor & Emp 1666.

Ohio 1993. State historical society was not the "state" and thus not a "public employer" subject to jurisdiction of State Employment Relations Board (SERB) on that basis; society was not a government entity, but rather a private, not-for-profit corporation created by a group of individuals in their capacities as private citizens. R.C. § 4117.01(B).—Ohio Historical Soc. v. State Emp. Relations Bd., 613 N.E.2d 591, 66 Ohio St.3d 466, 1993-Ohio-182.—Labor & Emp 1666.

Ohio 1993. State historical society was not an "other branch of public employment" and thus not a "public employer" subject to jurisdiction of State Employment Relations Board (SERB) on that basis; although National Labor Relations Board (NLRB) had declined to take jurisdiction over society's employees, employees were not "public employees," since they were not employed solely as result of society's contractual relationship with state. R.C. § 4117.01(B, C).—Ohio Historical Soc. v. State Emp. Relations Bd., 613 N.E.2d 591, 66 Ohio St.3d 466, 1993-Ohio-182.—Labor & Emp 1666.

Ohio 1992. "Physicians" in employ of hospital constituting "public employer" who have been awarded their medical degrees but whose provision of care to hospital patients is necessary to obtain state certification in specialty or subspecialty in medicine are "public employees" and are not "students" exempt from operation of Public Employees' Collective Bargaining Act. R.C. §§ 4117.01 et seq., 4117.01(B), (C)(11).—Univ. Hosp., Univ. of Cincinnati College of Medicine v. State Emp. Relations Bd., 587 N.E.2d 835, 63 Ohio St.3d 339, rehearing denied University Hosp., Univ. of Cincinnati College of Medicine v. State Emp. Relations Bd., 590 N.E.2d 753, 63 Ohio St.3d 1459.—Labor & Emp 979.

Ohio App. 10 Dist. 1991. State Employment Relations Board (SERB) order determining that city was not "public employer" as defined in chapter governing public employees' collective bargaining and directing matter for further hearings was not "final order" and was not appealable, although order was "adjudication order." R.C. §§ 119.01 et seq., 119.01(D), 119.06, 2505.02, 4117.01 et seq., 4117.01(B).—In re Mingo Junction Safety Forces Assn., Local No. 1, 598 N.E.2d 1233, 74 Ohio App.3d 313.—Admin Law 704; Labor & Emp 1856.

Ohio App. 10 Dist. 1991. State Employment Relations Board (SERB) order precluding further hearings as to whether city waived exemption from chapter governing public employees' collective bargaining after issuance of earlier order determining that city was not "public employer" as defined in chapter was "adjudication order" which was also "final order"; therefore, trial court had jurisdiction to hear union's appeal of order precluding further hearings. R.C. §§ 119.01 et seq., 119.01(D), 119.06, 2505.02, 4117.01 et seq., 4117.01(B).—In re Mingo Junction Safety Forces Assn., Local No. 1, 598 N.E.2d 1233, 74 Ohio App.3d 313.—Admin Law 704; Labor & Emp 1856.

Or.App. 1976. Organization formed by voluntary agreement by number of local governments within a county to foster intergovernmental cooperation and supply various planning services for the member units was not a "public employer" for purposes of the Public Employe Relations Act as it was neither "the state" of Oregon," nor a "political subdivision" of the state, nor a "public corporation", nor an "individual designated by the public employer to act in its interest in dealing with public employees". ORS 190.003–190.110, 243.650(18).—Lane Council of Governments v. Lane Council of Governments Emp. Ass'n, 552 P.2d 600, 26 Or.App. 119, review allowed 276 Or. 555, reversed 561 P.2d 1012, 277 Or. 631, rehearing denied 563 P.2d 729, 278 Or. 335.—Labor & Emp 975.

Pa.Cmwlth. 1984. A "public employer" and a managerial representative can be two different entities for purposes of collective bargaining. 16 P.S. § 1620; 43 P.S. § 1101.1201.—Lycoming County v. Com., Dept. of Labor and Industry, 480 A.2d 1310, 84 Pa.Cmwlth. 625.—Labor & Emp 1109.

Pa.Cmwlth. 1973. Although synagogue school participated in school lunch program of federal government, and although Commonwealth provided school with sum of $300 for purpose of library books that remained property of the state, such school was not a "public employer," and hence the Labor Relations Board could not assert any jurisdiction in the premises. 43 P.S. §§ 1101.301(1), 1101.603(c); National School Lunch Act, §§ 2, 8, 42 U.S.C.A. §§ 1751, 1757.—Pennsylvania Labor Relations Bd. v. Beth Jacob Schools of Philadelphia, 301 A.2d 715, 8 Pa.Cmwlth. 343.—Labor & Emp 1666.

Wash.App. Div. 2 1998. Director of Office of Financial Management (OFM) is the appropriate "public employer" for purposes of state civil service employees' right to bargain for wages. West's RCWA 41.56.030.—Washington Public Employees Ass'n v. Washington Personnel Resources Bd., 959 P.2d 143, 91 Wash.App. 640, appeal after remand 29 P.3d 36, 107 Wash.App. 913, review denied 43 P.3d 21, 145 Wash.2d 1034.—Labor & Emp 1115.

## PUBLIC EMPLOYERS

Mass. 1987. Housing authorities are "public employers" entitled to notice of claim under Tort Claims Act. M.G.L.A. c. 258, § 1.—Commesso v. Hingham Housing Authority, 507 N.E.2d 247, 399 Mass. 805.—Mun Corp 741.25.

Mich. 1978. Institutions of higher education in Michigan are "public employers" subject to provisions of Public Employment Relations Act requiring public employers to bargain collectively and to confer in good faith with respect to wages, hours, and other terms and conditions of employment. M.C.L.A. § 423.215; National Labor Relations Act, § 8(d) as amended 29 U.S.C.A. § 158(d).—Central Michigan University Faculty Ass'n v. Central Michigan University, 273 N.W.2d 21, 404 Mich. 268.—Labor & Emp 1115.

Pa. 1985. Term "public employers," within provision of Public Employe Relations Act [43 P.S. § 217.1] giving policemen or firemen employed by a political subdivision of the Commonwealth or by the Commonwealth the right, through their labor organizations or other representatives, to bargain collectively with their public employers concerning the terms and conditions of their employment, refers to a political subdivision of the Commonwealth or to the Commonwealth itself rather than to agencies, authorities or other component entities and instrumentalities. 43 P.S. § 1101.101 et seq.—Philadelphia Housing Authority v. Com., Pennsylvania Labor Relations Bd., 499 A.2d 294, 508 Pa. 576.—Labor & Emp 1115.

## PUBLIC EMPLOYMENT

N.D.Ill. 1976. "Public employment" is not a "fundamental right" in the "equal protection" sense, and veterans preference to civil service examinees need meet only the minimum rational basis standard. S.H.A.Ill. ch. 24, § 10–1–16; U.S.C.A.Const. Amend. 14.—Branch v. Du Bois, 418 F.Supp. 1128.—Const Law 238.5.

E.D.Ky. 1937. A position is a "public office" when it is created by law, with duties cast on incumbent which involve an exercise of some portion of the sovereign power and in the performance of which the public is concerned, and which also are continuing in their nature and not occasional or intermittent, while a "public employment" is a position which lacks one or more of the foregoing elements.—Varden v. Ridings, 20 F.Supp. 495.—Offic 1.

M.D.La. 1982. A gubernatorial appointment to a prestigious, nonsalaried position on board of supervisors of a state university, requiring Senate consent under the Constitution, is not "public employment" and the appointee is not a "public employee." LSA-Const. Art. 8, § 7(A, C); LSA-R.S. 17:3206, 17:3351, subd. A.—Dumas v. Treen, 551 F.Supp. 1162.—Colleges 7.

Ariz. 1954. "Public Employment" means employment by some branch of government or body politic specially serving needs of general public.—Local 266, Intern. Broth. of Elec. Workers, A. F. of L. v. Salt River Project Agr. Imp. and Power Dist., 275 P.2d 393, 78 Ariz. 30.

Colo. 1972. Employment in public defender's office is not "public employment" within ethical consideration specifying that lawyer, after leaving judicial office or other public employment, should not accept employment in connection with any matter in which he had substantial responsibility prior to his leaving or within disciplinary rule specifying that lawyer shall not accept private employment in matter in which he had substantial responsibility while he was a public employee.—Coles, Manter and Watson v. Denver Dist. Court, Second Judicial Dist., 493 P.2d 374, 177 Colo. 210.—Crim Law 641.5(0.5).

Del.Super. 1954. The position of Secretary of the Department of Elections of Sussex County was a "public employment" and not a "public office" within meaning of the term as used in the law governing quo warranto proceedings, since no specific powers or duties, sovereign or otherwise, were vested by statute in the Secretary and sovereign powers of members of Department could not be delegated to Secretary, and hence an information in the nature of quo warranto was not a proper remedy by which to determine validity of discharge of Secretary and election of his successor. 15 Del.C. §§ 109, 112, 114.—Martin v. Trivitts, 103 A.2d 779, 48 Del. 368, 9 Terry 368.—Quo W 11.

Del.Super. 1954. A position, the duties of which are not defined by law but may be changed at the will of a superior, is a "public employment" and not a "public office".—Martin v. Trivitts, 103 A.2d 779, 48 Del. 368, 9 Terry 368.—Offic 1.

Ind. 1935. "Public office" is position created by law with duties cast upon incumbent which involve exercise of some portion of sovereign power, in performance of which public is concerned, and which are continuing in nature, while "public employment" is position which lacks one or more of foregoing elements.—State ex rel. Wickens v. Clark, 196 N.E. 234, 208 Ind. 402.—Offic 1.

Kan. 1937. A position is a "public office" when it is created by law, with duties cast on incumbent which involve an exercise of some portion of the sovereign power and in the performance of which the public is concerned, and which also are continuing in their nature and not occasional or intermittent; while a "public employment" is a position which lacks one or more of the foregoing elements.—Miller v. Board of Com'rs of Ottawa County, 71 P.2d 875, 146 Kan. 481.

Ky. 1948. A position is a "public office", within meaning of constitutional limitation on salary when it is created by law and is continuing in nature, and incumbent, in fulfillment of his duties, exercises some portion of sovereign power, in performance of which public is concerned, while a "public employment" is a position lacking one or more of such elements. Const. § 246.—Nichols v. Marks, 215 S.W.2d 1000, 308 Ky. 863.—Offic 99.

Ky. 1945. A "public office" is created by law, and the officer's powers and duties must be defined

directly or impliedly, and must be continuing and not intermittent, and must be a portion of the sovereign power of government to be performed for public benefit, and a position lacking such elements is a "public employment".—Black v. Sutton, 191 S.W.2d 407, 301 Ky. 247.—Offic 1.

Ky. 1944. Generally, a position is a "public office" when it is created by law, with duties cast upon the incumbent which involve exercise of some portion of sovereign power and in performance of which the public is concerned, and which also are continuing in their nature and not occasional, while a "public employment" is a position which lacks one or more of foregoing elements.—Bernard v. Humble, 182 S.W.2d 24, 298 Ky. 74.—Offic 1.

Ky. 1940. A position is a "public office" when it is created by law, with duties cast upon the incumbent which involve an exercise of some portion of the sovereign power and in the performance of which the public is concerned, and which also are continuing in their nature and not occasional or intermittent, while a "public employment" is a position which lacks one or more of the foregoing elements.—Alvey v. Brigham, 150 S.W.2d 935, 286 Ky. 610, 135 A.L.R. 1024.

Miss. 1930. Position is "public office" when created by law with duties cast upon incumbent involving exercise of some portion of sovereign power in performance of which public is concerned and which are continuing in their nature, "continuing" meaning enduring and permanent, whereas "public employment" is position lacking one or more of foregoing elements (Const. 1890, § 20; Hemingway's Code 1927, § 2988).—State v. McLaurin, 131 So. 89, 159 Miss. 188.—Offic 1.

Nev. 1953. The fact that "public employment" is held by employee as deputy or servant at will or pleasure of another distinguishes mere employment from "public office", and no part of state's sovereignty is delegated to such employee.—State ex rel. Mathews v. Murray, 258 P.2d 982, 70 Nev. 116.—Offic 1.

Ohio 1942. The statute, providing that city councilman shall not hold any other public office or employment except that of notary public or member of state militia, implies that service in militia is "public employment", so that service in United States armed forces also constitutes such employment. Gen.Code, § 4207.—State ex rel. Cooper v. Roth, 44 N.E.2d 456, 140 Ohio St. 377, 24 O.O. 301.—Mun Corp 142.

Ohio 1942. The engagement of city councilman in other "public service" or "public employment" by virtue of his induction into United States military service automatically brought about forfeiture of his office, without necessity for action by council or notice of its action in declaring his office vacant, and council was authorized to fill vacancy caused by such forfeiture. Gen.Code, §§ 4207, 4236; Selective Training and Service Act, 50 U.S.C.A.Appendix, § 301 et seq.—State ex rel. Cooper v. Roth, 44 N.E.2d 456, 140 Ohio St. 377, 24 O.O. 301.—Mun Corp 149(1).

Or. 1934. It may be stated as a general rule deducible from cases discussing question, that a position is a public office when it is created by law, with duties cast on incumbent which involved exercise of some portion of sovereign power and in performance of which public is concerned and which also are continuing in their nature and not occasional or intermittent, while a "public employment" on the other hand is a position which lacks one or more of the foregoing elements.—Morris v. Parks, 28 P.2d 215, 145 Or. 481.

S.C. 1948. A position is a "public office" when it is created by law with duties cast upon the incumbent which involve an exercise of some portion of the sovereign power and in the performance of which the public is concerned and which also are continuing in their nature, and not occasional or intermittent, while a "public employment" is a position which lacks one or more of the foregoing elements.—State ex rel. Williamson v. Wannamaker, 48 S.E.2d 601, 213 S.C. 1.—Offic 1.

S.C. 1943. Generally, a position is a "public office" when it is created by law, with duties cast upon the incumbent which involve an exercise of some portion of the sovereign power, and in the performance of which the public is concerned, and which also are continuing in their nature, and not occasional or intermittent, while a "public employment" is a position which lacks one or more of the foregoing elements.—Willis v. Aiken County, 26 S.E.2d 313, 203 S.C. 96.—Offic 1.

## PUBLIC ENEMY

Ala.App. 1936. Phrase "public enemy," for whose action innkeeper at common law is not liable to guest at inn, means some power with whom the government is at open war and does not include robbers.—Johnston v. Mobile Hotel Co., 167 So. 595, 27 Ala.App. 145, certiorari denied 167 So. 596, 232 Ala. 175.—Inn 11(1).

Del.Super. 1886. "Public enemy," as used in the statement of the common-law rule that an innkeeper is liable for all injuries happening to a guest save that of act of God and the public enemy, means the forces of a nation engaged in war with the nation of the innkeeper.—Russell v. Fagan, 8 A. 258, 12 Del. 389, 7 Houst. 389.

Ill. 1909. "Public enemy," means enemy of country, and does not include mobs.—Pittsburg, C., C. & St. L. Ry. Co. v. City of Chicago, 89 N.E. 1022, 44 L.R.A.N.S. 358, 134 Am.St.Rep. 316, 242 Ill. 178.—Carr 119.

N.Y.City Civ.Ct. 1970. Hijacking of common carrier's truck on streets of New York City was not act of "public enemy" within rule that common carrier is insurer against loss of property received by it for transportation, except from acts of public enemy, and carrier was liable for loss.—David Crystal Inc. v. Ehrlich-Newmark Trucking Co., 314 N.Y.S.2d 559, 64 Misc.2d 325.—Carr 119.

N.C. 1948. Loss of goods in transit in interstate commerce due to theft by unknown persons was not attributable to the "public enemy" so as to relieve

or acquainted with one another, and did not have access to information such that registration would be unnecessary. Securities Act of 1933, §§ 4, 5, 15 U.S.C.A. §§ 77d, 77e.—Smith v. Kanter, 709 N.Y.S.2d 760, 273 A.D.2d 793, leave to appeal denied 716 N.Y.S.2d 39, 95 N.Y.2d 764, 739 N.E.2d 295.—Sec Reg 18.13.

N.Y.Sup. 1974. Advertisement, which Connecticut corporation sought to place in New York newspapers, and which showed three condominiums and included pictures, general descriptions, phone numbers, and route directions, with phraseology "Priced from the high thirties" and "This does not constitute an offer where an offer may not legally be made," constituted a "public offering" within General Business Law making it illegal for any corporation to make a public offering in state of securities in real estate without filing an offering statement or prospectus. General Business Law §§ 352–e, 352–e, subd. 1(a).—Ledgebrook Corp. v. Lefkowitz, 354 N.Y.S.2d 318, 77 Misc.2d 867.—Sec Reg 262.1.

## PUBLIC OFFERING OF SECURITIES

C.A.10 (Okla.) 1959. In determining whether a "public offering of securities" is made within registration requirements of the Securities Act, characterization of the offering does not turn on the number of persons to whom the offer is made and the number and amount and manner of the offering are distinctly relevant, and the accepted criterion is whether the particular class of persons affected need the protection of the Act and an offering to those who are able to fend for themselves is a transaction "not involving any public offering" and is exempt from registration requirements. Securities Act of 1933, §§ 7, 12(1) as amended 15 U.S.C.A. §§ 77g, 77*l* (1).—Woodward v. Wright, 266 F.2d 108.—Sec Reg 18.13.

## PUBLIC OFFICE

U.S.Mass. 1934. "Public office" implies definite assignment of public activity, fixed by appointment, tenure, and duties.—Helvering v. Powers, 55 S.Ct. 171, 293 U.S. 214, 79 L.Ed. 291.—Offic 1.

C.C.A.6 1943. To make a "public office" of a civil nature, it must be created by Constitution or the Legislature, or by a municipality or other body with authority conferred by the Legislature, there must be a delegation of a portion of the sovereign powers of government to be exercised for the benefit of the public, the powers conferred and duties to be discharged must be defined by the Legislature or through legislative authority, the duties must be performed independently and without control of a superior power other than the law, the office must have some permanency and continuity, and the officer must take an official oath.—Pope v. Commissioner of Internal Revenue, 138 F.2d 1006.—Offic 1.

C.C.A.7 1937. The term "public office" implies a definite assignment of public activity, fixed by appointment, tenure, and duties.—Commissioner of Internal Revenue v. Schnackenberg, 90 F.2d 175.

C.C.A.2 (N.Y.) 1926. A "public office" is an agency for the state, the duties of which involve in their performance the exercise of some portion of the sovereign power, either great or small.—Yaselli v. Goff, 12 F.2d 396, 56 A.L.R. 1239, certiorari granted 47 S.Ct. 101, 273 U.S. 677, 71 L.Ed. 835, affirmed 48 S.Ct. 155, 275 U.S. 503, 72 L.Ed. 395.

D.D.C. 1989. "Public office" within meaning of statute prohibiting person from willfully and unlawfully concealing, removing, mutilating, or destroying records, paper or documents filed in any "public office" is not limited to those offices to which public customarily comes; rather, term includes those offices not accessible to public where normally more important and vital governmental records are kept. 18 U.S.C.A. § 2071(b).—U.S. v. Poindexter, 725 F.Supp. 13.—Records 22.

E.D.Ky. 1938. Where, by virtue of law, a person is clothed not as an incidental or transient authority, but for such time as denotes duration and continuance with independent power to control property of the public, or with public functions to be exercised in the proposed interests of the people, the service to be compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is a "public office."—Smith v. Board of Education of Ludlow, 23 F.Supp. 328.—Offic 1.

E.D.Ky. 1937. A position is a "public office" when it is created by law, with duties cast on incumbent which involve an exercise of some portion of the sovereign power and in the performance of which the public is concerned, and which also are continuing in their nature and not occasional or intermittent, while a "public employment" is a position which lacks one or more of the foregoing elements.—Varden v. Ridings, 20 F.Supp. 495.—Offic 1.

E.D.La. 1972. The position of delegate to the Louisiana constitutional convention was "public office" within Louisiana constitutional provision prohibiting civil service employees from seeking public office and classified civil service employees of city of New Orleans were prohibited from being candidates for election as delegates. LSA–Const. art. 14, § 15(N)(7).—Mortillaro v. State of La., 356 F.Supp. 521.—Offic 26(1).

W.D.Mo. 1962. City council which authorized mayor to appoint city commission to represent city and metropolitan area to acquaint Latin American countries with area's trade opportunities, economic development, and cultural life did not delegate sovereign power to commission, and a commissioner's travel expenses incurred on South American trip were thus not deductible on theory that commissioner was performing functions of a "public office". 26 U.S.C.A. (I.R.C.1954) §§ 162(a) (2), 7701(a) (26).—Green v. Bookwalter, 207 F.Supp. 866, affirmed 319 F.2d 631.—Int Rev 3340.

W.D.Mo. 1962. Internal Revenue Code provision defining trade or business, expenses of which are deductible, as including performance of functions of public office does not automatically convert into trade or business the functions of every so-

called "public office" performed by a volunteer, although functions of public office which are in nature of trade or business should be treated as such even though incumbent may serve without compensation. 26 U.S.C.A. (I.R.C.1954) § 7701(a)(26).—Green v. Bookwalter, 207 F.Supp. 866, affirmed 319 F.2d 631.—Int Rev 3316.

W.D.Mo. 1962. Office of member of park board was "public office" within Internal Revenue Code provisions defining trade or business as including performance of functions of public office and making expenses incurred in carrying on trade or business deductible, where city park department was created by city charter which provided that board of park commissioners should manage and control the department. 26 U.S.C.A. (I.R.C.1954) §§ 162(a)(2), 7701(a)(26).—Green v. Bookwalter, 207 F.Supp. 866, affirmed 319 F.2d 631.—Int Rev 3316.

Ala. 1981. "Public office" which is subject to quo warranto action against alleged usurper, intruder, or unlawful holder, is right, authority and duty created by law by which for a given period, either fixed by law or enduring at pleasure of creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public. Code 1975, § 6–6–591.—State ex rel. Gray v. King, 395 So.2d 6.—Quo W 12.

Ala. 1977. Municipal water and sewer board, which is corporation organized by law to perform its functions as agency of municipality, performs functions which are governmental, and thus its members hold "public office" within meaning of statute providing that members of county personnel board can not for three years next preceding date of appointment to personnel board have held public office. Code of Ala., Tit. 37, § 402(28)–402(46); Laws 1976, p. 939.—McCullough v. State ex rel. Burrell, 352 So.2d 1121.—Counties 64.

Ala. 1939. A "public office" is but a public agency, and an "officer" is but an agent of the public.—Heck v. Hall, 190 So. 280, 238 Ala. 274.—Offic 1.

Ala. 1929. Position of attorney for county sheriff was not "public office" within constitutional provision prohibiting holding two offices of profit. Gen.Laws 1923, p. 95, § 8; Const. § 280.—State v. Wilkinson, 124 So. 213, 220 Ala. 38.—Offic 30.1.

Ala. 1912. A "public office" is a personal public trust created for the benefit of the state without any element of property.—Scheuing v. State, 59 So. 160, 177 Ala. 162.

Ariz. 1940. A "public office" is nonetheless such though the exercise of its sovereign powers, or performance of its duties, is interlocked with or dependent in part on another office.—McCarthy v. State ex rel. Harless, 101 P.2d 449, 55 Ariz. 328.—Offic 1.

Ariz. 1938. In order for a position to constitute a "public office" of the state, the position must be created by a law which imposes on the incumbent certain definite duties involving exercise of some portion of sovereign power.—Stapleton v. Frohmiller, 85 P.2d 49, 53 Ariz. 11.—States 44.

Ariz. 1935. The chief elements of a "public office" are well summed up. The specific position must be created by law; there must be certain definite duties imposed by law on the incumbent, and they must involve the exercise of some portion of the sovereign power. A position which has these three elements is presumably an "office" while one which lacks any of them is a mere "employment."—State ex rel. Colorado River Com'n v. Frohmiller, 52 P.2d 483, 46 Ariz. 413.

Ariz. 1926. "Public office" must be created by law, imposing definite duties involving exercise of sovereign power; "employment."—Winsor v. Hunt, 243 P. 407, 29 Ariz. 504.—Offic 1.

Ariz. 1926. A position created by law, which imposes definite duties on the incumbent, involving the exercise of some portion of the sovereign power, is a "public office," while one lacking any such elements is an "employment."—Winsor v. Hunt, 243 P. 407, 29 Ariz. 504.

Ark. 1948. Position of marshal of second-class city was that of an "officer" and not that of an "employee" and constituted a "public office". Pope's Dig. § 9577, 9801, 9810-9812.—Thomas v. Sitton, 212 S.W.2d 710, 213 Ark. 816.—Mun Corp 183(0.5).

Ark. 1915. Under Kirby's Dig. § 1602, declaring the bribery of any member of the General Assembly or any state officer, or person holding any place of profits or trust under the laws, to be an indictable offense, and that the person accepting the bribe shall be liable to indictment, the term "person holding any place of profit or trust under any law of the state" was not synonymous with the term "public office," and the legislative intent was not limited merely to members of the General Assembly and other state officers, but made it an offense not only to bribe a public official, but any person holding any place of profit or trust under any law of the state, so that a contractor might be indicted for bribing an engineer of a certain improvement district to influence his decision in passing upon the quality of crushed rock to be used in the construction of the road.—State v. Bunch, 177 S.W. 932, 119 Ark. 219.

Cal. 1940. A city attorney of a city of the sixth class is a "public officer," occupying a "public office," and as such is invested with all the rights and privileges and subjected to all of the limitations and restrictions imposed by the constitution and laws of the state and considerations of public policy. Gen.Laws 1937, Act 5233, §§ 852, 879 (repealed. See Govt.Code, §§ 36203–36506, 41801–41804).—People, on Complaint of Chapman, v. Rapsey, 107 P.2d 388, 16 Cal.2d 636.—Mun Corp 123, 167, 170.

Cal. 1924. Candidates for offices of presidential electors cannot be nominated by petition under Pol.Code, § 1188 (repealed. See Elections Code, §§ 3000, 3002, 3040, 3041), providing for such nomination of candidates for "public office," since presidential electors, even if public officers, within the

common acceptation of the term, are not within the statute, in view of legislative history of such statute, and § 1197 (repealed. See Elections Code, §§ 1451–1454, 2752, 3800 et seq.), and Direct Primary Law 1917, St.1917, p. 1341, § 1, subd. 9(b) and sections 2, 5.—Spreckels v. Graham, 228 P. 1040, 194 Cal. 516.—Elections 142.

Cal.App. 1 Dist. 1942. A "public office" is said to be the right, authority, and duty, created and conferred by law--the tenure of which is not transient, occasional, or incidental--by which for a given period an individual is invested with power to perform a public function for public benefit.—People ex rel. Bagshaw v. Thompson, 130 P.2d 237, 55 Cal.App.2d 147.

Cal.App. 2 Dist. 2005. A "public office" is ordinarily and generally defined to be the right, authority, and duty, created and conferred by law, the tenure of which is not transient, occasional, or incidental, by which for a given period an individual is invested with power to perform a public function for the benefit of the public.—People v. Rosales, 27 Cal.Rptr.3d 897, 129 Cal.App.4th 81.—Offic 1.

Cal.App. 2 Dist. 1952. A "public office" is the right, authority, and duty, created and conferred by law, the tenure of which is not transient, occasional, or incidental, by which for a given period an individual is invested with power to perform a public function for public benefit, one of the prime requisites being that the office be created by the constitution or authorized by some statute, and it is essential that incumbent be clothed with a part of the sovereignty of the state to be exercised in the interest of the public.—Schaefer v. Superior Court in and for Santa Barbara County, 248 P.2d 450, 113 Cal.App.2d 428.—Offic 1.

Cal.App. 2 Dist. 1933. Resolution fixing compensation of city engineer and appointing plaintiff to fill duties of city engineer and to receive retainer for duties prescribed did not create "public office."—Staheli v. City of Redondo Beach, 21 P.2d 133, 131 Cal.App. 71.—Mun Corp 126.

Cal.App. 2 Dist. 1933. Though resolution fixing compensation of city engineer and appointing plaintiff to fill duties of city engineer and to receive retainer for duties prescribed did not create "public office," there arose instead contract with individual.—Staheli v. City of Redondo Beach, 21 P.2d 133, 131 Cal.App. 71.—Mun Corp 217.1.

Cal.App. 2 Dist. 1905. The term "public office" implies permanence and duties of a public nature.—Reed v. Sehon, 83 P. 77, 2 Cal.App. 55.

Cal.App. 3 Dist. 1926. "Public office" is right, authority, and duty created and conferred by law, by which, for a given period, an individual is invested with portion of sovereign functions of government for the public benefit; "public officer."—Walker v. Rich, 249 P. 56, 79 Cal.App. 139.—Offic 1.

Cal.App. 3 Dist. 1923. The test as to whether a position created by statute is a "public office" is whether the duties of such position or employment involve the exercise of any part of the sovereign power of the state.—Curtin v. State, 214 P. 1030, 61 Cal.App. 377.

Cal.App. 4 Dist. 1978. There are two requirements for a "public office": first, a tenure of office which is not transient, occasional, or incidental but is of such nature that office itself is an entity in which incumbents succeed one another and which does not cease to exist with termination of incumbency and, second, the delegation to the officer of some portion of sovereign functions of government either legislative, executive, or judicial.—City Council v. McKinley, 145 Cal.Rptr. 461, 80 Cal.App.3d 204.—Offic 1.

Cal.App. 6 Dist. 1996. County parole board is itself a "public office."—People ex rel. Deputy Sheriffs' Assn. v. County of Santa Clara, 57 Cal. Rptr.2d 322, 49 Cal.App.4th 1471, rehearing denied, and review denied.—Pardon 55.1.

Cal.App. 6 Dist. 1996. "Public office" requires presence of office which is not transient, occasional or incidental but is in itself entity in which incumbents succeed one another, and delegation to office of some portion of sovereign functions of government, either legislative, executive or judicial.—People ex rel. Deputy Sheriffs' Assn. v. County of Santa Clara, 57 Cal.Rptr.2d 322, 49 Cal.App.4th 1471, rehearing denied, and review denied.—Offic 1.

Conn. 1985. "Public office" is position in governmental system created, or at least recognized, by applicable law to which position certain permanent duties are assigned, either by law itself, or by regulations adopted under law by agency created by it and acting in pursuance of it.—Murach v. Planning and Zoning Com'n of City of New London, 491 A.2d 1058, 196 Conn. 192.—Offic 1.

Conn. 1975. Essential characteristics of "public office" are (1) authority conferred by law, (2) fixed tenure of office, and (3) power to exercise some portion of sovereign functions of government; key element of such test is that "officer" is carrying out sovereign function.—Spring v. Constantino, 362 A.2d 871, 168 Conn. 563.—Offic 1.

Conn. 1945. A "public office" is the right, authority and duty, created and conferred by law, by which an individual is invested with some portion of sovereign functions of the government exercised by him for benefit of the public.—Tremp v. Patten, 42 A.2d 834, 132 Conn. 120.—Offic 1.

Conn. 1930. "Public office," as distinguished from mere employment, is authority conferred by law to exercise portion of government's sovereign functions for fixed period, and individual given such power is "public officer."—Kelly v. City of Bridgeport, 151 A. 268, 111 Conn. 667.—Offic 1.

Conn. 1910. New Haven city charter provides for the appointment of a director of public works, who shall have necessary clerical assistance to perform the clerical work of the board and examine all transfers of real estate within the city, and preserve such abstracts of title as may facilitate the departmental work. The charter also creates a civil service board to prescribe civil service rules for positions in the city government, including all clerks, copyists,

janitors, stenographers, etc. An ordinance provided that the clerk of the department of public works shall keep a record of the proceedings of the department and perform other prescribed duties. The director of public works appointed relator to examine the records of transfers of real estate and make and preserve abstracts of title for use of the department, but prescribed no other duties. The position was known as "examiner of records" with an annual salary assigned to it, and the city yearbook contained relator's name, followed by that title. Upon adoption of the civil service rules, relator took the civil service examination, was appointed and continued in the same duties until his removal. *Held,* that relator's position was not a "public office" to try title to which quo warranto will lie, relator not being invested with part of the sovereign functions of government.—State v. Brethauer, 75 A. 705, 83 Conn. 143.—Quo W 10.

Conn. 1909. The position of a deputy building inspector, having attached to it important powers and functions of government belonging to the sovereignty, is a "public office," as distinguished from a mere employment or agency resting on contract, and to which such powers and functions are not attached.—State v. Mackie, 74 A. 759, 82 Conn. 398, 26 L.R.A.N.S. 660.—Offic 1.

Conn. 1909. A "public office" is a right, authority, and duty created and conferred by law, by which an individual is invested with some portion of the sovereign functions of the government to be exercised by him for the benefit of the public. It implies a delegation of a portion of the sovereign power to and possession of it by the person filling the office.—State v. Mackie, 74 A. 759, 82 Conn. 398, 26 L.R.A.N.S. 660.—Offic 1.

Conn.App. 1997. Internal Revenue Service (IRS), with whom defendant was to have filed federal income tax documents which he forged, was "public office" and "public servant" under state forgery statute. C.G.S.A. § 53a–139(a)(2).—State v. Radzvilowicz, 703 A.2d 767, 47 Conn.App. 1, certification denied 704 A.2d 806, 243 Conn. 955.—Forg 9.

Conn.App. 1997. Meaning of "public office" under forgery statute is not limited to place where one is free to go and see records one wishes. C.G.S.A. § 53a–139(a)(2).—State v. Radzvilowicz, 703 A.2d 767, 47 Conn.App. 1, certification denied 704 A.2d 806, 243 Conn. 955.—Forg 9.

Del.Supr. 1967. "Public office" must give one tenure in office, right to receive fees and emoluments belonging to office, necessity of taking oath of office, and authority and duty to exercise some part of sovereign power of State.—Raduszewski v. Superior Court In and For New Castle County, 232 A.2d 95.—Offic 1.

Del.Super. 1954. The position of Secretary of the Department of Elections of Sussex County was a "public employment" and not a "public office" within meaning of the term as used in the law governing quo warranto proceedings, since no specific powers or duties, sovereign or otherwise, were vested by statute in the Secretary and sovereign powers of members of Department could not be delegated to Secretary, and hence an information in the nature of quo warranto was not a proper remedy by which to determine validity of discharge of Secretary and election of his successor. 15 Del.C. §§ 109, 112, 114.—Martin v. Trivitts, 103 A.2d 779, 48 Del. 368, 9 Terry 368.—Quo W 11.

Del.Super. 1954. A position, the duties of which are not defined by law but may be changed at the will of a superior, is a "public employment" and not a "public office".—Martin v. Trivitts, 103 A.2d 779, 48 Del. 368, 9 Terry 368.—Offic 1.

Del.Super. 1954. In order to constitute a "public office" the powers and duties of the position must be conferred and defined by law and must involve the exercise of some portion of the sovereign power of the state.—Martin v. Trivitts, 103 A.2d 779, 48 Del. 368, 9 Terry 368.—Offic 1.

Del.Super. 1939. The position of secretary of department of elections for city of Wilmington was not a "public office," the title to which could be tried in a quo warranto proceeding, since statutory authorization to administer oaths to registration officers failed to impose a duty upon secretary or involve the exercise of sovereign power of the state. Rev.Code 1935, §§ 1746, 1756.—State ex rel. Green v. Glenn, 4 A.2d 366, 39 Del. 584, 9 W.W.Harr. 584.—Quo W 11.

Del.Super. 1934. Office of Sussex county treasurer, though "public office," is statutory, not constitutional, office, and General Assembly may therefore change commencement of term without infringing constitutional prohibition against extending term. 28 Del.Laws, c. 82; 37 Del.Laws, c. 106; Const. art. 15, § 4.—State ex rel. Green v. Isaacs, 171 A. 627, 36 Del. 110, 6 W.W.Harr. 110.—Offic 51.

Fla. 1965. A "public office" is an agency of the state and person whose duty it is to perform duties of such office is a "public officer".—State v. State Road Dept., 173 So.2d 693.—Offic 1.

Fla. 1945. The term "public office", unlike "employment" implies a delegation of a portion of the sovereign power to and possession of it by the person filling the incumbency and exercise in incumbent's own right of prescribed independent authority of a governmental nature.—State ex rel. Watson v. Hurlbert, 20 So.2d 693, 155 Fla. 531.—Offic 1.

Fla. 1945. The statute authorizing county commissioners of Duval county to employ a county detective to be appointed by the Governor, and vesting such detective with the same powers of arrest and of summoning witnesses in behalf of the state in criminal cases as sheriffs of the several counties, created a "public office" and not an "employment". Sp.Acts 1927, c. 12704, § 2, and § 1, as amended by Sp.Acts 1931, Ex.Sess., c. 15675.—State ex rel. Watson v. Hurlbert, 20 So.2d 693, 155 Fla. 531.—Offic 61.

Fla. 1920. The term "office" implies a delegation of a portion of the sovereign power to and possession of it by the person filling the office, and

a "public office" is an agency for the state and the person whose duty it is to perform the agency is a "public officer."—State v. Jones, 84 So. 84, 79 Fla. 56.—Offic 1.

Fla. 1920. The term "public office" embraces the idean of tenure, duration, and duties, and has respect to a public trust to be exercised in behalf of the government, and not to a merely transient, occasional, or incidental employment.—State v. Jones, 84 So. 84, 79 Fla. 56.—Offic 1.

Fla. 1920. The term "office" implies a delegation of a portion of the sovereign power to, and possession of it by, the person filling the office; a "public office" being an agency for the state, and the person whose duty it is to perform the agency being a "public officer." The term embraces the idea of tenure, duration, and duties, and has respect to a public trust to be exercised in behalf of government, and not to a merely transient, occasional, or incidental employment. A person in the service of the government who derives his position from a duly and legally authorized election or appointment, whose duties are continuous in their nature and defined by rules prescribed by government, and not by contract, consisting of the exercise of important public powers, trusts, or duties, as a part of the regular administration of the government, the office and the duties remaining, though the incumbent dies or is changed; "every office," in the constitutional meaning of the term, implying an authority to exercise some portion of the sovereign power, either in making, executing or administering the laws. A "state officer" is one who falls within this definition and whose field for the exercise of his jurisdiction, duties, and powers is coextensive with the limits of the state and extends to every part of it.—State v. Jones, 84 So. 84, 79 Fla. 56.

Ga. 1993. State college professor, who was also chairman of college's criminal justice department and director of college's criminal justice institute, did not hold "public office" within meaning of quo warranto statute and, thus, action for quo warranto could not be brought against professor. O.C.G.A. § 9–6–60.—MacDougald v. Phillips, 425 S.E.2d 652, 262 Ga. 778, appeal after remand 445 S.E.2d 357, 213 Ga.App. 575.—Quo W 10.

Ga. 1971. Office in political body or political party was "public office" within statute which declares that public office may become vacant as result of the incumbent abandoning the office and ceasing to perform its duties. Code, § 89–501, subd. 7.—Belcher v. Harris, 185 S.E.2d 771, 228 Ga. 387.—Offic 55(1).

Ga. 1960. Office of county executive committeeman of political party is a "public office" within meaning of statute providing that writ of quo warranto may issue to inquire into the right of any person to any "public office," the duties of which he is in fact discharging. Code, §§ 34–1914, 34–3201 et seq., 34–3209, 34–3219 to 34–3221, 34–3225 to 34–3227, 34–3235, 34–3236, 34–3309, 64–201.—Ritchie v. Barker, 115 S.E.2d 539, 216 Ga. 194.—Quo W 11.

Ga. 1948. A "public office" is one created by Constitution, statute, or municipal ordinance passed in pursuance of legislative authority.—Morris v. Peters, 46 S.E.2d 729, 203 Ga. 350.—Offic 1.

Ga. 1948. A "public office" is right, authority, and duty conferred by law vesting an individual with some portion of sovereign functions of government to be exercised by him for public benefit.—Morris v. Peters, 46 S.E.2d 729, 203 Ga. 350.—Offic 1.

Ga. 1948. The statutes imposing certain duties on chairman of any political party holding primary election and on Secretary of State do not make position of chairman of state Democratic executive committee a "public office" of state, but simply recognize and approve status of one chosen or elected as chairman by such a political party as an officer thereof. Ga.Code Ann. §§ 34–3212, 34–3213, 34–3215, 34–3215.1, 34–3234; Laws 1946, p. 75.—Morris v. Peters, 46 S.E.2d 729, 203 Ga. 350.—Elections 121(1).

Ga. 1940. A "public office" is a franchise and not a mere tangible combination of rooms, tables, books and papers, and loss of physical possession of such tangible property does not necessarily dispossess officer of intangible franchise intrusted by law to him as a public office.—Patten v. Miller, 8 S.E.2d 776, 190 Ga. 105.—Offic 1.

Ga. 1934. The term "public office" involves the ideas of tenure, duration, fees or emoluments, and powers as well as that of duty, and these ideas or elements cannot properly be separated and each considered abstractly, but all, taken together, constitute an "office." But it is not necessary that an "office" should have all of the above-named characteristics, although it must possess more than one of them, and the mere fact that it concerns the public will not constitute it an "office." The term "public office" embraces the idea of tenure and of duration or continuance; hence an important distinguishing characteristic of an officer is that the duties to be performed by him are of a permanent character as opposed to duties which are occasional, transient, and incidental. Public employments are "public offices," notwithstanding the instability of the tenure by which the incumbent holds.—Kurfees v. Davis, 173 S.E. 157, 178 Ga. 429.

Ga. 1933. A "public office" is a public trust or agency, and is not the property of the incumbent thereof, and, when he is suspended from such office, he is not deprived of any property.—Felton v. Huiet, 173 S.E. 660, 178 Ga. 311.

Ga. 1928. "Public office," within statute providing for quo warranto, is office lawfully created by Constitution, statutes, or ordinance.—Benson v. Hines, 144 S.E. 287, 166 Ga. 781.—Quo W 10.

Ga.App. 2005. Documents maintained by campus police of private university were not records of "public office" within scope of state's Open Records Act, despite contention that campus police did not and could not exist as certified police agency without powers prescribed by state, where university was private institution, not public entity, and received no state funding, campus police officers were

university employees compensated, directed, and controlled by university. West's Ga.Code Ann. § 50–18–70 et seq.—Corporation of Mercer University v. Barrett & Farahany, LLP, 610 S.E.2d 138, 271 Ga.App. 501, certiorari denied.—Records 51.

Ga.App. 2005. To be considered a "public office" or "public agency" pursuant to the Open Records Act, an entity must generally either: (1) be a political subdivision of the state; (2) be a city, county, regional or other authority established pursuant to law; or (3) receive a specified amount of funding from the state. West's Ga.Code Ann. §§ 50–14–1(a)(1), 50–18–70(a).—Corporation of Mercer University v. Barrett & Farahany, LLP, 610 S.E.2d 138, 271 Ga.App. 501, certiorari denied.—Records 51.

Ga.App. 2003. An officer differs from an employee, for purposes of entering into employment contracts, because a "public office" is the right, authority, and duty, created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is vested with some portion of the sovereign functions of government, to be exercised by him for the benefit of the public.—Ashe v. Clayton County Community Service Bd., 586 S.E.2d 683, 262 Ga.App. 738.—Offic 1.

Ill. 1921. The office of public administrator is a "public office" within S.H.A.Const. art. 5, §§ 10 and 12, relating to appointment and removal by the Governor.—Ramsay v. Van Meter, 133 N.E. 193, 300 Ill. 193.—Ex & Ad 24.

Ill.App. 4 Dist. 1976. Characteristics of a "public office" include creation by statute or Constitution, exercise of some portion of the sovereign power, a continuing position not vocational or contractual, fixed tenure, an oath, liability for misfeasance or nonfeasance, and the official has an independence beyond that of employees, but not all these factors are required in order to determine that a position is an office.—Midwest Television, Inc. v. Champaign-Urbana Communications, Inc., 347 N.E.2d 34, 37 Ill.App.3d 926.—Offic 1.

Ill.App. 5 Dist. 2002. A "public office" is a public position created either by the constitution or by other law, and it must be a permanent position with continuous duties, with a successor that is either appointed or elected.—Witters v. Hicks, 269 Ill. Dec. 241, 780 N.E.2d 713, 335 Ill.App.3d 435.—Offic 1.

Ind. 1935. "Public office" is position created by law with duties cast upon incumbent which involve exercise of some portion of sovereign power, in performance of which public is concerned, and which are continuing in nature, while "public employment" is position which lacks one or more of foregoing elements.—State ex rel. Wickens v. Clark, 196 N.E. 234, 208 Ind. 402.—Offic 1.

Ind. 1934. Statute authorizing county commissioners to "appoint" special engineer to supervise highway construction where county surveyor is not competent civil engineer held not to create "public office," so that special engineer's tenure did not extend until completion of work concerning which he was employed, but could be terminated on election of county surveyor who was qualified engineer; word "appointed" as used in statute meaning employed. Burns' Ann.St. § 49–3309.—State ex rel. Coffing v. Abolt, 189 N.E. 131, 206 Ind. 218.—Counties 65.

Ind. 1932. In permanent teachers' mandamus proceeding for reinstatement, it was not necessary to set out or file copy of teachers' indefinite contracts, since the complaint, seeking restoration of complainants to their teaching positions, was not "founded on a written instrument," which, under Burns' Ann.St.1926, § 386, must be filed with the pleading, but was for the enforcement of the teachers' rights arising out of the Teachers' Tenure Law, Burns' Ann.St.Supp.1929, §§ 6967.1-6967.6, and position of public school teacher being "employment by contract" and not a "public office."—School City of Elwood v. State, 180 N.E. 471, 203 Ind. 626, 81 A.L.R. 1027.

Ind. 1901. Public office is not a contract; it is in the nature of a trust or agency. The distinction between a "contract" and a "public office" is marked. If the former is not fully executed, the delinquent is liable, and must respond in damages; while in the latter the officer may lay aside his office by resignation, at pleasure, and with it all further liability. A county officer accepts his office subject to whatever regulations the Legislature may afterwards make respecting it. New duties may be imposed upon an incumbent without additional compensation, and his compensation, as fixed by law when elected, may be either increased or decreased. It is settled that public office is accepted cum onere.—Sudbury v. Board of Com'rs of Monroe County, 62 N.E. 45, 157 Ind. 446.

Ind.App. 1998. Private, nonprofit corporation formed as result of consolidation of university hospitals and private hospital was not "public office" subject to audit by State Board of Accounts, to extent it was comprised of university hospitals, as university hospitals no longer constituted a public fund; to extent public had invested in university hospitals, it would be adequately compensated through corporation's annual contributions of millions of dollars for benefit of university's school of medicine. West's A.I.C. 5–11–1–9(a), 5–11–1–16(c).—Indiana State Bd. of Accounts v. Consolidated Health Group, Inc., 700 N.E.2d 247.—Health 267.

Ind.App. 1998. "Public office" subject to audit by State Board of Accounts must: (1) hold, receive, disburse or keep (2) public funds (3) for or on behalf of the state. West's A.I.C. 5–11–1–9(a), 5–11–1–16(c).—Indiana State Bd. of Accounts v. Consolidated Health Group, Inc., 700 N.E.2d 247.—Mun Corp 879.

Ind.App. 1998. Private, nonprofit corporation formed as result of consolidation of university hospitals and private hospital was subject to audit by State Board of Accounts as "public office" only to extent corporation consisted of certain hospital which was legislatively defined as department of

state university and was under direction and control of university's board of trustees; corporation was acting in place of or on behalf of university's trustees with respect to this hospital. West's A.I.C. 5-11-1-9(a), 5-11-1-16(c).—Indiana State Bd. of Accounts v. Consolidated Health Group, Inc., 700 N.E.2d 247.—Health 267.

Ind.App. 1 Dist. 1995. For purposes of State Board of Accounts statute, "public office" is office which holds, receives, disburses, or keeps public funds for or on behalf of state. West's A.I.C. 5-11-1-16(c).—State Bd. of Accounts v. Indiana University Foundation, 647 N.E.2d 342, transfer denied.—Mun Corp 879.

Ind.App. 1937. "Officer" is distinguished from "employee" in greater importance, dignity, and independence of his position, being required to take an official oath, and perhaps to give an official bond, in the liability to be called to account as a public offender for misfeasance or nonfeasance in office, and usually, though not necessarily, in tenure of his position. "Public office" is a position to which a portion of the sovereignty of the state attaches for the time being, and which is exercised for benefit of public, and the most important characteristic distinguishing "office" from "employment" is that duties of incumbent of office must involve exercise of some portion of sovereign power. "Office" is based on some provision of law, and does not arise out of contract, whereas "employment" usually arises out of contract between government and employee, and although employment may be created by law, where authority is conferred by contract it is regarded as an "employment" and not as a "public office," notwithstanding provision for employment is made by statutes, and notwithstanding position is referred to as an "office." Assistant jailer or turnkey who merely cared for and supervised jail under direct orders of sheriff and performed no discretionary duties held an "employee" of county, whose death was compensable and not a "public officer," where turnkey was appointed by sheriff, office was not provided for by statute, and turnkey received no certificate or commission, subscribed to no oath, and executed no bond.—St. Joseph County v. Claeys, 5 N.E.2d 1008, 103 Ind.App. 192.

Ind.App. 1937. "Officer" is distinguished from "employee" in greater importance, dignity, and independence of his position, being required to take an official oath, and perhaps to give an official bond, in the liability to be called to account as a public offender for misfeasance or nonfeasance in officer, and usually, though not necessarily, in tenure of his position. "Public office" is a position to which a portion of the sovereignty of the state attaches for the time being, and which is exercised for benefit of public, and the most important characteristic distinguishing "office" from "employment" is that duties of incumbent of office must involve exercise of some portion of sovereign power. "Office" is based on some provision of law, and does not arise out of contract, whereas "employment" usually arises out of contract between government and employee, and although employment may be created by law, where authority is conferred by contract it is regarded as an "employment" and not as a "public office," notwithstanding provision for employment is made by statutes, and notwithstanding position is referred to as an "office."—St. Joseph County v. Claeys, 5 N.E.2d 1008, 103 Ind. App. 192.

Ind.App. 1934. A "public office" may be defined as a position to which a portion of the sovereignty of the state attaches for the time being, and which is exercised for the benefit of the public. The most important characteristic which may be said to distinguish an "office" from an "employment" is that the duties of the incumbent of an office must involve an exercise of some portion of the sovereign power.—State ex rel. Board of Finance of Washington Tp. v. Aetna Casualty & Surety Co. of Hartford, Conn., 189 N.E. 536, 100 Ind.App. 46.

Ind.App. 1 Div. 1921. A "public office" may be defined as a position to which a portion of the sovereignty of the state attaches for the time being, and is exercised for the benefit of the public; the most important characteristic distinguishing an office from an employment being that the duties of the incumbent of an office must involve exercise of some portion of the sovereign power.—Shelmadine v. City of Elkhart, 129 N.E. 878, 75 Ind.App. 493.—Offic 1.

Iowa 1979. The unsupervised exercise of sovereign power is the hallmark of a "public office."—State v. Pinckney, 276 N.W.2d 433.—Offic 1.

Iowa 1973. To establish public position as "public office," position must be created by Constitution, legislature, or through authority conferred by legislature, portion of sovereign power of government must be delegated to position, duties and powers must be defined, directly or impliedly, by legislature or through legislative authority, duties must be performed independently without control of superior power other than law, and position must have some permanency and continuity.—Vander Lynden v. Crews, 205 N.W.2d 686.—Offic 1.

Iowa 1945. Among the essentials of "public office" are the delegation to the office and its occupant of some of the sovereign functions, powers, duties, and trusts of government, the authority to direct, supervise, to perform duties with more or less independence of superior control.—Heiliger v. City of Sheldon, 18 N.W.2d 182, 236 Iowa 146.—Offic 1.

Iowa 1944. A public employment, to be a "public office", must be created by Constitution or Legislature or through authority conferred by Legislature possess delegated portion of government's sovereign power, have duties and powers defined directly or impliedly by legislature or through legislative authority, perform such duties independently and without control of a superior power other than the law, unless they be duties of inferior or subordinate office created or authorized by Legislature and placed thereby under superior officer's or body's general control, and have some permanency

or continuity.—Hutton v. State, 16 N.W.2d 18, 235 Iowa 52.—Offic 1.

Iowa 1942. A position created by direct act of the legislature, or by a board of commissions duly authorized so to do, in a proper case, by the legislature, is a "public office."—Whitney v. Rural Independent School Dist. No. 4 of Lafayette Tp., 4 N.W.2d 394, 232 Iowa 61, 140 A.L.R. 1376.

Iowa 1941. A surety bond given by certified public accountant is not an "official bond" within statute requiring action on official bond to be brought within three years, since a certified public accountant is not a "public officer" and the accountant's certificate is not an appointment to a "public office" but is merely a "license" to practice accountancy. Code 1939, §§ 1905.11, 1905.19, 11007.—Jaeger Mfg. Co. v. Maryland Casualty Co., 300 N.W. 680, 231 Iowa 151.—Lim of Act 22(8).

Iowa 1940. A position created by direct act of the Legislature, or by a board of commissions duly authorized so to do by the Legislature, is a "public office", and to constitute one a "public officer" the duties must either be prescribed by the constitution or the statutes, or necessarily inhere in and pertain to the administration of the office itself, and the duties of the position must embrace the exercise of public powers or trusts.—McKinley v. Clarke County, 293 N.W. 449, 228 Iowa 1185.—Offic 1.

Iowa 1905. A "public office" is a personal public trust created for the benefit of the state and not for the benefit of the individual citizens thereof, and it has in it no element of property. Therefore a statute providing for preference of honorably discharged soldiers of the Civil War in appointment, employment, and promotion in public service over others of equal qualification does not violate Const. art. 1, § 6 (I.C.A.Const.), declaring that the General Assembly shall not grant to any citizen or class of citizens privileges or immunities not equally belonging to all; the right to hold a public office or to be employed by the state in any capacity not being a privilege.—Shaw v. City Council of Marshalltown, 104 N.W. 1121, 131 Iowa 128, 10 L.R.A.N.S. 825, 9 Am.Ann.Cas. 1039.

Kan. 1939. As respects privilege of communications concerning public officials, the right to exercise some definite portion of sovereign power constitutes an indispensable attribute of a "public office."—Sowers v. Wells, 95 P.2d 281, 150 Kan. 630.—Libel 48(2).

Kan. 1939. Although an attorney is an officer of the court, he is not an "officer of the state," and the admission of a person to practice as an attorney is not an appointment to "public office," so as to privilege communications concerning attorney in practice of profession as communications concerning a "public officer."—Sowers v. Wells, 95 P.2d 281, 150 Kan. 630.—Libel 48(2).

Kan. 1937. A position is a "public office" when it is created by law, with duties cast on incumbent which involve an exercise of some portion of the sovereign power and in the performance of which the public is concerned, and which also are continuing in their nature and not occasional or intermittent; while a "public employment" is a position which lacks one or more of the foregoing elements.—Miller v. Board of Com'rs of Ottawa County, 71 P.2d 875, 146 Kan. 481.

Ky. 1953. In order to make position of public employment a "public office" it must be created by Constitution or Legislature; it must possess delegation of a portion of sovereign power of government to be exercised for benefit of public; its powers and duties must be defined by Legislature or through legislative authority; its duties must be performed independently and without control of superior power, other than law, unless they be those of inferior or subordinate office, created or authorized by Legislature and placed under general control of superior officer or body; and it must have some permanency and continuity. Const. §§ 161, 235.—Love v. Duncan, 256 S.W.2d 498.—Offic 1.

Ky. 1948. In order to make position of public employment a "public office" it must be created by Constitution or Legislature, must possess delegation of a portion of sovereign power of government to be exercised for benefit of public, powers and duties must be defined by Legislature or through legislative authority, duties must be performed independently and without control of a superior power, other than the law, unless those of inferior or subordinate office created or authorized by Legislature and placed under general control of superior officer or body, and must have some permanency and continuity. Const. § 246.—Nichols v. Marks, 215 S.W.2d 1000, 308 Ky. 863.—Offic 1.

Ky. 1948. A position is a "public office", within meaning of constitutional limitation on salary when it is created by law and is continuing in nature, and incumbent, in fulfillment of his duties, exercises some portion of sovereign power, in performance of which public is concerned, while a "public employment" is a position lacking one or more of such elements. Const. § 246.—Nichols v. Marks, 215 S.W.2d 1000, 308 Ky. 863.—Offic 99.

Ky. 1948. An indispensable element of a "public office," within meaning of constitutional limitation on salary, as distinguished from a mere employment, is that duties of incumbent shall involve an exercise of some portion of the sovereign power, and powers and duties must not only be derived from legislative authority but must be performed independently and without control of a superior power. Const. § 246.—Nichols v. Marks, 215 S.W.2d 1000, 308 Ky. 863.—Offic 99.

Ky. 1947. A "public office" must be created by law, must possess a delegation of a portion of the sovereign power of government, to be exercised for the benefit of the public, the powers conferred, the duties to be discharged must be defined, directly or impliedly, by the Legislature or through its authority, the duties must be performed independently and without control of a superior power, other than the law, unless they be those of inferior or subordinate office, and it must have some permanency and continuity.—Taylor v. Com. ex rel. Dummit, 202 S.W.2d 992, 305 Ky. 75.—Offic 1.

Ky. 1945. A "public office" is created by law, and the officer's powers and duties must be defined directly or impliedly, and must be continuing and not intermittent, and must be a portion of the sovereign power of government to be performed for public benefit, and a position lacking such elements is a "public employment".—Black v. Sutton, 191 S.W.2d 407, 301 Ky. 247.—Offic 1.

Ky. 1944. Generally, a position is a "public office" when it is created by law, with duties cast upon the incumbent which involve exercise of some portion of sovereign power and in performance of which the public is concerned, and which also are continuing in their nature and not occasional, while a "public employment" is a position which lacks one or more of foregoing elements.—Bernard v. Humble, 182 S.W.2d 24, 298 Ky. 74.—Offic 1.

Ky. 1940. A position is a "public office" when it is created by law, with duties cast upon the incumbent which involve an exercise of some portion of the sovereign power and in the performance of which the public is concerned, and which also are continuing in their nature and not occasional or intermittent, while a "public employment" is a position which lacks one or more of the foregoing elements.—Alvey v. Brigham, 150 S.W.2d 935, 286 Ky. 610, 135 A.L.R. 1024.

Ky. 1933. Position of city manager held "public office" within constitutional limitation on salary, and therefore statutory provision that city manager was not an officer was void, and ordinance fixing salary was unenforceable over constitutional limitation. Const. § 246; Ky.St.Supp.1933, §§ 3235dd–32, 3235dd–33, 3235dd–35.—City of Lexington v. Thompson, 61 S.W.2d 1092, 250 Ky. 96.—Mun Corp 124(6).

La. 1944. A "public office" is the right, authority and duty created and conferred by law by which for a given period, either fixed by law or enduring at pleasure of the creator an individual is invested with some portion of the sovereign functions of the government to be exercised by him for benefit of the public.—State ex rel. Danziger v. Recorder of Mortgages for Parish of Orleans, 19 So.2d 129, 206 La. 259.

La. 1940. A "public office" is agency for state, and person whose duty is to perform such agency, that is, to do some act, acts or series of acts for state, is "public officer".—State v. Dark, 196 So. 47, 195 La. 139.—States 44.

La. 1940. A "public office" is right, authority and duty, created and conferred by law investing individual with some portion of sovereign functions of government, to be exercised by him for public benefit, for given period fixed by law or enduring at pleasure of creating power, and such individual is "public officer."—State v. Dark, 196 So. 47, 195 La. 139.—Offic 1.

La. 1905. In the most general and comprehensive sense, a "public office" is an agency for the state, and a person whose duty it is to perform this agency is a "public officer." Stated more definitely, a "public office" is a charge or trust conferred by public authority for a public purpose, the duties of which involve, in their performance, the exercise of some portion of sovereign power, whether great or small. A public officer is an individual who has been elected or appointed in the manner prescribed by law, who has a designation or title given to him by law, and who exercises the functions concerning the office assigned to him by law. A parish superintendent is an officer.—State ex rel. Smith v. Theus, 38 So. 870, 114 La. 1097.

La.App. 1 Cir. 1996. Paternity blood test consent form of private testing laboratory, which was signed by defendant's accomplice, was "public document" within meaning of statute governing offense of filing false public records, despite fact that form had not been filed in public record at time it was forged, where defendant knew his blood was to be drawn in accordance with court order, and yet he aided and abetted accomplice in depositing forged document which was to be filed with parish juvenile court, which was "public office" for purposes of offense, and conspired with accomplice to do so. LSA–R.S. 44:1, subd. A(1), 14:133, subd. A.—State v. Daigle, 681 So.2d 66, 1995-2393 (La.App. 1 Cir. 9/27/96).—Records 22.

La.App. 1 Cir. 1939. The position of member of State Central Committee of Republican Party was a "public office" and a "state office" within meaning of term "office" in primary election law authorizing contest of election by candidates claiming to have been nominated for office, and therefore the proper forum in which to present claim for nomination was district court of parish in which capitol of state was situated, notwithstanding that member was to be elected from a parish in the state or a ward in city of New Orleans. Act No. 97 of 1922, §§ 11, 27, 28 (repealed 1950); Const.1921, art. 7, § 35.—State ex rel. Tuttle v. Republican State Central Committee of Louisiana, 192 So. 740.—Elections 121(2).

Me. 1975. Principles relating to "incompatibility of positions" as legal concept independent of "conflict of interests" have applicability only when each position under assessment for "incompatibility" is a "public office."—Opinion of the Justices, 330 A.2d 912.—Offic 30.1.

Me. 1940. A party nomination at a primary election is not a "public office", the title to which the state, by its attorney general, could try by quo warranto. Rev.St.1930, c. 116, §§ 21, 22.—Burkett ex rel. Leach v. Ulmer, 15 A.2d 858, 137 Me. 120.—Quo W 11.

Me. 1940. The term "public office" implies a delegation of a portion of the sovereign power to, and the possession of it by the person filling the office, and the exercise of such power within legal limits constitutes the correct discharge of the duties of such office.—Burkett ex rel. Leach v. Ulmer, 15 A.2d 858, 137 Me. 120.—Offic 1, 110.

Me. 1927. "Public office" is public trust.—Fellows v. Eastman, 136 A. 810, 126 Me. 147.—Offic 1.

Me. 1927. "Public office" is not vested property right.—Fellows v. Eastman, 136 A. 810, 126 Me. 147.—Offic 77.

Md. 1968. Officer of chairman of central committee of political party is not "public office" but rather party office.—Capron v. Mandel, 241 A.2d 892, 250 Md. 255.—Offic 1.

Md. 1960. A position is a "public office" where it has been created by law and casts upon incumbent duties which are continuing in their nature and not occasional and call for exercise of some portion of sovereignty of state.—Hetrich v. County Com'rs of Anne Arundel County, 159 A.2d 642, 222 Md. 304.—Offic 1.

Md. 1940. A position is a "public office" when it has been created by law and casts upon the incumbent duties which are continuing in their nature and not occasional, and which call for the exercise of some portion of the sovereignty of the state.—Buchholtz v. Hill, 13 A.2d 348, 178 Md. 280.—Offic 1.

Md. 1940. The most important characteristic of a "public office", as distinguished from any other employment, is the fact that the incumbent is intrusted with a part of the sovereign power to exercise some of the functions of government for benefit of the people, but the necessity of taking an oath of office is also important.—Buchholtz v. Hill, 13 A.2d 348, 178 Md. 280.—Offic 1.

Md. 1914. Under Const. art. 1, § 6, providing that every person elected or appointed to any office of profit or trust under the Constitution shall take an oath not to receive the profits of any other office, and Declaration of Rights, art. 35, providing that no person shall hold at the same time more than one office of profit created by the Constitution and laws of the state, a supervisor of elections vacates his office by accepting the office of councilman of a town, the charter of which required councilmen to take an oath to perform the duties of that office and conferred many of the powers of sovereignty upon them; for the office of councilman is an office of trust and profit within the meaning of the Constitution, a position being a "public office" when it is created by law, with duties cast upon the incumbents involving the exercise of some portion of the sovereign power.—Truitt v. Collins, 89 A. 850, 122 Md. 526.

Mass. 1939. Membership in a committee of one political party or another does not constitute "public office" for purpose of determining the effect of resignations from the committee without acceptance of the resignations.—Kidder v. Mayor of Cambridge, 24 N.E.2d 151, 304 Mass. 491.—Elections 121(2).

Mass. 1933. One employed by vote of fire district water commissioners as water department clerk, collector, and bookkeeper for following year acquired no "public office," appointment to which creates no contract for definite term. G.L.(Ter. Ed.) c. 48, §§ 60–80; St.1924, c. 408, §§ 2, 7.—Seaver v. Inhabitants of Onset Fire Dist., 184 N.E. 668, 282 Mass. 209.—Mun Corp 217.6.

Mich. 1999. To determine whether position is "public office," for purposes of charge of misconduct in public office, five indispensable elements are examined: (1) it must be created by Constitution, legislature, or municipality or other body under legislative authority; (2) it must possess delegation of government's sovereign power, to be exercised for benefit of public; (3) powers and duties must be defined, directly or impliedly, by legislature or through legislative authority; (4) duties must be performed independently and without control of superior power other than the law, unless they be those of inferior or subordinate office; and (5) it must have some permanency and continuity. M.C.L.A. § 750.505.—People v. Coutu, 589 N.W.2d 458, 459 Mich. 348, on remand 599 N.W.2d 556, 235 Mich.App. 695, leave to appeal denied 607 N.W.2d 721, 461 Mich. 945, on remand People v. Carlin, 607 N.W.2d 733, 239 Mich.App. 49.—Offic 121.

Mich. 1999. Oath and bond requirements are of assistance in determining whether a position is a "public office," for purposes of charge of misconduct in public office. M.C.L.A. § 750.505.—People v. Coutu, 589 N.W.2d 458, 459 Mich. 348, on remand 599 N.W.2d 556, 235 Mich.App. 695, leave to appeal denied 607 N.W.2d 721, 461 Mich. 945, on remand People v. Carlin, 607 N.W.2d 733, 239 Mich.App. 49.—Offic 121.

Mich. 1955. In order to make position of public employment a "public office" of a civil nature, it must be created by the Constitution or by the Legislature, or be created by a municipality or other body through authority conferred by the Legislature, it must possess delegation of portion of sovereign power of government, to be exercised for benefit of the public, powers conferred, and duties to be discharged must be defined, directly or impliedly, by the Legislature or through legislative authority, duties must be performed independently and without control of superior power, other than the law, unless they be those of inferior or subordinate office, created or authorized by the Legislature, and by it placed under general control of superior officer or body, and it must have some permanency and continuity, and not be only temporary or occasional.—Dosker v. Andrus, 70 N.W.2d 765, 342 Mich. 548.—Offic 1.

Mich. 1955. Deputy register of deeds held a "public office" and was an "official" within meaning of provision of pension and retirement plan of County Board of Supervisors that any eligible employee, except an elected or appointed "official," who is not a member of the retirement plan will retire from county service after reaching retirement age, without benefits provided in the plan, and therefore County Pension Board could not retire deputy register of deeds. Comp.Laws 1948, §§ 45.41, 46.12a as amended Pub.Acts 1949, No. 201, §§ 48.37, 50.63, 53.91, 53.92.—Dosker v. Andrus, 70 N.W.2d 765, 342 Mich. 548.—Reg of Deeds 2.5.

Mich. 1952. A "public office" is not "property" within protection of Fifth and Fourteenth Amendments of the Federal Constitution. U.S.C.A.

Const.Amends. 5, 14.—City of Detroit v. Division 26 of Amalgamated Ass'n of Street, Elec. Ry. & Motor Coach Employees of America, 51 N.W.2d 228, 332 Mich. 237, appeal dismissed 73 S.Ct. 37, 344 U.S. 805, 97 L.Ed. 627, rehearing denied 73 S.Ct. 164, 344 U.S. 882, 97 L.Ed. 683.—Const Law 277(2).

Mich. 1944. In order to make a position of public employment a "public office" of a civil nature, it must be created by the Constitution or Legislature or through legislative authority; it must possess governmental power; its powers and duties must be defined directly or impliedly by the Legislature or through legislative authority; its duties must be performed independently, unless those of a subordinate office created by Legislature and by it placed under the control of a superior authority; and it must have some permanency and continuity.—People v. Leve, 16 N.W.2d 72, 309 Mich. 557.—Offic 1.

Mich. 1944. In order to make a position of public employment a "public office" of a civil nature, it must be created by the Constitution or by the Legislature, or created by a municipality or other body through authority conferred by the Legislature, it must possess a delegation of a portion of the sovereign power of government to be exercised for the benefit of the public, the powers conferred and duties to be discharged must be defined, directly or impliedly, by the Legislature, or through legislative authority, the duties must be performed independently and without control of a superior power, other than the law, unless they be those of an inferior or subordinate office created or authorized by Legislature and by it placed under the general control of a superior officer or body, and the position must have some permanency and continuity.—People v. Freedland, 14 N.W.2d 62, 308 Mich. 449.—Offic 1.

Mich. 1944. That a position of public employment is of greater importance, dignity, and independence in that the holder is required to take an official oath and to give an official bond, while not controlling, is of assistance in determining whether such position is a "public office."—People v. Freedland, 14 N.W.2d 62, 308 Mich. 449.—Offic 1.

Mich. 1935. A "public office" is defined as a public station or employment conferred by election or appointment, and embraces the ideas of tenure, duration, emolument, and duties, and the true test of a public office is whether it is a parcel of administration of the government, civil or military, or is itself created directly by the lawmaking power. A "public office" is also defined as an employment on behalf of the government in any station or public trust, not merely transient, occasional, or incidental, and means the right to exercise generally the functions of a public trust or employment and to receive the emoluments belonging to it and to hold the place and perform the duty for the term and by the tenure prescribed by law. A "public officer" is defined as one whom the people have chosen by reason of public confidence to perform a public function in relation to public business.—Marxer v. City of Saginaw, 258 N.W. 627, 270 Mich. 256.

Mich.App. 1997. In order for position of public employment to be considered a "public office," five elements are indispensable: (1) it must be created by Constitution or by Legislature or created by municipality or other body through authority conferred by Legislature; (2) it must possess delegation of portion of sovereign power of government, to be exercised for benefit of public; (3) powers conferred, and duties to be discharged, must be defined, directly or impliedly, by Legislature or through legislative authority; (4) duties must be performed independently and without control of superior power other than the law, unless they be those of inferior or subordinate office, created or authorized by Legislature, and by it placed under general control of superior officer or body; (5) it must have some permanency and continuity, and not be only temporary or occasional.—People v. Carlin, 571 N.W.2d 742, 225 Mich.App. 480, appeal granted 577 N.W.2d 695, 457 Mich. 855, reversed People v. Coutu, 589 N.W.2d 458, 459 Mich. 348, on remand 599 N.W.2d 556, 235 Mich.App. 695, leave to appeal denied 607 N.W.2d 721, 461 Mich. 945, on remand 607 N.W.2d 733, 239 Mich.App. 49.—Offic 1.

Mich.App. 1997. For purposes of common-law offense of misconduct in office, position of deputy sheriff is not a "public office." M.C.L.A. § 750.505.—People v. Carlin, 571 N.W.2d 742, 225 Mich.App. 480, appeal granted 577 N.W.2d 695, 457 Mich. 855, reversed People v. Coutu, 589 N.W.2d 458, 459 Mich. 348, on remand 599 N.W.2d 556, 235 Mich.App. 695, leave to appeal denied 607 N.W.2d 721, 461 Mich. 945, on remand 607 N.W.2d 733, 239 Mich.App. 49.—Sheriffs 153.

Miss. 1960. The office of commissioner of the county soil conservation district is a "public office" within rule that an injunction will be granted at the instance of an incumbent of an office to restrain a claimant from interfering with him but he must show that he has possession of the office and the prima facie right to occupy it where there is no other person authorized by law to hold it. Code 1942, §§ 4940–4958.5.—Lacey v. Noblin, 118 So.2d 336, 238 Miss. 329.—Offic 82.

Miss. 1930. Position is "public office" when created by law with duties cast upon incumbent involving exercise of some portion of sovereign power in performance of which public is concerned and which are continuing in their nature, "continuing" meaning enduring and permanent, whereas "public employment" is position lacking one or more of foregoing elements (Const. 1890, § 20; Hemingway's Code 1927, § 2988).—State v. McLaurin, 131 So. 89, 159 Miss. 188.—Offic 1.

Mo. 2005. "Public office" is the right, authority, and duty, created and conferred by law, by which an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public.—State ex rel. Howenstine v. Roper, 155 S.W.3d 747.—Offic 1.

Mo. 1947. In determining meaning of words "public office" and "public officer", each case must be determined from the pertinent facts, including consideration of intention and subject matter of the enactment of the statute or the adoption of the constitutional provision.—State ex rel. Scobee v. Meriwether, 200 S.W.2d 340, 355 Mo. 1217.—Offic 1.

Mo. 1938. The duties to be performed, method of performance, end to be attained, depository of power granted, and surrounding circumstances must be considered in determining meaning of "public office" or "public officer," and in determining the question it is not necessary that all criteria be present in all cases, but a delegation of some part of sovereign power is an important matter to be considered.—State ex inf. McKittrick v. Bode, 113 S.W.2d 805, 342 Mo. 162.—Offic 1.

Mo. 1934. Office of county highway engineer is a "public office," with discretion and power to select engineer and fix length of term being vested in county court (Mo.St.Ann. §§ 8006–8023, pp. 6828–6835).—Langston v. Howell County, 79 S.W.2d 99, 336 Mo. 444.—High 93.

Mo. 1933. "Public office" is right, authority, and duty, created and conferred by law, whereby individual is invested with portion of government's sovereign functions, to be exercised by him for public benefit for period fixed by law, and "public officer" is one receiving his authority from law and discharging some functions of government.—State ex inf. Ellis ex rel. Patterson v. Ferguson, 65 S.W.2d 97, 333 Mo. 1177, certiorari denied Ferguson v. State of Missouri ex inf Ellis, 54 S.Ct. 559, 291 U.S. 682, 78 L.Ed. 1070.

Mo. 1933. "Public office" is authority and duty conferred by law by which for given period individual is invested with portion of "sovereignty of state," to be exercised by him for public benefit, and individual so invested is "public officer."—State ex rel. Pickett v. Truman, 64 S.W.2d 105, 333 Mo. 1018.—Offic 1.

Mo. 1923. A "public office" is an agency for the state, or more definitely a charge or trust conferred by public authority for a public purpose, requiring the performance of duties involving the exercise of some portion of sovereign power.—State ex rel. Zevely v. Hackmann, 254 S.W. 53, 300 Mo. 59.

Mo. 1908. The true test of "public office" is in itself a parcel of the administration of government. An "office" has been defined as a special trust or charge granted by competent authority. A "public office" is a public trust. The general definition is that the idea of office clearly embraces the idea of tenure, duration, fees, or emoluments, rights and powers, as well as that of duty.—Gracey v. City of St. Louis, 111 S.W. 1159, 213 Mo. 384.

Mo.App. E.D. 1981. "Public office" is the right, authority and duty, created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public; the individual so invested is a "public officer."—State ex rel. Eli Lilly & Co. v. Gaertner, 619 S.W.2d 761.—Offic 1.

Mo.App. 1904. An administrator belongs to that class of officers, represented by curators, guardians, receivers, referees, and the like, whose duties are private, and whose acts concern private rather than public interests. An administrator is vested with no portion of the sovereign functions of the state to be exercised by him for the benefit of the public, and he is therefore not a "state officer," within the meaning of (V.A.M.S.) Const. art. 8, § 12, providing that "no person shall be elected or appointed to any office in this state, civil or military, who is not a citizen of the United States, and who shall have resided in this state one year next preceding his election or appointment." A "public office" is a right and authority created by law, by which an individual is invested with some portion of the functions of government, to be exercised by him for the benefit of the public for a given period of time, either fixed by law or enduring at the pleasure of the creating power. The word "office," as here used, is to be distinguished from its application to such positions as are at most quasi public only, as the charge of an executor, administrator, or guardian, and from the offices of a private corporation.—Stevens v. Larwill, 84 S.W. 113, 110 Mo.App. 140.

Mont. 1971. Terms "public office" or "civil office" within restriction whereby state and local officers are prohibited from holding more than one office are synonymous. Const. art. 5, § 7; art. 7, § 4; art. 8, § 35.—Forty-Second Legislative Assembly v. Lennon, 481 P.2d 330, 156 Mont. 416.—Offic 30.5.

Mont. 1962. For public service position to constitute a "public office", it must be created by constitution or legislature or created by municipality or other body through authority conferred by legislature; it must possess delegation of portion of sovereign power, to be exercised for public benefit, power conferred, and duties discharged, must be defined, directly or impliedly by legislature or through legislative authority, duties must be performed independently and without control of superior power other than law unless they be of inferior subordinate office, and it must have some permanency or continuity and not be only temporary or occasional, and if any such element is missing, occupant thereof is employee and not officer.—State ex rel. Running v. Jacobson, 370 P.2d 483, 140 Mont. 221.—Offic 1.

Mont. 1961. A "public office" is a public trust or agency created for the benefit of the people, and a public officer is bound to a very high standard of conduct.—State ex rel. Hollibaugh v. State Fish and Game Commission, 365 P.2d 942, 139 Mont. 384.—Offic 1, 110.

Mont. 1954. Office of county extension agent is not a "public office" of a civil nature. R.C.M.1947, §§ 16–2403, 16–2413.—Turnbull v. Brown, 273 P.2d 387, 128 Mont. 254.—Agric 2.

Mont. 1944. A "public office" is the right, authority, and duty, created by law, by which for a given period, either fixed by law or enduring at pleasure of creating power, an individual is invested with some portion of the sovereign functions of government, to be exercised by him for benefit of public.—Aleksich v. Industrial Accident Fund, 151 P.2d 1016, 116 Mont. 127.—Offic 1.

Mont. 1943. A "public office" is a public agency or trust created in interest and for benefit of the people and a public officer has no vested right in office which he holds.—State ex rel. Grant v. Eaton, 133 P.2d 588, 114 Mont. 199.—Const Law 102(1); Offic 1.

Mont. 1942. A military officer does not hold a "public office" within constitutional provision that no officer mentioned therein shall be eligible to or hold any other public office during his term. Const. art. 7, § 4.—Gullickson v. Mitchell, 126 P.2d 1106, 113 Mont. 359.—Offic 30.5.

Mont. 1936. Position of Supreme Court reporter *held* not "public office" within constitutional provision that Supreme Court justices should not hold other public offices, since position did not possess delegation of portion of sovereign power of government to be exercised for benefit of public (Rev.Codes 1921, § 378; Const. art. 8, § 35).—Tipton v. Sands, 60 P.2d 662, 103 Mont. 1, 106 A.L.R. 474.—Offic 30.2.

Mont. 1935. "Public office" is a public trust or agency created for benefit of people and in which incumbent has no property right to be administered under legislative control in interest of people.—State ex rel. Nagle v. Sullivan, 40 P.2d 995, 98 Mont. 425, 99 A.L.R. 321.—Offic 77.

Mont. 1934. To make position of public employment a "public office," it must be created by Constitution or Legislature or through legislative authority; it must possess governmental power; its powers and duties must be defined directly or impliedly by Legislature or through legislative authority; its duties must be performed independently, unless they be those of subordinate office created by Legislature and by it placed under control of superior authority; and it must have some permanency and continuity.—State ex rel. Nagle v. Page, 37 P.2d 575, 98 Mont. 14.—Offic 1.

Mont. 1928. Statute providing for nominations for "public office" by new party applies to presidential electors (Laws 1927, c. 7).—State v. Mountjoy, 271 P. 446, 83 Mont. 162.—Elections 122.1.

Mont. 1917. Under Rev.Codes, §§ 4365, 4367, 4369, 4370, *held,* that chairmanship of board of railroad commissioners is not a "public office," within Rev.Codes, § 6947, relating to quo warranto at the instance of a private individual.—State v. Hall, 165 P. 757, 53 Mont. 595.—Quo W 33.

Mont. 1915. Rev.Codes, § 7234, declared that any elector of a county, town, or city might contest the right of any person to be declared elected to an office, and following sections provided the machinery for a contest, but in no place authorized a contest over a county seat election. Corrupt Practices Act, Laws 1913, p. 612, § 45, declares that any elector of the state or of any political or municipal division may contest the right of any person to any nomination or office for which such an elector has the right to vote, the grounds of contest in both acts being almost identical. Sections 38, 39, 40, of the latter act respectively provide that upon the trial of any action for the contest of the right of any person declared nominated or elected to any office, etc., and that an action to contest the right of any person declared elected to an office or to annul and set aside such election may be maintained, etc. Section 10 of the act defines "persons" as any individual, male or female, and, where consistent with collective capacity, as any committee, firm, partnership, corporation, or other combination of individuals; while the same section declares that the term "public office" shall apply to any national, state, county, or city office to which a salary attaches. The punishments for violation of election laws prescribed by the Rev.Codes were similar to those prescribed by Corrupt Practices Act. Held that, in view of the act as a whole, the Corrupt Practices Act did not change the existing law so as to allow an elector to maintain a contest arising out of the result of the county seat election.—Cadle v. Town of Baker, 149 P. 960, 51 Mont. 176.

Neb. 1991. Position of assistant professor at college was "public office" which could be challenged by quo warranto. Neb.Rev.St. § 25–21,121.—State ex rel. Spire v. Conway, 472 N.W.2d 403, 238 Neb. 766.—Quo W 10.

Nev. 1953. A "public office" is distinguishable from other forms of employment in that its holder is invested with some portion of sovereign functions of government by sovereign.—State ex rel. Mathews v. Murray, 258 P.2d 982, 70 Nev. 116.—Offic 1.

Nev. 1953. A "public office" is right, authority and duty conferred by law, whereby an individual is invested for given period, fixed by law or through pleasure of creating power of government, with some portion of sovereign functions of government to be exercised by him for public benefit.—State ex rel. Mathews v. Murray, 258 P.2d 982, 70 Nev. 116.—Offic 1.

Nev. 1953. To constitute "public office," against incumbent of which quo warranto will lie, certain independent public duties constituting part of state's sovereignty must be appointed to office by law, to be exercised by incumbent in virtue of his election or appointment to office and not as mere employee subject to direction and control of some one else.—State ex rel. Mathews v. Murray, 258 P.2d 982, 70 Nev. 116.—Quo W 10.

Nev. 1953. The fact that "public employment" is held by employee as deputy or servant at will or pleasure of another distinguishes mere employment from "public office", and no part of state's sovereignty is delegated to such employee.—State ex rel. Mathews v. Murray, 258 P.2d 982, 70 Nev. 116.—Offic 1.

Nev. 1953. The position of director of drivers' license division of state public service commission is not a "public office," as it has not been created, nor

duties attaching thereto prescribed, by law, and holder thereof is not independent in his exercise of such duties nor invested with any portion of sovereign functions of government, so that quo warranto does not lie to test propriety of his holding of such position. N.C.L.1931-1941 Supp. §§ 4442 et seq., 4442.05, 4442.25; N.C.L.1943-1949 Supp. §§ 4435.47, 4435.54.—State ex rel. Mathews v. Murray, 258 P.2d 982, 70 Nev. 116.—Quo W 10.

Nev. 1929. Quo warranto was not proper remedy to restore ousted chairman of board of county commissioners, chairmanship not constituting "public office."—State v. Wichman, 279 P. 937, 52 Nev. 17.—Quo W 14.

N.H. 1890. The term "public office," within the common-law rule which excludes women from government by withholding electoral and official power, does not include vocation of a member of the bar as an attorney and officer of the court.—In re Ricker, 29 A. 559, 66 N.H. 207, 24 L.R.A. 740.

N.J.Err. & App. 1943. A "public office" is a right, authority and duty created and conferred by law by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public. The individual so invested is a "public officer".—Wilentz ex rel. Golat v. Stanger, 30 A.2d 885, 129 N.J.L. 606.

N.J.Super.A.D. 1978. Although terms "civil office" and "public office" are used interchangeably, they are nevertheless distinguishable in that former includes all offices exercising governmental or sovereign power except military offices, and latter encompasses both civil and military offices.—Lanza v. De Marino, 388 A.2d 1294, 160 N.J.Super. 71.—Offic 1.

N.J.Super.A.D. 1976. County park commission was a "public office" within comprehension of statute providing that each Saturday in each year shall, for all purposes, regarding transaction of business in public offices of state, be considered public holiday. N.J.S.A. 36:1–1.1.—Mercer County Park Commission v. DiTullio Plumbing & Heating Co., Inc., 352 A.2d 264, 139 N.J.Super. 36, certification denied 359 A.2d 488, 70 N.J. 276.—Holidays 1.

N.J.Sup. 1944. A patrolman of police force of the city of Paterson, who was certified by Civil Service Commission as eligible for promotion to sergeant and appointed a sergeant by city board of fire and police commissioners, was in possession of a "public office" under a claim of title and could not be ousted on petition for a summary review of proceedings of the board of fire and police commissioners. N.J.S.A. 2:206–2, 11:10–1, 11:22–16, 11:22–17, 11:25–4, 33:1–71, 39:5–25, 40:47–15; P.L. 1871, p. 822, §§ 32, 33.—Duncan v. Board of Fire and Police Com'rs of City of Paterson, 37 A.2d 85, 131 N.J.L. 443.—Mun Corp 184.1.

N.J.Sup. 1944. A policeman holds a "public office", particularly if he has a superior rank, and a police sergeancy is classified as an "office of a higher grade". N.J.S.A. 2:84–1, 2:84–7.—Duncan v. Board of Fire and Police Com'rs of City of Paterson, 37 A.2d 85, 131 N.J.L. 443.—Mun Corp 180(1), 180(2).

N.J.Sup. 1944. The test of a "public office" is whether the incumbent is concerned in the administration of public duties.—Duncan v. Board of Fire and Police Com'rs of City of Paterson, 37 A.2d 85, 131 N.J.L. 443.—Offic 1.

N.J.Sup. 1944. One who is invested with any portion of political power partaking in any degree in the administration of civil government and performing duties which flow from the sovereign authority holds a "public office".—Duncan v. Board of Fire and Police Com'rs of City of Paterson, 37 A.2d 85, 131 N.J.L. 443.—Offic 1.

N.J.Sup. 1942. One who was appointed a jury commissioner when he was a member of governing body of borough, notwithstanding provision of statute that no person holding any other "public office" shall be appointed as a jury commissioner, was nevertheless a "de facto officer" and validity of indictments returned by the grand jury was not affected. N.J.S.A. 2:87–1, 2:87–5.—State v. Cioffe, 26 A.2d 57, 128 N.J.L. 342, affirmed 32 A.2d 79, 130 N.J.L. 160.—Gr Jury 7, 42; Ind & Inf 10.1(2).

N.J.Sup. 1910. A "public office" is a place created, or at least recognized, by the law of the state, and to which certain permanent duties are assigned either by the law itself or by regulations adopted under authority of law. A "position," within the purview of the veteran act of 1895, 3 Gen.St.1895, p. 3702, is a place, the duties of which are continuous and permanent, analogous to those of an office, and which pertain to the position as such.—Hart v. City of Newark, 77 A. 1086, 80 N.J.L. 600, 51 Vroom 600.—Offic 1.

N.J.Sup. 1899. The position of colonel in the Fourth Regiment New Jersey Volunteers of the United States army is an "office" within the meaning of the statute creating the board of street and water commissioners, which provides that, if such commissioner shall accept any other appointment to "public office," his office of commissioner shall thereupon become vacant.—Oliver v. City of Jersey City, 42 A. 782, 63 N.J.L. 96, 34 Vroom 96, reversed State v. Mayor of Jersey City, 44 A. 709, 63 N.J.L. 634, 34 Vroom 634, 76 Am.St.Rep. 228, 48 L.R.A. 412.

N.J.Super.Ch. 1950. A "public office" is an office of public trust created in the interest and for the benefit of the people.—Driscoll v. Burlington-Bristol Bridge Co., 77 A.2d 255, 10 N.J.Super. 545, modified 86 A.2d 201, 8 N.J. 433, certiorari denied Burlington County Bridge Commission v. Driscoll, 73 S.Ct. 25, 344 U.S. 838, 97 L.Ed. 652, rehearing denied 73 S.Ct. 181, 344 U.S. 888, 97 L.Ed. 687, certiorari denied Nongard v. Driscoll, 73 S.Ct. 33, 344 U.S. 838, 97 L.Ed. 652, rehearing denied 73 S.Ct. 181, 344 U.S. 888, 97 L.Ed. 687, certiorari denied Bell v. Driscoll, 73 S.Ct. 34, 344 U.S. 838, 97 L.Ed. 652, rehearing—Offic 1.

N.J.Com.Pl. 1935. Members of police department whether patrolmen or holding superior rank hold "public office," and are not subject to removal except for causes set forth in statutes. N.J.S.A. 40:42-1 et seq., 40:47-1 et seq.; P.L.1935, p. 67.—Village of Ridgewood v. Howard, 179 A. 461, 13 N.J.Misc. 510.—Mun Corp 185(1).

N.M. 1979. Office of commissioner of special zoning district commission is a "public office" for which an action lies in quo warranto. NMSA 1978, §§ 3-21-20, 44-3-4.—State ex rel. Huning v. Los Chavez Zoning Commission, 604 P.2d 121, 93 N.M. 655, appeal after remand 641 P.2d 503, 97 N.M. 472.—Quo W 10.

N.M. 1936. Some portion of sovereignty must be vested in occupant of position, to constitute such position a "public office."—State ex rel. Gibson v. Fernandez, 58 P.2d 1197, 40 N.M. 288.—Offic 1.

N.Y. 1957. Under the statute requiring a person having custody of records or other papers in a public office to make transcript therefrom, the office of an official court-appointed stenographer is a "public office" within the statute, and a stenographer's original stenographic notes are "records or other papers" of which he has custody in his office, and the term "transcripts" embraces the writing out of the stenographer's original minutes. Public Officers Law, § 66.—New York Post Corp. v. Leibowitz, 163 N.Y.S.2d 409, 2 N.Y.2d 677, 143 N.E.2d 256.—Records 15.

N.Y. 1909. "Public office," as used in the Constitution, has respect to a permanent trust to be exercised in behalf of the government or of all citizens who may need the intervention of a public functionary or officer and in all matters within the range of the duties pertaining to the character of the trust. It means a right to exercise generally, and in all proper cases, the functions of a public trust or employment, and to receive the fees and emoluments belonging to it, and to hold the place and perform the duty for the term and by the tenure prescribed by law.—People v. Ahearn, 89 N.E. 930, 196 N.Y. 221, 26 L.R.A.N.S. 1153.

N.Y.A.D. 1 Dept. 1961. Triborough Bridge and Tunnel Authority is "public business" which maintains "public office," and citizen and taxpayer had right to inspect its contracts, records dealing with leaves of absence of executive and outside employment, and its minutes dealing with such matters for four-year period. General Municipal Law, § 51; Public Officers Law, § 66; Public Authorities Law, §§ 550–571, 552, 554, 560, 564, 566.—New York Post Corp. v. Moses, 210 N.Y.S.2d 88, 12 A.D.2d 243, reversed 219 N.Y.S.2d 7, 10 N.Y.2d 199, 176 N.E.2d 709.—Records 52.

N.Y.A.D. 4 Dept. 2001. Position of village administrator was "public office" within meaning of Public Officers Law provisions governing termination of officers. McKinney's Public Officers Law § 36; McKinney's Village Law § 3-301, subd. 2, par. c.—Enos v. Village of Seneca Falls, 732 N.Y.S.2d 785, 288 A.D.2d 853.—Mun Corp 154.

N.Y.A.D. 4 Dept. 1992. Former village fire chief did not hold "public office" within meaning of Public Officers Law, and therefore his failure to timely take and file oath of office did not vitiate his appointment and render office vacant, where position was not created by statute and was merely administrative post in which holder was required to answer to village board of trustees on all personnel in budgetary matters. McKinney's Public Officers Law § 10.—Stork v. Board of Trustees of Village of Medina, 579 N.Y.S.2d 797, 179 A.D.2d 1058.—Mun Corp 196.

N.Y.A.D. 4 Dept. 1973. Position of building inspector for town of Ellicott was a "public office" within public officer's law which requires that building inspector be a resident of the town, where statute creating the position gave inspector the power of "general and executive administration" of zoning ordinance, and town law gave inspector the power of enforcement of various codes, ordinances, rules and regulations. CPLR 7801 et seq.; Town Law § 138; Public Officers Law § 2.—Haller v. Carlson, 346 N.Y.S.2d 108, 42 A.D.2d 829.—Mun Corp 138.

N.Y.Sup. 2002. Position of town police chief was a "public office" within meaning of local law barring concurrent holding of a seat on county legislative body and "any other salaried or elective public office."—Held v. Hall, 741 N.Y.S.2d 648, 191 Misc.2d 427.—Offic 30.3.

N.Y.Sup. 1989. Office is "public office," within meaning of larceny statutes, if it possesses independent official status, if its duties involve exercise of some portion of sovereign powers, and if office embraces idea of tenure and duration.—People v. Insalaco, 537 N.Y.S.2d 759, 142 Misc.2d 371.—Larc 1.

N.Y.Sup. 1975. A cooperative library system is a "public corporation," as opposed to a private eleemosynary organization, and a trustee in such a system holds a "public office" inasmuch as he is an officer therein. Education Law § 255, subd. 2.—Smith v. Jansen, 379 N.Y.S.2d 254, 85 Misc.2d 81.—Offic 1.

N.Y.Sup. 1973. For purposes of statute governing order of names on ballot, position of city councilman is a "public office" rather than a "party position." Election Law §§ 2, subd. 8, 104, subd. 2.—Weisenberg v. Dodd, 344 N.Y.S.2d 610, 74 Misc.2d 311.—Elections 167.

N.Y.Sup. 1963. Port of New York Authority is a "public office", and employee thereof was a "public officer" within bribery statutes. Penal Law, §§ 372, 1826; McK.Unconsol.Laws, §§ 6405, 6459.—People v. Breslow, 241 N.Y.S.2d 201, 39 Misc.2d 576.—Brib 1(2).

N.Y.Sup. 1960. The position of chairman of Monroe County Republican Committee is not a "public office" which is incompatible in law with the office of county manager so as to render such office vacant when the incumbent accepted the position of chairman. Public Officers Law, §§ 2, 3 et seq.; Election Law, § 2, subd. 8.—Sulli v. Board of

Sup'rs of Monroe County, 200 N.Y.S.2d 218, 24 Misc.2d 310.—Offic 55(2).

N.Y.Sup. 1939. A reclassification under Civil Service Law whereby office of clerk of municipal court was transferred from the exempt to competitive class did not destroy its character as a "public office" within Public Officers Law. Civil Service Law, § 20; Public Officer Law, § 5.—In re Weppler, 10 N.Y.S.2d 1003, 170 Misc. 933, affirmed Application of Weppler., 13 N.Y.S.2d 280, 257 A.D. 940.—Clerks of C 1.

N.Y.Sup. 1935. Factors of taking of oath of office, right to receive salary, and tenure and duration of position are not determinative of character of a position as a "public office," although they are entitled to considerable weight.—Kingston Associates v. La Guardia, 281 N.Y.S. 390, 156 Misc. 116, affirmed 285 N.Y.S. 19, 246 A.D. 803.—Offic 1.

N.Y.Sup. 1935. Right to exercise some portion of the sovereign power is an indispensable attribute of "public office."—Kingston Associates v. La Guardia, 281 N.Y.S. 390, 156 Misc. 116, affirmed 285 N.Y.S. 19, 246 A.D. 803.—Offic 1.

N.Y.Sup. 1935. Mere fact that Advisory Committee on Allotments, created to aid in administering Emergency Relief Appropriation Act, was designated as an agency by Executive Order of the President, did not make membership thereon a "public office" within section of Greater New York Charter prohibiting officer from holding any other civil office, unless agency exercised some measure of sovereign power. Greater New York Charter, § 1549; Joint Resolution U.S. April 8, 1935, No. 11, § 4; Executive Order No. 7034.—Kingston Associates v. La Guardia, 281 N.Y.S. 390, 156 Misc. 116, affirmed 285 N.Y.S. 19, 246 A.D. 803.—Mun Corp 150.

N.Y.Sup. 1935. "Public office" is the right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public. It is also defined as a charge or trust conferred by public authority for a public purpose, the duties of which involve in their performance the exercise of some portion of sovereign power, whether great or small. Term "office" implies a delegation of a portion of the sovereign power to, and the possession of it by, the person filling the office. The power thus delegated and possessed may be a portion belonging sometimes to one of the three great departments and sometimes to another, but it is a legal power which may be rightfully exercised, and in its effects will bind the rights of others, and be subject to revision and correction only according to standing laws of state; an "employment" merely has none of these distinguishing features; in the most general and comprehensive sense a "public office" is an agency for the state and a person whose duty it is to perform this agency is a "public officer."—Kingston Associates v. La Guardia, 281 N.Y.S. 390, 156 Misc. 116, affirmed 285 N.Y.S. 19, 246 A.D. 803.

N.Y.Gen.Sess. 1938. An attorney, who was a member of lunacy commission, did not become disqualified and cease to be a member of the commission by his acceptance, pending the commission's examination, of the office of county clerk, since duties of position on lunacy commission were not inconsistent with or repugnant to those of office of county clerk, and position on commission was not a "public office" within statutory prohibition against holding two public offices at the same time. Code Cr.Proc. § 658; New York City Charter 1936, § 895; Civil Practice Act, § 126; Const. art. 10, § 1, as amended in 1935.—People v. Irwin, 2 N.Y.S.2d 686, 166 Misc. 492.—Offic 55(2).

N.C. 1950. The office of chief of police of incorporated town is a "public office".—State ex rel. Barlow v. Benfield, 58 S.E.2d 637, 231 N.C. 663.—Mun Corp 182.

N.C. 1942. The position of a "deputy sheriff" is a "public office" the appointment to which delegates to the deputy authority to perform only ministerial duties imposed on the sheriff, and in respect to those duties the deputy acts as a "vice principal" or "alter ego" of the sheriff.—Blake v. Allen, 20 S.E.2d 552, 221 N.C. 445.—Sheriffs 17.

N.C. 1931. Position of notary public created by statute is "public office" within constitutional provision prohibiting double office holding (C.S. § 3175; Const. art. 14, § 7).—Harris v. Watson, 161 S.E. 215, 201 N.C. 661, 79 A.L.R. 441.—Offic 30.1.

N.C.App. 2003. A "public office" is a position created by the constitution or statutes and a public official exercises a portion of the sovereign power and makes discretionary decisions.—State v. Haskins, 585 S.E.2d 766, 160 N.C.App. 349, appeal dismissed, review denied 589 S.E.2d 356, 357 N.C. 580.—Offic 1.

N.D. 1945. A "public office" is a public position to which a portion of the sovereignty of the country attaches for the time being, and which is exercised for benefit of the public.—State ex rel. Johnson v. Myers, 19 N.W.2d 745, 74 N.D. 678.—Offic 1.

N.D. 1945. The office of Manager of State Hail Insurance Department was a "public office", title to which could be tested upon a writ of quo warranto. R.C.1943, 26-2202; Const. § 87, and Amends. art. 24.—State ex rel. Johnson v. Myers, 19 N.W.2d 745, 74 N.D. 678.—Quo W 11.

N.D. 1920. A delegate to a national political convention is not the holder of a "public office."—State v. Hall, 176 N.W. 921, 46 N.D. 294.

N.D. 1916. The chairman of a political state central committee has no part of the sovereignty of the country invested to him, and does not occupy a "public office."—State v. McLean, 159 N.W. 847, 35 N.D. 203.—Offic 1.

Ohio 2004. Probate court, from which television station sought settlement figures submitted to and considered by probate court in determining whether to approve settlement of wrongful death and survival claims arising from death of minor child who was hit by hockey puck at professional hockey game,

was a "public office," for purposes of the Public Records Act. R.C. §§ 149.011(A), 149.43(A)(1).—State ex rel. WBNS TV, Inc. v. Dues, 805 N.E.2d 1116, 101 Ohio St.3d 406, 2004-Ohio-1497.—Records 51.

Ohio 2000. State Medical Board was a "public office," for the purposes of the Public Records Act. R.C. §§ 149.43, 4731.22(F)(5).—State ex rel. Wallace v. State Med. Bd. of Ohio, 732 N.E.2d 960, 89 Ohio St.3d 431, 2000-Ohio-213.—Records 51.

Ohio 2000. Department of Insurance was a "public office," for purposes of Public Records Act. R.C. § 149.43.—State ex rel. Wallace v. State Med. Bd. of Ohio, 732 N.E.2d 960, 89 Ohio St.3d 431, 2000-Ohio-213.—Records 51.

Ohio 1998. County hospital was "public office" subject to public records disclosure requirements, where hospital rendered public service to county residents and was supported by public taxations. R.C. §§ 149.011(A), 149.43.—State ex rel. Dist. 1199, Health Care & Social Serv. Union, SEIU, AFL-CIO v. Lawrence Cty. Gen. Hosp., 699 N.E.2d 1281, 83 Ohio St.3d 351, 1998-Ohio-49, cause dismissed 711 N.E.2d 230, 86 Ohio St.3d 1401.—Records 51.

Ohio 1998. Community fire company was a "public office" for purposes of Public Records Act, even though company was a private, nonprofit corporation; company served its local community by providing fire protection and received vast majority of its income from township tax levies, and company was performing a function that was historically a government function. R.C. §§ 149.011(A), 149.43.—State ex rel. Freedom Communications, Inc. v. Elida Community Fire Co., 697 N.E.2d 210, 82 Ohio St.3d 578, 1998-Ohio-411.—Records 51.

Ohio 1998. An entity organized for rendering service to residents of the community and supported by public taxation is a "public institution" and is thus a "public office" for purposes of the Public Records Act. R.C. §§ 149.011(A), 149.43.—State ex rel. Freedom Communications, Inc. v. Elida Community Fire Co., 697 N.E.2d 210, 82 Ohio St.3d 578, 1998-Ohio-411.—Records 51.

Ohio 1998. A private entity entering into a government contract is not necessarily a "public office" whose records are subject to disclosure under the Public Records Act. R.C. §§ 149.011(A), 149.43.—State ex rel. Freedom Communications, Inc. v. Elida Community Fire Co., 697 N.E.2d 210, 82 Ohio St.3d 578, 1998-Ohio-411.—Records 51.

Ohio 1998. State university is considered "public office" for purposes of Public Records Act (PRA). R.C. § 149.43.—State ex rel. Rea v. Ohio Dept. of Edn., 692 N.E.2d 596, 81 Ohio St.3d 527, 1998-Ohio-334.—Records 51.

Ohio 1997. County ombudsman office, which was private, nonprofit corporation supported by public funds and was established to assist citizens in resolving complaints against county government, was "public office" subject to disclosure requirements of Public Records Act. R.C. §§ 149.011(A), 149.43(A)(1).—State ex rel. Strothers v. Wertheim, 684 N.E.2d 1239, 80 Ohio St.3d 155, 1997-Ohio-349, reconsideration denied 687 N.E.2d 299, 80 Ohio St.3d 1472, motion denied 690 N.E.2d 1288, 81 Ohio St.3d 1469.—Records 51.

Ohio 1992. Private nonprofit corporation that acted as major gift-receiving and soliciting arm of public university was "public office" which could be compelled to disclose names of donors under public records statute since corporation's predecessors operated out of university office space without paying rent, university paid wages and benefits of employees, university continued to pay retirement benefits on behalf of corporation employees, keeping records of donations for university was government function, and significant public interest existed in knowing from whom donations came. R.C. §§ 149.011(A), 149.43.—State ex rel. Toledo Blade Co. v. Univ. of Toledo Found., 602 N.E.2d 1159, 65 Ohio St.3d 258.—Records 51.

Ohio 1950. To constitute a "public office", it is essential that certain independent public duties, a part of the sovereignty of the state should be appointed to it by law.—State ex rel. Milburn v. Pethtel, 90 N.E.2d 686, 153 Ohio St. 1, 41 O.O. 103.—Offic 1.

Ohio 1943. A "public office" is the right, authority, and duty, created and conferred by law, by which for a given period, either fixed by law or enduring at pleasure of creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for benefit of the public, and an individual so invested is a "public officer".—Scofield v. Strain, 51 N.E.2d 1012, 142 Ohio St. 290, 27 O.O. 236.—Offic 1.

Ohio 1942. One in military service does not hold "public office" unless he is a commissioned officer.—State ex rel. Cooper v. Roth, 44 N.E.2d 456, 140 Ohio St. 377, 24 O.O. 301.—Offic 30.5.

Ohio 1931. Office of assistant clerk of county board of election held not a "public office" against incumbent of which quo warranto would lie. Gen. Code, §§ 4785–13, 4785–15, 12303.—State ex rel. Reardon v. McDonald, 178 N.E. 266, 124 Ohio St. 315, 11 Ohio Law Abs. 32.—Elections 51; Quo W 11.

Ohio 1917. The chief and most decisive characteristic of a "public office" is determined by the quality of the duties with which the appointee is invested, and by the fact that such duties are conferred upon the appointee by law. If official duties are prescribed by statute, and their performance involves the exercise of continuing, independent political or governmental functions, then the position is a "public office," and not an employment.—State ex rel. Landis v. Board of Com'rs of Butler County, 115 N.E. 919, 14 Ohio Law Rep. 551, 15 Ohio Law Rep. 5, 95 Ohio St. 157.

Ohio 1907. The superintendent of a county infirmary, who resides in some apartment of the infirmary or building contiguous thereto, performs such duties as the directors may impose, and is governed in all respects by their rules and regula-

tions, and is not removed except for good and sufficient cause, is not the holder of a "public office" within Rev.St. § 6760, so as to authorize quo warranto to oust him from the same, but is a mere employe. The most general distinction of a "public office" is that it embraces the performance by the incumbent of a public function delegated to him as a part of the sovereignty of the state, and it is essential that certain independent public duties, a part of the sovereignty of the state, should be appointed to it by law to be exercised by the incumbent in virtue of his election or appointment to the office thus created and defined, and not as a mere employe, subject to the direction and control of some one else. To the incumbent of a "public office" are delegated some of the sovereign functions of government to be exercised by him for the benefit of the public, and some portion of the sovereignty of the country, either legislative or executive or judicial, attaches for the time being, to be exercised for the public benefit. The office of county warden is a public office, as the incumbent has power to appoint assistants to assist in policing certain reservoirs of the state and territory pertaining thereto in their respective counties, and to arrest all violators of the laws for the protection of fish and game.—Palmer v. Zeigler, 81 N.E. 234, 5 Ohio Law Rep. 39, 76 Ohio St. 210.

Ohio 1898. Many efforts have been made to define a "public office," but it is easier to conceive the general requirements of such an office than to express them with precision in a definition that shall be entirely faultless. It will be found, however, by consulting the cases and authorities, that the most general distinction of a public office is that it embraces the performance by the incumbent of a public function delegated to him as part of the sovereignty of the state. The fact that a public employment is held at the will or pleasure of another as a deputy or servant, who holds at the will of his principal, is held in the state of Maine to distinguish a mere employment from a public office, for in such case no part of the state sovereignty is delegated to such employes.—State ex rel. Atty. Gen. v. Jennings, 49 N.E. 404, 57 Ohio St. 415, 39 W.L.B. 147, 63 Am.St.Rep. 723.

Ohio 1892. Where, by virtue of law, a person is clothed, not as an incidental or transient authority, but for such time as denotes duration and continuance, with independent power to control the property of the public, or with public functions to be exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is a "public office."—State ex rel. Atty. Gen. v. Brennan, 29 N.E. 593, 49 Ohio St. 33, 27 W.L.B. 48.

Ohio 1887. Presidency of city council is "public office" within Rev.St. § 6760 (See Gen.Code, § 12303), authorizing proceedings against person who usurps public office.—State ex rel. Atty. Gen. v. Anderson, 12 N.E. 656, 45 Ohio St. 196, 18 W.L.B. 32.—Mun Corp 84; Quo W 10.

Ohio App. 1 Dist. 1949. Where one occupying office of city civil service commissioner was employed as an attorney by city service director to perform certain legal services for city not connected with his duties as civil service commissioner, his temporary employment was not a "public office," and, hence, commissioner could not justify payment of compensation to him pursuant to his temporary employment on ground that he was in category of same person occupying two public offices without any inconsistent duties against which there was no legal ban.—Petermann v. Tepe, 93 N.E.2d 328, 87 Ohio App. 487, 43 O.O. 121, 56 Ohio Law Abs. 482.—Mun Corp 162.2.

Ohio App. 2 Dist. 1998. Court-appointed psychologist who performs competency examination does not hold a "public office," as would make psychologist subject to requirements of Public Records Act. R.C. § 149.011(A).—State ex rel. Farley v. McIntosh, 731 N.E.2d 726, 134 Ohio App.3d 531, appeal dismissed 699 N.E.2d 522, 83 Ohio St.3d 1426.—Records 51.

Ohio App. 3 Dist. 1943. The usual criteria in determining whether position is "public office" are durability of tenure, oath, bond, emoluments, independency of functions exercised by appointee, and character of duty imposed on him, but oath, bond and compensation are not always necessary.—Anderson v. Industrial Commission, 57 N.E.2d 620, 74 Ohio App. 77, 29 O.O. 265, 41 Ohio Law Abs. 237.—Offic 1.

Ohio App. 3 Dist. 1943. The chief and most decisive characteristic of "public office" is determined by quality of duties with which appointee is invested and fact that such duties are conferred on him by law.—Anderson v. Industrial Commission, 57 N.E.2d 620, 74 Ohio App. 77, 29 O.O. 265, 41 Ohio Law Abs. 237.—Offic 1.

Ohio App. 3 Dist. 1943. Where official duties are prescribed by statute and their performance involves exercise of continuing, independent, political or governmental functions, position of person on whom they are imposed is "public office", not "employment".—Anderson v. Industrial Commission, 57 N.E.2d 620, 74 Ohio App. 77, 29 O.O. 265, 41 Ohio Law Abs. 237.—Offic 1.

Ohio App. 3 Dist. 1943. To constitute "public office," certain independent public duties, constituting part of state's sovereignty, must be appointed to position by law, and functional powers imposed on holder thereof must constitute part of such sovereignty.—Anderson v. Industrial Commission, 57 N.E.2d 620, 74 Ohio App. 77, 29 O.O. 265, 41 Ohio Law Abs. 237.—Offic 1.

Ohio App. 3 Dist. 1943. Where specific statutory and independent duties are imposed on appointee to position in service of state or political subdivision thereof in relation to exercise of state's police powers, appointee is invested with independent power in disposition of public property or power to incur financial obligations on part of state or county, or he is empowered to act in cases involving business or political dealings between individuals and public, such functions are part of state's sovereignty, so as to constitute position a "public office".—Anderson v. Industrial Commission, 57

N.E.2d 620, 74 Ohio App. 77, 29 O.O. 265, 41 Ohio Law Abs. 237.—Offic 1.

Ohio App. 7 Dist. 1956. Phrase "public office" as used in statute forbidding member of village council to hold any other "public office" imports office wherein certain independent public duties, a part of sovereignty of the State, are appointed to it by law, to be exercised by incumbent by virtue of his election or appointment to the office, and not as a mere employee, subject to direction and control of someone else. R.C. § 731.12.—State ex rel. Scarl v. Small, 145 N.E.2d 200, 103 Ohio App. 214, 3 O.O.2d 276.—Mun Corp 142.

Ohio App. 7 Dist. 1956. Teacher in public school system did not hold "public office" within meaning of statute forbidding member of village council to hold any other "public office," and therefore he was eligible to hold office of councilman at large of village. R.C. § 731.12.—State ex rel. Scarl v. Small, 145 N.E.2d 200, 103 Ohio App. 214, 3 O.O.2d 276.—Mun Corp 142.

Ohio App. 8 Dist. 1994. If person is employee, as indicated by employment contract or by being subject to direction and control of someone else, then person does not hold "public office" and quo warranto will not lie. R.C. § 2733.01.—State ex rel. Grenig v. Cuyahoga Cty. Bd. of Mental Retardation, 637 N.E.2d 954, 93 Ohio App.3d 98.—Quo W 11.

Ohio App. 8 Dist. 1967. Rule applicable generally is that political party committeemen do not hold a "public office," although legislature may, by statute, regulate election and conduct of political committees.—State ex rel. McCurdy v. DeMaioribus, 224 N.E.2d 353, 9 Ohio App.2d 280, 38 O.O.2d 336.—Offic 1.

Ohio App. 8 Dist. 1930. "Public office" is distinguished, in that incumbent is clothed with independent capacity, equal to act of sovereignty derived from state and exercised under authority of law in interest of public.—Moxon v. State, 172 N.E. 680, 36 Ohio App. 24, 33 Ohio Law Rep. 174, 8 Ohio Law Abs. 633.—Offic 1.

Ohio App. 8 Dist. 1930. Membership on board of trustees for police and firemen's pension funds held not additional "public office" within charter prohibition, as regards city commissioners. Gen. Code, §§ 4600, 4616, 113 Ohio Laws, pp. 62, 64; City Charter of East Cleveland.—Moxon v. State, 172 N.E. 680, 36 Ohio App. 24, 33 Ohio Law Rep. 174, 8 Ohio Law Abs. 633.—Mun Corp 142; Offic 30.1.

Ohio App. 8 Dist. 1930. The City Charter of East Cleveland vests the city government in a commission of five members. Referring to the qualification of a member, it reads: 'He shall not hold any other public office or employment except that of notary public or member of the state militia.' Gen. Code, §§ 4600, 4616 (113 Ohio Laws, pp. 62, 64), provide for the establishment of firemen's pension and police relief funds to be administrated by boards of trustees, two members of which shall be chosen by the municipal legislative body from among its own members. The office of trustee, in so far as the commission's members are concerned, is not an additional "public office."—Moxon v. State, 172 N.E. 680, 36 Ohio App. 24, 33 Ohio Law Rep. 174, 8 Ohio Law Abs. 633.—Mun Corp 142.

Ohio App. 9 Dist. 1965. Police officer of municipal corporation is "public officer" and as such occupies "public office" within statute authorizing civil action in quo warranto against person unlawfully holding public office. R.C. §§ 2733.01, 2733.02, 2733.04, 2733.05.—State ex rel. Mikus v. Hirbe, 215 N.E.2d 430, 5 Ohio App.2d 307, 34 O.O.2d 490, affirmed 218 N.E.2d 438, 7 Ohio St.2d 104, 36 O.O.2d 85.—Quo W 10.

Ohio App. 10 Dist. 1999. Ohio Public Defender was a "public office," for purposes of request, made pursuant to Public Records Act, that he disclose financial information relating to representation of a capital defendant. R.C. §§ 120.04, 149.11, 149.43, 149.011(A).—State ex rel. Beacon Journal Publishing Co. v. Bodiker, 731 N.E.2d 245, 134 Ohio App.3d 415.—Records 51.

Ohio Com.Pl. 1990. Economic Opportunity Planning Association of Greater Toledo constituted "public office," within meaning of Public Records Law, and thus Association was obligated to make its records available for inspection and copying in accordance with Law; Association had been designated a community action agency. R.C. § 149.43(A)(1).—State, ex rel. Toledo Blade Co. v. Economic Opportunity Planning Assn. of Greater Toledo, 582 N.E.2d 59, 61 Ohio Misc.2d 631.—Records 51.

Ohio Com.Pl. 1962. City policeman did not hold "public office" within statute authorizing quo warranto action with respect to public office. R.C. § 2733.01 et seq.—Hickman v. City of Portsmouth, 187 N.E.2d 653, 24 O.O.2d 170, 90 Ohio Law Abs. 505.—Quo W 10.

Ohio Com.Pl. 1948. To constitute a "public office", against the incumbent of which quo warranto will lie, it is essential that certain independent public duties, a part of the sovereignty of the state, should be appointed to it by law, to be exercised by the incumbent, in virtue of his election or appointment to the office, thus created and defined, and not as a mere employee subject to the direction and control of some one else.—La Polla v. Davis, 89 N.E.2d 706, 40 O.O. 244, 55 Ohio Law Abs. 490, appeal dismissed 86 N.E.2d 615, 151 Ohio St. 550, 39 O.O. 347.—Quo W 10.

Ohio Com.Pl. 1948. Where charter of city of Youngstown made mayor sole conservator of peace, placed chief of police in unclassified civil service, and provided that mayor may appoint and at will remove the chief of police, office of chief of police was not a "public office" within meaning of constitution requiring holder thereof to possess qualifications of elector so that appointee who lacked residence requirement was eligible to appointment. Const. art. 15, § 4.—La Polla v. Davis, 89 N.E.2d 706, 40 O.O. 244, 55 Ohio Law Abs. 490, appeal dismissed 86 N.E.2d 615, 151 Ohio St. 550, 39 O.O. 347.—Mun Corp 182.

Okla.Terr. 1904. A "public office," while not property, is a position held by right of election or appointment, and courts will protect one in the enjoyment of these rights as quickly and as fully as though it were property.—Christy v. City of Kingfisher, 76 P. 135, 13 Okla. 585, 1904 OK 19.

Okla.Terr. 1895. A "public office" is the right, authority, and duty created and conferred by law, by which, for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, either executive, legislative, or judicial, to be exercised for the benefit of the public; and unless the powers conferred are of this nature the individual is not a public officer.—Guthrie Daily Leader v. Cameron, 41 P. 635, 3 Okla. 677, 1895 OK 71.

Okla.Crim.App. 1946. A "public office" is the right, authority, and duty created and conferred by law, by which, for a given period, either fixed by law or enduring at pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government to be exercised for the benefit of the public.—Lizar v. State, 166 P.2d 119, 82 Okla.Crim. 56.

Okla.Crim.App. 1940. A "public office" is a right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public, and the individual so invested is a "public officer".—Spivey v. State, 104 P.2d 263, 69 Okla.Crim. 397.

Okla.Crim.App. 1938. A "public office" is a right, authority and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public, and the individual so invested is a "public officer."—State v. Sowards, 82 P.2d 324, 64 Okla.Crim. 430.—Offic 1.

Okla.Jud.Eth. 2002. Office in Bar Association is not a "public office" within meaning of judicial canon providing that judge should not publicly endorse or oppose another candidate for public office. Code of Jud.Conduct, Canon 5, subd. A(b), 5 O.S.A. Ch. 1, App. 4.—Judicial Ethics Opinion 2002-3, 73 P.3d 275.—Judges 11(2).

Or. 1952. "Public office" embraces ideas or tenure, duration, emolument, powers and duties and is a public station or employment conferred by appointment of government or a right, authority and duty created by law vesting an individual with part of sovereign functions of government for given period.—Recall Bennett Committee v. Bennett, 249 P.2d 479, 196 Or. 299.—Offic 1.

Pa. 1970. A person who is a "public officer" under tenure provisions of public school code is not necessarily the holder of a "public office" in the sense used in statute defining appellate jurisdiction in cases involving the right to public office. Act July 31, 1970, Act 223, § 202(2).—Appeal of Bowers, 269 A.2d 712, 440 Pa. 310, on remand 280 A.2d 632, 219 Pa.Super. 269.—Courts 242(1).

Pa. 1970. "Public office", within statute authorizing appeals directly to Supreme Court in cases involving the right to public office, means an elective or appointive position in which incumbent is exercising a governmental function which involves a measure of policy-making and which is of general public importance. Act July 31, 1970, Act 223, § 202(2).—Appeal of Bowers, 269 A.2d 712, 440 Pa. 310, on remand 280 A.2d 632, 219 Pa.Super. 269.—Courts 242(2).

Pa. 1947. "Quo warranto" is an action to try title to a "public office," as distinguished from a political party office. 12 P.S. § 2022; Pa.R.C.P. No. 1112, 12 P.S.Appendix.—Com. ex rel. Koontz v. Dunkle, 50 A.2d 496, 355 Pa. 493, 169 A.L.R. 1277.—Quo W 11.

Pa. 1941. To constitute a "public office" it is essential that certain independent public duties, a part of the sovereignty of the state, should be appointed to it by law, to be exercised by the incumbent in virtue of his election or appointment to the office thus created and defined.—Com. ex rel. McCreary v. Major, 22 A.2d 686, 343 Pa. 355.—Offic 1.

Pa. 1939. The statute providing that in counties of first class county treasurers should cease to be agents of commonwealth for collection of certain taxes and that all commissions theretofore retained by treasurers for their own use for services performed by them as agents shall be payable into the treasuries of respective counties is not violative of constitutional prohibition against the increase or diminution of salary or emoluments of a public officer after his election or appointment, since designation of the city or county treasurer as agent of the commonwealth is not the creation of a "public office" within the constitutional provision. 16 P.S. §§ 1464 note, 1465; P.S.Const. art. 3, § 13.—In re Hadley, 6 A.2d 874, 336 Pa. 100.—Offic 100(1).

Pa.Super. 1940. A "public office" is a public trust, and to honestly administer such trust a public official in whose charge it is placed must give his undivided loyalty to the people of the commonwealth.—Com. v. Kirk, 14 A.2d 914, 141 Pa.Super. 123, opinion adopted 17 A.2d 195, 340 Pa. 346.

R.I. 1991. Service as member of the board of directors of the Communications Satellite Corporation (COMSAT) is not a "public office" and does not constitute holding an "office under the government of the United States" within meaning of state constitutional prohibition against person who holds United States office also acting as general officer or member of the general assembly of the State, inasmuch as COMSAT, though reflecting congressional policy, is a private corporation with publicly traded common stock, and does not receive any appropriation of federal funds. Const. Art. 3, § 6; Communications Satellite Act of 1962, § 102 et seq., 47 U.S.C.A. § 701 et seq.—In re Sundlun, 585 A.2d 1185.—Offic 30.4.

R.I. 1934. Superintendent of highways and sewers of city of Central Falls was elected to "public office" for a definite term by board of aldermen, and could be removed therefrom only by due process of law.—Brule v. Board of Aldermen of City of Central Falls, 175 A. 478, 54 R.I. 472.—Mun Corp 203.

R.I. 1907. The office of Democratic ward committeeman of a city is not a "public office."—Greenough v. Lucey, 66 A. 300, 28 R.I. 230.

S.C. 1948. A position is a "public office" when it is created by law with duties cast upon the incumbent which involve an exercise of some portion of the sovereign power and in the performance of which the public is concerned and which also are continuing in their nature, and not occasional or intermittent, while a "public employment" is a position which lacks one or more of the foregoing elements.—State ex rel. Williamson v. Wannamaker, 48 S.E.2d 601, 213 S.C. 1.—Offic 1.

S.C. 1948. Under the statute creating the office of chief highway commissioner with four-year term, subject to commissioner's right of removal or discharge, the office constitutes a "public office", and the incumbent is a "public officer." Code 1942, § 5868.—State ex rel. Williamson v. Wannamaker, 48 S.E.2d 601, 213 S.C. 1.—States 44.

S.C. 1943. Generally, a position is a "public office" when it is created by law, with duties cast upon the incumbent which involve an exercise of some portion of the sovereign power, and in the performance of which the public is concerned, and which also are continuing in their nature, and not occasional or intermittent, while a "public employment" is a position which lacks one or more of the foregoing elements.—Willis v. Aiken County, 26 S.E.2d 313, 203 S.C. 96.—Offic 1.

S.C. 1943. Fact that a position is a subordinate one, and that its holder may be accountable to a superior, does not prevent it from being a "public office", or the incumbent an officer, as distinguished from a mere employee, and a subordinate or inferior officer is nonetheless an officer.—Willis v. Aiken County, 26 S.E.2d 313, 203 S.C. 96.—Offic 1.

S.D. 1942. Whether public position is "public office" or "employment" is primarily question of statutory powers and duties.—Griggs v. Harding County, 3 N.W.2d 485, 68 S.D. 429.—Offic 1.

S.D. 1932. Office of city commissioner of Sioux Falls, limited to five years, is a "public office," whose incumbent holds over until successor is elected. Rev.Code 1919, § 7035.—Smith v. Reid, 244 N.W. 353, 60 S.D. 311.—Mun Corp 149(4).

Tenn. 1978. Any position of employment that carries with it duties and responsibilities affecting lives, liberty, money or property of citizen or that may enhance or disrupt citizen's enjoyment of life, his peace and tranquility, or that of his family, is a "public office" within meaning of constitutional defamation privilege.—Press, Inc. v. Verran, 569 S.W.2d 435.—Libel 48(2).

Tenn. 1938. A "public office" cannot be transferred by statute from one official to another, and Legislature cannot remove a county judge by abolishing the office and devolving the duties upon chairman of county court.—State ex rel. v. Link, 111 S.W.2d 1024, 172 Tenn. 258.—Judges 2.

Tex.Com.App. 1933. Membership on juvenile board *held* not "public office" and district judge's holding thereof does not violate constitutional provision prohibiting same person from holding more than one civil office of emolument at same time. Vernon's Ann.Civ.St. art. 5139 et seq.; Vernon's Ann.St. Const. art. 5, § 8; art. 16, § 40.—Jones v. Alexander, 59 S.W.2d 1080, 122 Tex. 328.—Offic 30.2, 30.5.

Tex.Com.App. 1922. "Public office" is the right, authority, and duty created and conferred by law by which, for a given period either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government to be exercised by him for the benefit of the public.—Commissioners' Court of Limestone County v. Garrett, 236 S.W. 970, rehearing overruled 238 S.W. 894.

Tex.Civ.App.–Fort Worth 1931. A "public office" is the right, authority, and duty created and conferred by law, by which, for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public.—Donges v. Beall, 41 S.W.2d 531, writ refused.

Tex.Civ.App.–Galveston 1949. A "public office" is the right to exercise a public function or employment and take the fees and emoluments belonging to it and an individual invested with such an office is a "public officer" who is a person who exercises some function of the government or is commissioned or authorized to perform any public duty.—Dunbar v. Brazoria County, 224 S.W.2d 738, writ refused.—Offic 1.

Utah 1991. The State Bar is not a "public office" or "state agency" within meaning of Archives Records Services and Information Practices Act and Public and Private Writings Act, even though Bar recommends admission to practice law and disciplinary action, since Bar has no final decision-making authority, is private organization, has capacity to sue and be sued, owns real property in its own name, pays taxes, and is funded completely by dues and fees paid by members and bar applicants. U.C.A.1953, 63–2–61(1–3); State Bar Rule VII.—Barnard v. Utah State Bar, 804 P.2d 526.—Records 51.

Wash. 1944. In determining whether a particular position is a "public office", the nature of the duties, particular method in which they are to be performed, end to be attained, depository of power conferred, and the whole surroundings must be considered.—State ex rel. Brown v. Blew, 145 P.2d 554, 20 Wash.2d 47.—Offic 1.

Wash. 1944. Requisites of "public office" are continuity, creation by Constitution or Legislature, or their authority, possession of governmental power, definition of powers and duties by legislative authority, and independence, unless controlled by superior officers according to legislative authority.—State ex rel. Brown v. Blew, 145 P.2d 554, 20 Wash.2d 47.—Offic 1.

Wash. 1941. The position of chief mine inspector, created by statute, is a "public office" within constitutional prohibition against increasing or diminishing compensation of a public officer during his term of office, and such officer was, therefore, entitled to recover the difference between salary received under Governor's reduction of the salary under statutory authority and the salary prescribed by the statute. RCW 43.22.170–43.22.190; Const. art. 2, § 25.—State ex rel. Bergin v. Yelle, 118 P.2d 807, 11 Wash.2d 151.—Offic 100(2).

Wash. 1937. The distinguishing characteristic of a "public office" is that the incumbent, in an independent capacity, is clothed with some part of sovereignty of state, to be exercised in interest of public as required by law.—State ex rel. Johnston v. Melton, 73 P.2d 1334, 192 Wash. 379.—Offic 1.

Wash. 1937. In determining whether given employment is "public office," each case must be considered on its particular facts and on basis of intention and subject-matter of enactment, bearing in mind nature of duties, particular method in which they are to be performed, end to be attained, depositary of power conferred and the whole surroundings.—State ex rel. Johnston v. Melton, 73 P.2d 1334, 192 Wash. 379.—Offic 1.

Wash. 1937. A "public office" is an agency for the state, and the person whose duty it is to perform the agency is a "public officer." Every office is considered "public," the duties of which concern the public. The true test of a "public office" seems to be that it is a parcel of the administration of government. "Public office" has respect to a permanent trust to be exercised in behalf of the government, or of all citizens who may need the intervention of a public functionary or officer, and in all matters within the range of the duties pertaining to the character of the trust. Whoever has a public charge or employment affecting the public is said to hold or to be in "office." Where by virtue of law, a person is clothed not as an incidental or transient authority, but for such time as denotes duration and continuance, with independent power to control the property of the public, or with public functions to be exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is a "public office."—State ex rel. Hand v. Superior Court of Grays Harbor County, 71 P.2d 24, 191 Wash. 98.

W.Va. 1954. Office of member of the West Virginia Board of Education is a "public office" within meaning of statute dealing with an information in the nature of quo warranto. Code, 18–2–1, 53–2–4.—State ex rel. Fox v. Brewster, 84 S.E.2d 231, 140 W.Va. 235.—Quo W 10.

W.Va. 1953. Generally, a "public office" is a position created by law with duties cast on the incumbent which involve an exercise of some portion of sovereign power and in which the public is concerned, continuing in their nature, and not merely occasional or intermittent.—State ex rel. Ralich v. Millsop, 76 S.E.2d 737, 138 W.Va. 599.—Offic 1.

W.Va. 1923. Generally speaking, a "public office" is a position created by law, with duties cast upon the incumbent which involve an exercise of some portion of sovereign power and in which the public is concerned, continuing in their nature, and not merely occasional or intermittent.—State ex rel. Key v. Bond, 118 S.E. 276, 94 W.Va. 255.—Offic 1.

W.Va. 1923. Generally speaking, a "public office" is a position created by law, with duties cast upon the incumbent which involve an exercise of some portion of sovereign power and in which the public is concerned, continuing in their nature, and not merely occasional or intermittent. It is this sense in which the term is used in section 8, art. 4, of the Constitution.—State ex rel. Key v. Bond, 118 S.E. 276, 94 W.Va. 255.—Offic 2.

W.Va. 1923. Generally speaking, a "public office" is a position created by law with duties cast on the incumbent which involve an exercise of some portion of sovereign power and in which the public is concerned, continuing in their nature and not merely occasional or intermittent, and it is in this sense that the term is used in Const. art. 4, § 8, requiring the terms, powers, duties, and compensation of public officers to be prescribed by general laws.—State ex rel. Key v. Bond, 118 S.E. 276, 94 W.Va. 255.—Statut 100(1).

W.Va. 1901. The words "public office" are used in so many senses that it is impossible to give a precise definition covering all cases. It depends, not on what we call it, or even on what a statute may incidentally call it, but upon the powers wielded, the functions performed, and other circumstances manifesting the character of the position. Mechem Pub.Off. § 4, says: "The most important characteristic which distinguishes an office from an employment or contract is that the creation of an office involves a delegation to the individual of some of the sovereign functions of government to be exercised by him for the benefit of the public. * * * Unless the powers conferred are of this nature, the individual is not a public officer." The test is that he should exercise something that can fitly be called a part of the sovereignty of the state.—Hartigan v. Board of Regents of West Virginia University, 38 S.E. 698, 49 W.Va. 14.

Wis. 1941. A "public office" is where, for the time being, a portion of the sovereignty, legislative, executive, or judicial, attaches to be exercised for public benefit.—Martin v. Smith, 1 N.W.2d 163, 239 Wis. 314, 140 A.L.R. 1063.—Offic 1.

Wis.App. 1980. Term "office" as used in provision of Constitution stating in part "no person convicted of any infamous crime in any court within the United States; * * * shall be eligible to any office of trust, profit or honor in this state" means

"public office." W.S.A.Const. Art. 13, § 3.—State, Law Enforcement Standards Bd. v. Village of Lyndon Station, 295 N.W.2d 818, 98 Wis.2d 229, affirmed 305 N.W.2d 89, 101 Wis.2d 472.—Offic 31.

### PUBLIC OFFICE OF A CIVIL NATURE

Mich. 1960. Five elements are indispensable to a "public office of a civil nature": (1) it must be created by Constitution, Legislature, municipality, or other body through authority conferred by Legislature; (2) it must possess delegation of portion of sovereign power to be exercised for benefit of public; (3) powers conferred, and duties to be discharged, must be defined, directly or impliedly, by Legislature or through legislative authority; (4) duties must be performed independently and without control of superior power, other than the law, unless they be those of an inferior or subordinate office, created or authorized by Legislature, and by it placed under general control of superior officer or body; (5) it must have some permanency and continuity, and not be only temporary or occasional.—Meiland v. Cody, 101 N.W.2d 336, 359 Mich. 78.—Offic 1.

Wis. 1941. In order to make a position of public employment a "public office of a civil nature", it must be created by constitution or through legislative act, it must possess a delegation of a portion of sovereign power of government to be exercised for benefit of public, it must have some permanency and continuity, and its powers and duties must be derived from legislative authority and be performed independently of superior power,other than the law, except in case of inferior officers specifically placed under the control of a superior officer or body, and be entered upon by taking an oath and giving an official bond, to be held by virtue of a commission or other written authority.—Martin v. Smith, 1 N.W.2d 163, 239 Wis. 314, 140 A.L.R. 1063.—Offic 1.

### PUBLIC OFFICE OF CIVIL NATURE

Wash. 1947. For position of public employment to be a "public office of civil nature", it must be created by constitution, legislature, or municipality or other body so authorized by legislature, portion of government's sovereign power must be delegated thereto, its powers and duties must be defined directly or impliedly by legislature or through legislative authority, its duties must be performed independently unless it be a subordinate office created by legislature, and position must have some permanency and continuity.—State ex rel. Hamblen v. Yelle, 185 P.2d 723, 29 Wash.2d 68.—Offic 1.

### PUBLIC OFFICE OF TRUST

Ohio 1935. Judge of court of common pleas held precluded from becoming member of county charter commission, since membership on such commission constitutes holding of "public office of trust" within Constitution prohibiting judge from holding any other office of trust. Const. art. 4, § 14; art. 10, § 4, adopted in 1933.—State ex rel. Bricker v. Gessner, 195 N.E. 63, 129 Ohio St. 290, 2 O.O. 198.—Offic 30.2.

### PUBLIC OFFICE OR ANY FRANCHISE

Ind. 1961. County chairman of political party does not hold an office in a "corporation created by the authority of the state" nor does such chairman hold a "public office or any franchise" within statute providing for the bringing of quo warranto proceeding, and such proceeding could not be brought to test the right to office of county chairman of political party. Burns' Ann.St. §§ 3–2001, 29–2901 et seq.—State ex rel. Kiser v. Millspaugh, 175 N.E.2d 13, 241 Ind. 656.—Quo W 10, 20.

### PUBLIC OFFICE, POSITION, OR EMPLOYMENT

N.J.Super.A.D. 1985. The phrase "public office, position, or employment," as used in statute disenfranchising person from such employment if person is convicted of certain offenses covers all employees of State Turnpike Authority, and phrase "elective or appointive" in such statute is one of inclusion rather than exclusion. N.J.S.A. 2C:51–2.—New Jersey Turnpike Employees Union, Local No. 194 I.F.P.T.E., AFL-CIO v. New Jersey Turnpike Authority, 490 A.2d 338, 200 N.J.Super. 48, certification denied 501 A.2d 954, 101 N.J. 294.—Turnpikes 4.

### PUBLIC OFFICER

C.A.11 (Ala.) 1990. Standards of conduct officer in the Air Force who by regulations and direct orders of superior had been given charge of advising officers of conflict of interest problems was "public officer," for purposes of entrapment by estoppel defense to charge that air force officer took government action while having conflicting financial interest. 18 U.S.C.A. § 208(a).—U.S. v. Hedges, 912 F.2d 1397.—Crim Law 37(6.1).

C.A.7 (Ind.) 1982. For purposes of statute of limitations subsection providing that actions against a sheriff or other public officers must be commenced within five years, a state police officer is a "public officer." IC 34–1–2–2(2) (1982 Ed.)—Blake v. Katter, 693 F.2d 677.—States 201.

C.A.8 (Iowa) 1971. Decision by county supervisor of the Farmers Home Administration as to whether materials, construction work, and completed home, financed by FHA loan, sufficiently met general FHA standards to entitle them to approval necessarily involved exercise of evaluative judgment, such that approval was discretionary rather than ministerial function and that, in the performance of such function, supervisor had status of "public officer," cloaked with official immunity against suit alleging that he had been negligent in making his approval and that such negligence was proximate factor in fire which, some two months later, destroyed home and caused death of plaintiff's minor son.—Youngstrom v. Dunn, 447 F.2d 948.—U S 50.10(1).

C.A.3 (Pa.) 1982. A college professor at a state college is not a "public officer."—Ryan v. Mansfield State College, 677 F.2d 344.—Colleges 8(1).

Ct.Cl. 1929. Branch pilot licensed under laws of Virginia was not "public officer" so as to exempt

earnings from federal taxation.—Bew v. U.S., 35 F.2d 977, 68 Ct.Cl. 462, certiorari denied 50 S.Ct. 353, 281 U.S. 750, 74 L.Ed. 1162.—Int Rev 3150.

C.C.A.6 1946. In Ohio the policeman of a municipality is a "public officer".—N.L.R.B. v. Jones & Laughlin Steel Corp., 154 F.2d 932, 33 O.O. 346, certiorari granted National Labor Relations Board v. Jones & Laughlin Steel Corporation., 67 S.Ct. 479, 329 U.S. 710, 91 L.Ed. 617, reversed 67 S.Ct. 1274, 331 U.S. 416, 91 L.Ed. 1575, rehearing denied 67 S.Ct. 1725, 331 U.S. 868, 91 L.Ed. 1872, motion denied 68 S.Ct. 158, 332 U.S. 823, 92 L.Ed. 398.—Mun Corp 180(1).

C.C.A.6 1943. Generally, everyone who is appointed to discharge a public duty, and who receives compensation in whatever shape from the state or otherwise, is a "public officer".—Pope v. Commissioner of Internal Revenue, 138 F.2d 1006.—Offic 1.

C.C.A.6 1943. A person may be a "public officer", although his duties are confined to narrow limits and his period of tenure brief, if his duties are those to which a portion of the sovereignty of the state attaches for the time being.—Pope v. Commissioner of Internal Revenue, 138 F.2d 1006.—Offic 1.

C.C.A.6 (Ky.) 1940. Superintendent of schools for city of Ludlow, Ky., was a "public officer" of the city, as regards his right to recover full salary after he had been improperly removed and services had been performed by another. Ky.St.1930, §§ 3587a–1, 3587a–2, 3587a–13.—Smith v. Board of Education of Ludlow, 111 F.2d 573.—Mun Corp 211.

C.C.A.8 (Mo.) 1930. County depositary held not "public officer" within statute limiting actions against public officers. R.S.1919, § 1318 (V.A.M.S. § 516.130).—Fidelity & Deposit Co. of Maryland v. Farmers' Bank of Bates County, Mo., 44 F.2d 11, certiorari denied 51 S.Ct. 213, 282 U.S. 901, 75 L.Ed. 793.—Lim of Act 33.

C.C.A.8 (Mo.) 1927. Court held unauthorized to interfere in winding up of affairs of insolvent joint-stock land bank, organized under Farm Loan Act, 12 U.S.C.A. c. 7 (sections 641-1021), by appointment of receiver, where Federal Farm Loan Board had appointed receiver pursuant to sections 641, 831, 961, 963, since bank was "federal agency," and receiver appointed by board is "public officer"; procedure under chapter 7 being in substance like that of National Banking Act, Act June 3, 1864, 13 Stat. 99.—Krauthoff v. Kansas City Joint-Stock Land Bank of Kansas City, Mo., 23 F.2d 71.

C.C.A.8 (Mo.) 1927. Court held unauthorized to interfere in winding up of affairs of insolvent joint-stock land bank, organized under Farm Loan Act (12 U.S.C.A. c. 7 [sections 641-1021]), by appointment of receiver, where Federal Farm Loan Board had appointed receiver pursuant to sections 641, 831, 961, 963, since bank was "federal agency," and receiver appointed by board is "public officer"; procedure under chapter 7 being in substance like that of National Banking Act.—Krauthoff v. Kansas City Joint-Stock Land Bank of Kansas City, Mo., 23 F.2d 71.

C.C.A.3 (N.J.) 1942. A notary is a "public officer" long recognized throughout the commercial world whose official certificate is admissible in a court of admiralty as evidence of facts certified.—The Denny, 127 F.2d 404.—Adm 73; Notaries 1.

E.D.Mich. 1933. Notary public is a "public officer."—Boster v. First Nat. Bank, 5 F.Supp. 15.—Notaries 1.

E.D.N.Y. 2005. City's director of ferry operations was not "public officer," for purposes of Seaman's Manslaughter Statute, and thus director could be found criminally negligent in connection with ferry's collision with terminal only if neglect that caused passengers' deaths was knowing and willful, where city's charter and rules did not specifically mention director's position, position was not created by statute, and its duties were not defined by law. 18 U.S.C.A. § 1115; 1 U.S.C.A. § 1.—U.S. v. Ryan, 365 F.Supp.2d 338.—Ferries 35.

Ala. 1951. A license inspector who holds office under a general law applicable to all counties in the state, is a "public officer" within meaning of constitutional provision that legislature shall not enact any law, not applicable to all counties in state, regulating allowances of public officers. Const. 1901, § 96; Code 1940, Tit. 51, § 835.—Opinion of the Justices, 53 So.2d 367, 255 Ala. 656.—Statut 93(9).

Ala. 1943. Deputy tax collector for Jefferson County was not a "public officer" within the rule that acceptance by a public officer of less compensation for official services than that established by law does not "estop" him from subsequently recovering legal compensation, but deputy held a "position of employment" and was estopped in such case. Gen.Acts 1927, p. 499; Loc.Acts 1915, p. 374.—Jefferson County v. Case, 12 So.2d 343, 244 Ala. 56.—Tax 2806.

Ala. 1942. A "public officer" usually means a person who, by lawful authority, has been invested with a part of the sovereign functions of government and sometimes a person so invested has become an officer of a board or institution rather than of the state so as to be unaffected by the provision of the constitution that the salary, fees or compensation of any officer shall not be increased or diminished during the term for which he shall be elected or appointed. Const.1901, § 281.—State ex rel. Hyland v. Baumhauer, 12 So.2d 326, 244 Ala. 1, answer to certified question conformed to State ex rel. Mantell v. Baumhauer, 12 So.2d 332, 31 Ala. App. 27, certiorari denied 12 So.2d 340, 244 Ala. 77, answer to certified question conformed to 12 So.2d 340, 31 Ala.App. 35, certiorari denied 12 So.2d 342, 244 Ala. 71.—Offic 100(1).

Ala. 1942. The duties of a fireman are of an important public sort, but there is vested in such service no element of trusteeship possessing an ingredient of sovereignty, since a fireman handles no public funds and discharges no duty which sovereignty is bound by law to discharge and a fireman is

not a "public officer" as ordinarily defined.—State ex rel. Hyland v. Baumhauer, 12 So.2d 326, 244 Ala. 1, answer to certified question conformed to State ex rel. Mantell v. Baumhauer, 12 So.2d 332, 31 Ala.App. 27, certiorari denied 12 So.2d 340, 244 Ala. 77, answer to certified question conformed to 12 So.2d 340, 31 Ala.App. 35, certiorari denied 12 So.2d 342, 244 Ala. 71.—Mun Corp 194, 202.

Ala. 1942. A fireman of the city of Mobile is not a "public officer" within the rule that renders void a contract or agreement whereby a public officer agrees to perform services required of him for less compensation than that fixed in the statute. Code 1940, Tit. 62, § 460.—State ex rel. Hyland v. Baumhauer, 12 So.2d 326, 244 Ala. 1, answer to certified question conformed to State ex rel. Mantell v. Baumhauer, 12 So.2d 332, 31 Ala.App. 27, certiorari denied 12 So.2d 340, 244 Ala. 77, answer to certified question conformed to 12 So.2d 340, 31 Ala.App. 35, certiorari denied 12 So.2d 342, 244 Ala. 71.—Mun Corp 199.

Ala. 1942. The rule which avoids the agreement of a "public officer" to accept less than the compensation attached by law to the office does not apply to a fireman of the city of Mobile whose tenure of employment is subject to the will of the governing body of such city. Code 1940, Tit. 62, § 460.—State ex rel. Hyland v. Baumhauer, 12 So.2d 326, 244 Ala. 1, answer to certified question conformed to State ex rel. Mantell v. Baumhauer, 12 So.2d 332, 31 Ala.App. 27, certiorari denied 12 So.2d 340, 244 Ala. 77, answer to certified question conformed to 12 So.2d 340, 31 Ala.App. 35, certiorari denied 12 So.2d 342, 244 Ala. 71.—Mun Corp 199.

Ala. 1941. One who performs a public function, derives his authority directly from the state by legislative enactment, and has duties, powers, and authority prescribed by law, is a "public officer" of the state.—State ex rel. Haas v. Stone, 200 So. 756, 240 Ala. 677.—Offic 1.

Ala. 1937. A release executed by deputy county tax assessor for a lesser sum than was due him under statute fixing his compensation for making escape assessments was without consideration and was void, and deputy assessor was entitled to payment of full sum, since sum was due to deputy as a "public officer" and was a fixed, definite, and certain sum earned in discharge of official duties. Gen.Acts 1931, p. 295, amending Gen.Acts 1923, p. 293, § 25-A.—Hamilton v. Edmundson, 177 So. 743, 235 Ala. 97.—Contracts 125.

Ala. 1934. One performing public function with authority derived directly from state by legislative enactment, with law prescribing duties, powers, and authority, is "public officer" of state.—Hard v. State ex rel. Owen, 153 So. 725, 228 Ala. 241.—Offic 1.

Ala. 1933. State tax commissioner is "public officer" of state.—State ex rel. Tallapoosa County v. Butler, 149 So. 101, 227 Ala. 212.—Tax 2621.

Ala. 1932. State tax commissioner is "public officer" of state (Gen.Acts 1931, p. 5).—State v. Butler, 142 So. 531, 225 Ala. 191.—Tax 2621.

Ala. 1930. Record of death certificate being "public writing," certified copy may be obtained from local registrar, who is "public officer". Code 1923, §§ 1086, 2694–2696.—Scott v. Culpepper, 125 So. 643, 220 Ala. 393.—Health 398.

Ala. 1919. While a county depository is not a "public officer" in the common acceptation of the term, it is a contractee with a positive law-imposed ministerial duty, performance of which may be compelled in proper cases by a writ of mandamus.—First Nat. Bank of Abbeville v. Terry, Briggs & Co., 83 So. 170, 203 Ala. 401.—Mand 65.

Ala. 1918. A special agent appointed by the superintendent of banks in the liquidation of an insolvent bank under Acts 1911, p. 59, § 10, whose compensation is paid out of the funds of the bank, is a "public officer," within the meaning of the rule of law exempting his compensation from garnishment proceedings.—Gerald v. Walker, 78 So. 856, 201 Ala. 502.

Ala. 1909. Every one who is appointed to discharge a public duty, and receives compensation, in whatever shape, is a "public officer," and if a duty be a continuing one, which is defined by rules prescribed by the government, and not by contract, it is very difficult to distinguish such a charge or employment from an office, or the person who holds it from an "officer."—Michael v. State, 50 So. 929, 163 Ala. 425.—Offic 1.

Ala. 1896. The term "public officer," in Cr. Code, § 3931, providing that any public officer who deals in claims against the county shall be fined, includes a probate judge's clerk appointed in pursuance of Acts 1893, p. 1190.—Scruggs v. State, 20 So. 642, 111 Ala. 60.

Ala.App. 1957. City commissioner is a "public officer". Code 1940, Tit. 41, § 221, subd. 3.—State v. Homan, 92 So.2d 51, 38 Ala.App. 642.—Mun Corp 123.

Ala.App. 1939. Clerk of the inferior court of Ensley, who was appointed pursuant to local law creating the court and the office of clerk, was a "public officer". Loc.Acts 1932, Ex.Sess., p. 79, § 14.—Jeffers v. Wharton, 197 So. 352, 29 Ala.App. 428, certiorari granted 197 So. 358, 240 Ala. 21.—Clerks of C 1.

Ala.App. 1939. The party who is lawfully appointed to and qualified to fill position created by statute is a "public officer".—Jeffers v. Wharton, 197 So. 352, 29 Ala.App. 428, certiorari granted 197 So. 358, 240 Ala. 21.—Offic 1.

Alaska 1983. University president, even though an appointed official, was a "public officer" subject to public records disclosure statute providing that public officer having custody of public records shall give on request a copy of such documents. AS 09.25.110.—Carter v. Alaska Public Employees Ass'n, 663 P.2d 916.—Records 51.

Alaska 1977. Where provision is made by statute for position of a deputy, he is regarded as a "public officer," especially if the appointment is permanent and an oath is required.—Larson v. State, 564 P.2d 365.—Offic 47.

Ariz. 1954. Members of an incorporated city police force are "public officers" within meaning of statute providing that every person who willfully resists, delays or obstructs any "public officer" in discharge or attempt to discharge any duty of his office, when no other punishment is prescribed, is punishable by fine and imprisonment. A.C.A.1939, § 43–3910 (A.R.S. § 13–541).—State v. Kurtz, 278 P.2d 406, 78 Ariz. 215.—Obst Just 7.

Ariz. 1954. Where three police officers of city, with permission of chief of police, were employed and paid by ballroom operator to preserve order while dances were in progress at ballroom in city during off-duty hours of police officers, and one of the police officers, who was dressed in regulation uniform placed first defendant under arrest for using obscene language in presence of women, and second defendant attempted to liberate first defendant, and fight ensued between defendants and police officers, police officers were "public officers" within meaning of statute providing that every person who willfully resists, delays or obstructs any "public officer" in discharge or attempt to discharge any duty of his office, when no other punishment is prescribed, is punishable by fine and imprisonment. A.C.A.1939, § 43–3910 (A.R.S. § 13–541).—State v. Kurtz, 278 P.2d 406, 78 Ariz. 215.—Obst Just 7.

Ariz. 1950. Under the statute defining "public officer" as incumbent of any office, quoted phrase includes highway patrolman. A.C.A.1939, §§ 12–101, 12–102 (A.R.S. §§ 38–101, 38–201, 38–607).—Tomaris v. State, 224 P.2d 209, 71 Ariz. 147.—High 92.

Ariz. 1950. Under the statute providing that every person who willfully resists or obstructs any "public officer" in discharge of office is guilty of an offense, quoted phrase included duly acting and qualified highway patrolman who attempted to arrest defendant who drove automobile at speed reaching 90 miles an hour. A.C.A.1939, § 43–3910 (A.R.S. § 13–541).—Tomaris v. State, 224 P.2d 209, 71 Ariz. 147.—Obst Just 3.

Ariz. 1947. A highway patrolman is both a "public officer" within the terms of statute denouncing bribery of public officers and a "peace officer". Code 1939, §§ 12–101, 66–701, 66–704 (A.R.S. §§ 28–231, 28–233, 38–101).—State v. Hendricks, 186 P.2d 943, 66 Ariz. 235.—Brib 1(2).

Ariz. 1945. Where Act establishing the State Bureau of Criminal Identification provided that the assistant superintendent, appointed by Superintendent, should hold "office" subject to Superintendent's will, and subscribe to the "usual oath of office", assistant superintendent held an "office", was not an "employee" but was a "public officer", whose compensation could not be diminished during term of office. A.R.S. §§ 13–1241, 13–1242, 13–1245 to 13–1252; A.C.A.1939, §§ 45–203, 45–204; A.R.S.Const. art. 4, pt. 2, § 17.—McDonald v. Frohmiller, 163 P.2d 671, 63 Ariz. 479, 164 A.L.R. 922.—Offic 100(2); States 63.

Ariz. 1941. Where common council of incorporated town unanimously decided that plaintiff be "retained" as town's attorney at a salary of $50 a month, but subsequent minute entry referred to plaintiff as town's attorney and subsequently his salary as town's attorney was raised from $50 to $75 a month, plaintiff was not an "employee" but was a "public officer" who was required to be a qualified elector of the town under the constitution. Code 1939, §§ 16–208, 16–210 (A.R.S. §§ 9–237, 9–239); Const. art. 7, § 15 (A.R.S.)—Juliani v. Darrow, 119 P.2d 565, 58 Ariz. 296.—Mun Corp 138; Offic 22.

Ariz. 1936. Official position of Special Assistant Attorney General held terminated by accepted resignation, after which he could be employed as assistant to Attorney General, and, when so employed, such assistant was not "public officer," and hence need not possess statutory qualifications for public office nor accept salary in lieu of fee. Rev. Code 1928, §§ 54, 63, 93, 94 (A.R.S. §§ 38–201, 38–231, 38–291, 38–294, 38–607); Laws 1929, c. 3, § 4(2); Const. art. 22, § 17 (A.R.S.)—Moore v. Frohmiller, 53 P.2d 854, 47 Ariz. 69.—Atty Gen 2.

Ariz. 1935. Attorney, appointed by Attorney General and Colorado River Commission, to represent state for indefinite time in litigation involving Colorado river, taking oath of office as special assistant to Attorney General, and appearing in court in state's behalf held "public officer" within Constitution, as regards right of attorney to receive increase in compensation while representing state in such capacity. Rev.Code 1928, § 60 (A.R.S. § 38–462); Laws 1929, c. 3, § 4, subd. 2; Laws 1935, c. 6, § 2; Const. art. 4, pt. 2, § 17; art. 22, § 17 (A.R.S.).—State ex rel. Colorado River Com'n v. Frohmiller, 52 P.2d 483, 46 Ariz. 413.—Offic 100(2).

Ariz. 1935. State superintendent of banks is "public officer" of executive branch of government holding his office at state capitol, and is within statute requiring actions against public officers to be brought in county in which officer holds office, and hence venue of suit against superintendent and others to rescind contracts to purchase bank stock was properly changed on superintendent's motion to Maricopa county, especially since none of codefendants objected. A.R.S. § 12–401.—Miller v. Arizona Bank, 43 P.2d 518, 45 Ariz. 297.—Venue 11.

Ariz. 1912. The deputy town marshal of an unincorporated town was not a "public officer" within Penal Code 1901, § 143 (A.R.S. § 13–541), making it a criminal offense to resist a public officer.—Findley v. State, 127 P. 716, 14 Ariz. 251.—Obst Just 7.

Ariz.App. Div. 1 1977. Under statute limiting power of justice courts and therefore city courts to try assault or battery cases to those which are not charged to have been committed upon a "public officer" in the discharge of his duties or to have been committed with such intent as to render the

offense a felony, a policeman is a "public officer". A.R.S. § 22-301[2].—City Court of City of Phoenix v. State ex rel. Baumert, 565 P.2d 531, 115 Ariz. 351.—Crim Law 90(2).

Ariz.App. Div. 2 1980. Whether or not the Department of Public Safety is an entity subject to suit, it is not a "public officer" within the statute providing that actions against public officers shall be brought in county in which officer holds office. A.R.S. § 12-401.—Landry v. Superior Court In and For Pima County, 609 P.2d 607, 125 Ariz. 337.—Venue 11.

Ariz.App. 1967. Information charging obstructing justice was not defective because it used words "public officer" in one portion and "police officer" in another portion, since a police officer is a "public officer" within meaning of statute dealing with obstructing "public officer." A.R.S. § 13-541.—State v. Arce, 431 P.2d 681, 6 Ariz.App. 241.—Obst Just 11.

Ark. 1976. The city police fall within definition of a "public officer" authorized by statute to serve a search warrant. Ark.Stats. § 43-204.—Powell v. State, 540 S.W.2d 1, 260 Ark. 381.—Searches 142.

Ark. 1965. A court reporter is not a "public officer" but only an officer of the court. Ark.Stats. § 22-351.—Wirges v. Arrington, 396 S.W.2d 292, 239 Ark. 1047.—Courts 57(1).

Ark. 1913. A notary public is a "public officer."—State ex rel. Gray v. Hodges, 154 S.W. 506, 107 Ark. 272.

Ark. 1907. A "public officer" is a person appointed by the government and not by contract to perform a continuing duty defined by law or governmental rules. The superintendent of the Arkansas State School for the Blind, elected by the state board of trustees of charitable institutions under a statute authorizing such election, whose compensation is fixed by the statute, and whose duties of a public nature are prescribed by law, are continuous and not affected by change of the personnel of the incumbent, and who is required to give a bond for the faithful performance of his duties connected with the institution, is a public officer and not an employé.—Lucas v. Futrall, 106 S.W. 667, 84 Ark. 540.

Cal. 1970. In action against state agency, department, institution, board, or other public entity, founded upon its official action, such entity, in absence of statutory designation of administrative or enforcement officer is "public officer" within statute providing for venue of actions against public officer in county in which cause or some part thereof arose. West's Ann.Code Civ.Proc. § 393.—Regents of University of California v. Superior Court, 476 P.2d 457, 91 Cal.Rptr. 57, 3 Cal.3d 529.—Venue 11.

Cal. 1940. A city attorney of a city of the sixth class is a "public officer," occupying a "public office," and as such is invested with all the rights and privileges and subjected to all of the limitations and restrictions imposed by the constitution and laws of the state and considerations of public policy. Gen.Laws 1937, Act 5233, §§ 852, 879 (repealed. See Govt.Code, §§ 36203-36506, 41801-41804).—People, on Complaint of Chapman, v. Rapsey, 107 P.2d 388, 16 Cal.2d 636.—Mun Corp 123, 167, 170.

Cal. 1929. Volunteer deputy fish and game warden held "public officer," and not "employee" within Compensation Act, so that his death was not compensable. Workmen's Compensation Act, § 8, subd. (a), St.1917, p. 831 (West's Ann.Labor Code, § 3351 et seq.); Pol.Code, § 642, as amended by St.1927, p. 947.—Department of Natural Resources, Division of Fish and Game, v. Industrial Acc. Commission, 279 P. 987, 208 Cal. 14.—Work Comp 377.

Cal. 1929. Volunteer deputy fish and game warden, serving without pay, held a "public officer" within Pol.Code, § 642, as amended by St.1927, p. 947 (West's Ann.Cal. Fish & Game Code, §§ 705, 851-853, 1000, 1006-1008, 1120-1123, 1525, 1526, 5931, 10503, 10504, 12159-12163), and not an "employee" of fish and game commission so as to come within provision of Workmen's Compensation Act, § 8, subd. (a), St.1917, p. 835 (West's Ann.Cal. Labor Code, §§ 3351-3361, 3604, 4457, 4458), entitling widow to an award on his death while engaged in performing duties of his position.—Department of Natural Resources, Division of Fish and Game, v. Industrial Acc. Commission, 279 P. 987, 208 Cal. 14.

Cal. 1923. The inhibition of Const. art. 11, § 9 (West's Ann.Cal.Const.), providing that salary of a "public officer" shall not be increased during his term of office, applies only to officers who have a fixed and definite term, and does not preclude the increase of salary of a deputy holding office at the pleasure of his principal; such deputy having no term of office, within the meaning of the constitutional provision.—Bayley v. Garrison, 214 P. 871, 190 Cal. 690.

Cal. 1923. A traffic officer, whose duty it is to regulate traffic on the public streets of a county, is to that extent exercising a part of the sovereign power of the state, and is a "public officer," as distinguished from a mere employee, and the county board of supervisors has no authority to create such an office, nor to pay his salary; the power to create such office being exclusively vested in the Legislature by Const. art. 11, § 5.—Logan v. Shields, 214 P. 45, 190 Cal. 661.—Counties 61.

Cal. 1921. A "public officer" is a public agent, and acts only on behalf of the public, whose sanction is generally necessary to give his act the authority and power of a public act or law, a public officer being distinguished from a mere employee in that a public duty is delegated and intrusted to him, and in that there is a fixed tenure of position, the execution of a public oath of office, and generally of an official bond, the liability to be called to account for misfeasance or nonfeasance in office, and the payment of a salary from the general county treasury.—Coulter v. Pool, 201 P. 120, 187 Cal. 181.—Offic 1.

Cal. 1907. An attorney at law is not a "public officer."—McKannay v. Horton, 91 P. 598, 151 Cal. 711.

Cal.App. 1 Dist. 1987. School security guard was "public officer" for purpose of determining whether juvenile resisted, delayed and obstructed public officer in violation of Penal Code, even though school security guard was treated as peace officer for purpose of motion to suppress. West's Ann.Cal.Penal Code § 148.—In re Frederick B., 237 Cal.Rptr. 338, 192 Cal.App.3d 79.—Obst Just 7.

Cal.App. 1 Dist. 1970. An attorney advising his clients is not a "public officer" within meaning of public officer exception to statute making it a misdemeanor to remain at the place of any riot, rout, or unlawful assembly after being lawfully warned to disperse. West's Ann.Pen.Code, § 409.—Hoffman v. Municipal Court, 83 Cal.Rptr. 747, 3 Cal.App.3d 621.—Unlawf Assemb 1.

Cal.App. 1 Dist. 1966. Members of Berkeley police department in arresting sit-in demonstrators at University of California in Berkeley were acting as "public officers" within statute imposing punishment on every person who willfully resists any "public officer" in discharge or attempt to discharge any duty of his office. Wests Ann.Pen. Code, § 148.—In re Bacon, 49 Cal.Rptr. 322, 240 Cal.App.2d 34.—Obst Just 3.

Cal.App. 1 Dist. 1956. A public administrator is a "public officer" of a county, and estate moneys received by him are "public moneys" within meaning of section of the Penal Code providing that each officer of the state, or of any county, city, town, or district of the state, and every other person charged with receipt, safekeeping, transfer or disbursement of "public moneys" who appropriates them to his own use or to the use of another is subject to punishment. West's Ann.Pen.Code, § 424, subd. 1; West's Ann.Prob.Code, § 1147.—People v. Crosby, 296 P.2d 438, 141 Cal.App.2d 172.—Embez 11(2); Ex & Ad 24.

Cal.App. 1 Dist. 1956. Person who was employee of elevator inspection company and who was certified by state as an elevator inspector was, while inspecting elevator, a "public officer", although employed and paid by private employer. West's Ann. Gov.Code, § 1981; West's Ann.Labor Code, § 7311.—Barbaria v. Independent Elevator Co., 293 P.2d 855, 139 Cal.App.2d 474.—Inspect 4.

Cal.App. 1 Dist. 1939. A police captain is a "public officer." Pen.Code, § 817 (repealed. See Govt.Code, § 8302).—Brown v. Boyd, 91 P.2d 926, 33 Cal.App.2d 416.—Mun Corp 180(1).

Cal.App. 1 Dist. 1932. Executor is not "public officer" within meaning of statute relating to place of trial of actions against public officer. Code Civ.Proc. § 393, subd. 2.—Spangenberg v. Spangenberg, 11 P.2d 408, 123 Cal.App. 387.—Venue 11.

Cal.App. 1 Dist. 1928. Policeman is a "public officer" as regards right to recover salary while disabled.—City of Oakland v. Lyckberg, 272 P. 606, 95 Cal.App. 71.—Mun Corp 186(4).

Cal.App. 1 Dist. 1928. Policeman in discharge of duties stands in relationship to governing authority which may be classified as that of "public officer". Pen.Code, § 817 (repealed. See Govt.Code, § 8203).—Noble v. City of Palo Alto, 264 P. 529, 89 Cal.App. 47.—Mun Corp 180(1).

Cal.App. 1 Dist. 1914. The words "public officer," as used in West's Ann.Pen.Code, § 149, providing that every public officer, who under color of authority, without lawful necessity, assails or beats a person, is punishable by a fine of not exceeding $1,000 and imprisonment, etc., include a de facto officer.—People v. Cradlebaugh, 141 P. 943, 24 Cal.App. 489.—Assault 71; Offic 121.

Cal.App. 2 Dist. 2005. Two elements are almost universally regarded as essential to a determination of whether one is a "public officer": (1) a tenure of office which is not transient, occasional or incidental, but is of such a nature that the office itself is an entity in which incumbents succeed one another, and, (2) the delegation to the officer of some portion of the sovereign functions of government, either legislative, executive, or judicial.—People v. Rosales, 27 Cal.Rptr.3d 897, 129 Cal.App.4th 81.—Offic 1.

Cal.App. 2 Dist. 1986. Private paramedic, who was assisting fire department personnel at accident scene, was not "public officer" within meaning of statute regarding disobeying lawful order of public officer, where paramedic did not hold any office that was created by Constitution or authorized by statute, and thus jury instruction regarding defendant's disobeying order of public officer which did not inform jury that private paramedic was not public officer was error and retrial was required. West's Ann.Cal.Penal Code § 148.2, subd. 2.—People v. Olsen, 230 Cal.Rptr. 598, 186 Cal.App.3d 257.—Obst Just 7.

Cal.App. 2 Dist. 1958. "Superintendent of schools" is not a "public officer", who can be discharged or removed only on accusation of grand jury under Government Code, or by some other procedure prescribed for removal of a public officer, but is an "employee" of school district, and his employment can be terminated for good cause. West's Ann.Gov.Code, § 3060; West's Ann.Education Code, §§ 1301–1308, 4629.—Main v. Claremont Unified School Dist., 326 P.2d 573, 161 Cal. App.2d 189.—Schools 63(1).

Cal.App. 2 Dist. 1955. A deputy sheriff is a "public officer" within statute providing that a public officer cannot be examined as to communications made to him in official confidence when public interest would suffer by the disclosure. West's Ann.Code Civ.Proc. § 1881, subd. 5.—People v. Gonzales, 288 P.2d 588, 136 Cal.App.2d 437.—Witn 216(1).

Cal.App. 2 Dist. 1955. A county officer is a "public officer".—People v. Gonzales, 288 P.2d 588, 136 Cal.App.2d 437.—Counties 61.

Cal.App. 2 Dist. 1942. The Insurance Commissioner of the state of California is a "public officer", clothed with power of the state.—Caminetti v. Guaranty Union Life Ins. Co., 126 P.2d 159, 52 Cal.App.2d 330.—Insurance 1029, 1034.

Cal.App. 2 Dist. 1933. That person is holding position with municipality by certain tenure, under

civil service or charter provision, and is doing public service in such department, does not alone make him a "public officer."—Mason v. City of Los Angeles, 20 P.2d 84, 130 Cal.App. 224.—Mun Corp 123.

Cal.App. 2 Dist. 1933. Fireman held not "public officer" under charter of city of Los Angeles within rule that salary of public officer is incident to title to office and accrues regardless of occupancy or performance of its duties. St.1925, p. 1039, § 5; p. 1056, §§ 70, 71; p. 1070, §§ 131, 134.—Mason v. City of Los Angeles, 20 P.2d 84, 130 Cal.App. 224.—Mun Corp 199.

Cal.App. 2 Dist. 1932. Receiver in civil action held not "public officer" nor engaged in holding "public moneys" within statute defining crime of embezzling public moneys. Pen.Code, §§ 424, 426.—People v. Showalter, 14 P.2d 1034, 126 Cal. App. 665.—Embez 21.

Cal.App. 3 Dist. 1983. Under statute providing that venue in action against public officer for act done by him by virtue of his office lies in county in which cause arose, governing board of school district is "public officer." West's Ann.Cal.C.C.P. § 393(1)(b).—Sutter Union High School Dist. v. Superior Court, 190 Cal.Rptr. 182, 140 Cal.App.3d 795.—Venue 11.

Cal.App. 3 Dist. 1974. Before there can be "public officer" there must exist public office—office that would exist independently of presence of person in it. West's Ann.Gov.Code §§ 75030.5, 75076.—Kirk v. Flournoy, 111 Cal.Rptr. 674, 36 Cal.App.3d 553.—Offic 1.

Cal.App. 3 Dist. 1940. A state senator does not cease to be "public officer" on final adjournment of Legislature before end of his term, but members of Legislature are considered "state officers" during their entire terms of office, as evidenced by constitutional limitations respecting their acceptance of other offices and manner of payment of their salaries. Const. art. 4, §§ 19, 23.—Rich v. Industrial Acc. Commission, 98 P.2d 249, 36 Cal.App.2d 628.—States 28(1).

Cal.App. 3 Dist. 1939. A county public administrator is a "public officer," as respects whether administrator's register of probate proceedings is a public record, within statute punishing wilful alteration of public records. Pen.Code, §§ 113, 114; Prob.Code, §§ 422, 910, 1151; Pol.Code, § 4013 (repealed. See Govt.Code, § 24000), § 4181 (repealed 1947).—People v. McAtee, 95 P.2d 471, 35 Cal.App.2d 329.—Records 22.

Cal.App. 3 Dist. 1926. "Public office" is right, authority, and duty created and conferred by law, by which, for a given period, an individual is invested with portion of sovereign functions of government for the public benefit; "public officer."—Walker v. Rich, 249 P. 56, 79 Cal.App. 139.—Offic 1.

Cal.App. 4 Dist. 1959. Former deputy clerk of municipal court who received money of third parties as bail for other persons charged with traffic offenses was "public officer" who received "public moneys" within statutes relating to embezzlement and bail. West's Ann.Pen.Code, §§ 424, 426, 1297; West's Ann.Vehicle Code, § 739.—People v. Griffin, 338 P.2d 949, 170 Cal.App.2d 358.—Embez 6, 21.

Cal.App. 4 Dist. 1930. One of necessary characteristics of "public officer" is that he perform public function for public benefit and in so doing he be vested with exercise of some sovereign power of state.—Leymel v. Johnson, 288 P. 858, 105 Cal.App. 694.—Offic 1.

Cal.App. 5 Dist. 1991. Group Counselor I at juvenile hall, who was employed by County Probation Department, was "peace officer," and thus "public officer," for purposes of statute prohibiting resisting, delaying, or obstructing public officer in discharge or attempted discharge of her duties; juvenile hall was under management and control of probation officer, Counselor was permanent employee of that department, and Counselor had "custodial responsibilities" of minors, including responsibility to restrain wards involved in fighting. West's Ann.Cal.Penal Code § 148.—In re Eddie D., 286 Cal.Rptr. 684, 235 Cal.App.3d 417.—Obst Just 7.

Cal.App. 6 Dist. 2003. Under statute providing that any person who falsely represents himself or herself to be "a public officer, investigator, or inspector in any state department," term "public officer" is not modified by phrase "of any state department," and thus conviction for impersonating public officer does not require proof that officer was state officer. West's Ann.Cal.Penal Code § 146a(b).—People v. Gonzales, 8 Cal.Rptr.3d 88, 114 Cal. App.4th 560, review denied.—False Pers 1.

Colo. 1946. The constitutional prohibition against the increase or decrease of salary of a "public officer" after his election is intended to apply to any public officer, which includes county officers. Const. art. 5, § 30; art. 6, § 22; art. 14.—Lancaster v. Board of Com'rs of Jefferson County, 171 P.2d 987, 115 Colo. 261, 166 A.L.R. 839.—Offic 100(2).

Colo. 1927. Police magistrate, being "public officer," is subject to penalty for illegal fees (C.L. §§ 6817, 9162).—Cummings v. Aiken, 260 P. 524, 82 Colo. 391.—Judges 36.

Colo. 1911. A county judge is a "public officer" within Const. art. 5, § 30, providing that, except as otherwise provided in the Constitution, no law shall extend the term of any public officer or diminish or increase his salary or emoluments after his election or appointment.—Henderson v. Board of Com'rs of Boulder County, 117 P. 997, 51 Colo. 364.—Judges 22(7).

Conn. 1973. A person vested with authority conferred by law, a fixed term of office, and power to exercise some portion of sovereign functions of government is a "public officer," and his status forbids him from placing himself in a position where his private interest conflicts with his public duty. C.G.S.A. §§ 8–40 to 8–81.—Housing Authority of City of New Haven v. Dorsey, 320 A.2d 820,

164 Conn. 247, certiorari denied 94 S.Ct. 548, 414 U.S. 1043, 38 L.Ed.2d 335.—Offic 30.5.

Conn. 1964. Under ordinance declaring that deputy corporation counsel was to be generally considered a permanent legal officer and conferring upon his broad powers, including prosecution and defense of all suits and controversies in which city was interested, he would be a "public officer" rather than merely an "employee", notwithstanding that corporation counsel was declared to be "head" of law department.—Bredice v. City of Norwalk, 206 A.2d 433, 152 Conn. 287.—Mun Corp 126.

Conn. 1942. A member of town board of education is a "public officer". Gen.St.1930, § 834 et seq. (Rev.1949, § 1350 et seq.); Gen.St.Supp.1935, §§ 243c, 296c (Rev.1949, §§ 1442, 1501).—Maitland v. Town of Thompson, 27 A.2d 160, 129 Conn. 186.—Schools 52.

Conn. 1930. "Public office," as distinguished from mere employment, is authority conferred by law to exercise portion of government's sovereign functions for fixed period, and individual given such power is "public officer."—Kelly v. City of Bridgeport, 151 A. 268, 111 Conn. 667.—Offic 1.

Conn. 1921. Superintendent of bridges of the city of Bridgeport appointed by the director of public works under Charter of the City of Bridgeport, § 114, making director of public works responsible for maintaining streets and bridges in good repair and authorizing him to appoint assistants necessary for the performance of such duty, who performed his duties under the instructions of the director of public works was responsible alone to such director, and could make no repairs or purchase material except upon order and approval by the director, but whose compensation was fixed by the common council without the city charter creating, or authorizing the council to create, such an office, held an "employe" of the city within the Workmen's Compensation Act, and not a "public officer."—Burrell v. City of Bridgeport, 114 A. 679, 96 Conn. 555.—Work Comp 381.

Conn. 1921. Superintendent of bridges of the city of Bridgeport appointed by the director of public works under Charter of the City of Bridgeport, § 114, making director of public works responsible for maintaining streets and bridges in good repair and authorizing him to appoint assistants necessary for the performance of such duty, who performed his duties under the instructions of the director of public works was responsible alone to such director, and could make no repairs or purchase material except upon order and approval by the director, but whose compensation was fixed by the common council without the city charter creating, or authorizing the council to create, such an office, held an "employé" of the city within the Workmen's Compensation Act, and not a "public officer."—Burrell v. City of Bridgeport, 114 A. 679, 96 Conn. 555.

Conn. 1906. The words "public officer" may be synonymous with officer and broad enough to include any person authorized to perform any public duty, but "public officer" is a term not used in the Conneticut Constitution except in article 24, providing that neither the General Assembly, nor any county, city, etc., shall pay or grant any extra compensation to any public officer, etc. It is rarely used in legislation unless limited by its context. In article 10, providing a form of oath for members of the General Assembly, executive and judicial officers, the generic word "officer" is dealt with in its broadest meaning and the classes to which it may apply are defined as members of the General Assembly, executive officers, civil officers, judicial officers, and military officers. Such term, as used in article 24, cannot include members of the General Assembly or legislative officers, the Governor or Lieutenant Governor.—McGovern v. Mitchell, 63 A. 433, 78 Conn. 536.

Conn.Super. 1983. With regard to element of malicious prosecution that the defendant initiated or procured institution of criminal proceedings against the plaintiff, a person initiates a criminal proceeding against another if he, in any way, brings pressure upon a public officer's decision to commence prosecution; a "public officer" includes both police officers and prosecutors.—Smith v. Globe Ford, Inc., 467 A.2d 1262, 39 Conn.Sup. 27.—Mal Pros 4.

Del.Supr. 1999. A judge is a "public officer" within the meaning of constitutional prohibition against extending the term of any public officer or diminishing the salary or emoluments after election or appointment. Del.C.Ann. Const. Art. 15, § 4.—Lee v. State Bd. of Pension Trustees, 739 A.2d 336.—Judges 7, 22(7).

Del.Ch. 1977. When General Assembly chooses to use term "employee" in statute as part of making, administering and executing law of state, it should not be interpreted as also including "public officer" unless it is clearly so expressed.—Stiftel v. Malarkey, 378 A.2d 133, reversed 384 A.2d 9.—Statut 199.

Del.Super. 1939. A "public officer" is granted some sovereign power or powers to be exercised by him for the benefit of the public and is charged with the duty of exercising the power or powers granted to him.—State ex rel. Green v. Glenn, 4 A.2d 366, 39 Del. 584, 9 W.W.Harr. 584.—Offic 103.

Del.Super. 1901. The municipal court of the city of Wilmington, under 17 Laws, c. 207, § 14 et seq., creating it and defining its jurisdiction, being an "inferior court" within the meaning of Const. art. 4, § 30, the judge of such court is a "public officer" within Const. art. 3, § 9.—State v. Churchman, 49 A. 381, 19 Del. 167, 3 Penne. 167.

Fla. 1965. A "public office" is an agency of the state and person whose duty it is to perform duties of such office is a "public officer".—State v. State Road Dept., 173 So.2d 693.—Offic 1.

Fla. 1928. A commissioner to take testimony by deposition is not a "public officer" within the meaning of the doctrine relating to de facto public officers, in view of Rev.Gen.St.1920, § 2751 (F.S.A. § 91.11), requiring the commissioner to take an

oath that he will well and faithfully perform the duties of commissioner, and therefore unless the commissioner has first qualified himself by properly assuming the obligation of an oath, he is not qualified to act as commissioner in administering the oath to the witnesses, and their depositions are inadmissible even though the commissioner takes the statutory oath one or two days after taking the depositions.—Crockett v. Cassels, 116 So. 865, 95 Fla. 851.

Fla. 1920. The term "office" implies a delegation of a portion of the sovereign power to and possession of it by the person filling the office, and a "public office" is an agency for the state and the person whose duty it is to perform the agency is a "public officer."—State v. Jones, 84 So. 84, 79 Fla. 56.—Offic 1.

Fla. 1920. A "public officer" is a person in the service of the government who derives his position from a legally authorized election or appointment, whose duties are continuous in their nature and defined by rules prescribed by government, and not by contract, consisting of the exercise of important public powers, trusts, or duties; the place and the duties remaining though incumbent dies or is changed.—State v. Jones, 84 So. 84, 79 Fla. 56.—Offic 1.

Fla. 1920. The term "office" implies a delegation of a portion of the sovereign power to, and possession of it by, the person filling the office; a "public office" being an agency for the state, and the person whose duty it is to perform the agency being a "public officer." The term embraces the idea of tenure, duration, and duties, and has respect to a public trust to be exercised in behalf of government, and not to a merely transient, occasional, or incidental employment. A person in the service of the government who derives his position from a duly and legally authorized election or appointment, whose duties are continuous in their nature and defined by rules prescribed by government, and not by contract, consisting of the exercise of important public powers, trusts, or duties, as a part of the regular administration of the government, the office and the duties remaining, though the incumbent dies or is changed; "every office," in the constitutional meaning of the term, implying an authority to exercise some portion of the sovereign power, either in making, executing or administering the laws. A "state officer" is one who falls within this definition and whose field for the exercise of his jurisdiction, duties, and powers is coextensive with the limits of the state and extends to every part of it.—State v. Jones, 84 So. 84, 79 Fla. 56.

Fla.App. 3 Dist. 1973. Municipal court judge is a "public officer" within meaning of statute proscribing request, solicitation or acceptance of bribe by any public officer. F.S.A. § 838.012.—Barmack v. State, 276 So.2d 247, certiorari denied 286 So.2d 204.—Brib 1(2).

Fla.App. 3 Dist. 1967. Discharged fireman was not "public officer" but was "employee" subject to rule that discharged or suspended public employee who is subsequently reinstated has duty to mitigate damages during interim, notwithstanding that city may have paid full back wages without diminution to discharged employee subsequently reinstated.—Rubin v. Shapiro, 198 So.2d 854, certiorari denied 204 So.2d 331.—Damag 62(1).

Ga. 1995. "Public officer," within meaning of quo warranto statute, is any individual who has designation or title given him by law, and who exercises functions concerning public assigned to him by law; moreover, this classification is not altered simply because officer's duties are narrowly confined, or because officer is not entitled to all trappings of public office. O.C.G.A. § 9–6–60.—Brown v. Scott, 464 S.E.2d 607, 266 Ga. 44.—Quo W 10.

Ga. 1995. Juvenile intake officer is "public officer," within meaning of quo warranto statute, since officer's appointment by judge of juvenile court is durable, and not merely transitory, officer has title given by law, and officer exercises functions concerning public assigned by law. O.C.G.A. §§ 9–6–60, 15–11–19.—Brown v. Scott, 464 S.E.2d 607, 266 Ga. 44.—Quo W 10.

Ga. 1988. Chairman of the board of commissioners was a "public officer" within meaning of code section providing that "any public officer who shall charge or take fees not allowed by law or for services not performed shall, on conviction or proof thereof, be dismissed from office." O.C.G.A. § 45–7–8.—Bowen v. Griffith, 366 S.E.2d 293, 258 Ga. 162.—Counties 45.

Ga. 1982. Member of General Assembly is "public officer" within meaning of Constitution provision stating that public officers are trustees and servants of people, and at all times, amenable to them. Const.Art. 1, § 2, Par. 1.—Georgia Dept. of Human Resources v. Sistrunk, 291 S.E.2d 524, 249 Ga. 543.—States 28(1).

Ga. 1972. Councilman of incorporated city is a "public officer" within statute making it unlawful for a public officer to violate the terms of his oath. Code, § 26–2302.—Beckman v. State, 190 S.E.2d 906, 229 Ga. 327.—Mun Corp 174.

Ga. 1966. Individual who has designation or title given him by law and who exercises functions concerning the public assigned to him by law is a "public officer" even if his authority or duty is confined to narrow limits.—Smith v. Mueller, 149 S.E.2d 319, 222 Ga. 186.—Offic 1.

Ga. 1952. A policeman is a "public officer" within meaning of code section providing for the writ of quo warranto to inquire into the right of any persons to any public office. Ga.Code Ann. § 64–201.—Hayes v. City of Dalton, 71 S.E.2d 618, 209 Ga. 286.—Quo W 10.

Ga. 1949. An officer, member, or employee of a political committee, is not a "public officer."—McLendon v. Everett, 55 S.E.2d 119, 205 Ga. 713.—Offic 1.

Ga. 1933. A "public officer" is an individual who has been appointed or elected in the manner prescribed by law, who has a designation or title

given him by law, and who exercises functions concerning the public, assigned to him by law. A distinction is drawn between "public" and "private officers"; the former being those whose functions and duties concern the public. The term "public officer" involves the ideas of tenure, duration, fees, or emoluments, and powers, as well as that of duty. These ideas or elements cannot properly be separated and each considered abstractly. All, taken together, constitute an office. But it is not necessary that an office should have all of the above-named characteristics, although it must possess more than one of them, and the mere fact that it concerns the public will not constitute it an office.—McDuffie v. Perkerson, 173 S.E. 151, 178 Ga. 230, 91 A.L.R. 1002.

Ga. 1932. Member of county board of education is "public officer," as respects right to try title to office.—Townsend v. Carter, 164 S.E. 49, 174 Ga. 759.—Quo W 11.

Ga. 1931. Individual who has designation or title given him by law, and who exercises functions concerning public assigned to him by law, is "public officer."—Templeman v. Jeffries, 159 S.E. 248, 172 Ga. 895.

Ga. 1923. An agency substituted in place of a county treasurer, whose office has been abolished by law, to discharge the same or similar duties of the latter, and selected in the manner prescribed by law, with the designation or title of depository given it by law, and exercising functions assigned to it by law, is a "public officer."—Bank of Chatsworth v. Hagedorn Const. Co., 119 S.E. 28, 156 Ga. 348.

Ga.App. 1950. An individual who has a designation or title given him by law and who exercises functions concerning the public assigned to him by law is a "public officer".—Stelling v. Richmond County, 59 S.E.2d 414, 81 Ga.App. 571.—Offic 1.

Ga.App. 1944. An individual who has been appointed or elected in the manner prescribed by law, and who has a designation or title given him by law, and who exercises functions concerning the public, assigned to him by law, is a "public officer".—Mayor and Council of City of Butler v. Hortman, 29 S.E.2d 811, 70 Ga.App. 848.—Offic 1.

Ga.App. 1940. A liquidating agent appointed by the superintendent of banks in connection with the liquidation of an insolvent bank is not a "public officer" of the state, nor a "deputy" of the superintendent of banks, and one who was not a party to the liquidating agent's bond, conditioned on the faithful discharge of liquidating agent's duties, could not sue the liquidating agent's surety on the bond. Code 1933, §§ 13–321, 13–811, 13–813, 89–418, 89–420, 89–427.—Nesbit v. National Surety Corporation, 11 S.E.2d 667, 63 Ga.App. 518.—Banks 63.5.

Ga.App. 1934. Teacher or instructor in state or public educational institution is not "public officer" or official, but is merely "employee."—Regents of University System of Georgia v. Blanton, 176 S.E. 673, 49 Ga.App. 602.—Schools 133.

Ga.App. 1931. City fireman held "public officer," not "employee," within Compensation Act, and could not recover compensation. Laws 1920, p. 167, as amended.—City of Macon v. Whittington, 157 S.E. 127, 42 Ga.App. 622.—Work Comp 385.

Ga.App. 1919. A jitney driver, operating a jitney bus under a license granted by the city of Savannah in accordance with the terms of an ordinance regulating the operation of all such vehicles, is not a "public officer" in contemplation of law, and in a suit against such a driver, by a person who claimed to have been injured by his negligence in the operation of a jitney bus, the surety on the bond of the jitney driver is not a proper party to the proceeding.—Calvitt v. City of Savannah, 101 S.E. 129, 24 Ga.App. 481.

Idaho 1971. "Public officer," within statute making it a misdemeanor for any person to wilfully resist, delay, or obstruct any public officer in discharge or attempt to discharge his duty, means officer of the judicial, legislative, or executive branch. I.C. § 18–705.—State v. Wozniak, 486 P.2d 1025, 94 Idaho 312.—Obst Just 7.

Idaho 1928. Water master or manager of common irrigation lateral *held* not "public officer" (C.S. §§ 399, 5632, 5634).—Carter v. Niday, 269 P. 91, 46 Idaho 505.—Offic 1.

Idaho 1916. An irrigation district is a public corporation, so that the treasurer is a "public officer" within Rev.Codes, §§ 6975, 6976, relative to the misappropriation of money by public officers.—In re Bank of Nampa, 157 P. 1117, 29 Idaho 166.—Offic 121.

Idaho 1916. An irrigation district organized under the laws of this state is a "public corporation," its treasurer is a "public officer," and moneys of such district received by him as treasurer are "public moneys," within the meaning of section 6977, Rev.Codes.—In re Bank of Nampa, 157 P. 1117, 29 Idaho 166.

Ill. 1935. Public administrator discharges function of government and is a "public officer" whose duties concern the state at large, or the general public; whereas, a private administrator acts in a private capacity for private persons, and is not an "officer" within the legal definition of that term. S.H.A. ch. 3, § 135.—Crews v. Lundquist, 197 N.E. 768, 361 Ill. 193.—Ex & Ad 1.

Ill.App. 1 Dist. 1990. Police officers are endowed not only with benefits and protections, but also duties and limitations, of being "public officer." S.H.A. ch. 24, ¶ 10–2.1–4.—Weber v. Board of Fire and Police Com'rs of Village of Wheeling, 149 Ill.Dec. 854, 562 N.E.2d 318, 204 Ill.App.3d 358.—Mun Corp 189(1).

Ill.App. 1 Dist. 1942. The receiver of an insolvent state bank appointed under the banking act is a "public officer", and the assets of the bank, including its choses in action, are in "custodia legis". S.H.A. ch. 16½, § 11.—McIlvaine v. City Nat. Bank & Trust Co. of Chicago, 42 N.E.2d 93, 314 Ill.App. 496.—Banks 63.5.

Ill.App. 2 Dist. 1955. Alderman was a "person" within statute prescribing penalty for persons who fail to disperse upon command of public officer even if alderman were also a "public officer" within such statute. S.H.A. ch. 38, § 25–1 et seq.—People v. Guzzardo, 124 N.E.2d 39, 4 Ill.App.2d 355.—Unlawf Assemb 1.

Ill.App. 4 Dist. 1974. Member of city planning commission, established pursuant to statutory authority to act in advisory capacity on zoning matter, appointed by mayor and approved by city council was a "public officer" within the meaning of the official misconduct and bribery statutes. S.H.A. ch. 24, §§ 5–3–8, 5–3–9, 11–12–4 et seq., 11–12–5; ch. 38, §§ 2–18, 33–1, 33–3; S.H.A.Const.1970, art. 13, § 3.—People v. Drish, 321 N.E.2d 179, 24 Ill. App.3d 225.—Brib 1(1); Mun Corp 174.

Ind. 1937. Under statute, deputy prosecuting attorney is vested with power to perform duties of prosecuting attorney, and he is a "public officer," appointed to discharge duties of the particular office and his acts are the acts of his principal. Burns' Ann.St. §§ 49–101, 49–501 to 49–503.—Hill v. State, 11 N.E.2d 141, 212 Ind. 692.—Dist & Pros Attys 3(4).

Ind. 1935. County highway superintendent held "public officer," not "employee," and hence proceedings before county commissioners to remove superintendent for malfeasance were judicial in nature, and therefore appeal lay to circuit court. Burns' Ann.St. § 26–901 § 8506 (repealed 1933).—Hyde v. Board of Com'rs of Wells County, 198 N.E. 333, 209 Ind. 245.—High 93.

Ind. 1935. Commissioner of public safety held "public officer" within Constitution providing that General Assembly shall not create any office, tenure of which shall be longer than four years. Const. art. 15, § 2.—Klink v. State ex rel. Budd, 194 N.E. 352, 207 Ind. 628, 99 A.L.R. 317.—Mun Corp 164.

Ind. 1933. County highway superintendent is a "public officer". Burns' Ann.St.1926, § 8506 (repealed 1933).—Hastings v. Board of Com'rs of Monroe County, 188 N.E. 207, 205 Ind. 687.—High 93.

Ind.App. 1965. A "public officer" is a position to which a portion of sovereignty of state attaches for time being and which is exercised for the benefit of the public, and most important characteristic distinguishing office from employment is that duties of an incumbent of an office must involve exercise of some portion of sovereign power.—Union Tp. of Montgomery County v. Hays, 207 N.E.2d 223, 138 Ind.App. 280.—Offic 1.

Ind.App. 1937. Assistant jailer or turnkey who merely cared for and supervised jail under direct orders of sheriff and performed no discretionary duties held an "employee" of county, whose death was compensable and not a "public officer," where turnkey was appointed by sheriff, office was not provided for by statute, and turnkey received no certificate or commission, subscribed to no oath, and executed no bond. Burns' Ann.St. §§ 40–1701, 49–101 to 49–105, 49–107, 49–501, 49–502, 49–1002, 49–2802.—St. Joseph County v. Claeys, 5 N.E.2d 1008, 103 Ind.App. 192.—Work Comp 383.

Ind.App. 1937. "Officer" is distinguished from "employee" in greater importance, dignity, and independence of his position, being required to take an official oath, and perhaps to give an official bond, in the liability to be called to account as a public offender for misfeasance or nonfeasance in office, and usually, though not necessarily, in tenure of his position. "Public office" is a position to which a portion of the sovereignty of the state attaches for the time being, and which is exercised for benefit of public, and the most important characteristic distinguishing "office" from "employment" is that duties of incumbent of office must involve exercise of some portion of sovereign power. "Office" is based on some provision of law, and does not arise out of contract, whereas "employment" usually arises out of contract between government and employee, and although employment may be created by law, where authority is conferred by contract it is regarded as an "employment" and not as a "public office," notwithstanding provision for employment is made by statutes, and notwithstanding position is referred to as an "office." Assistant jailer or turnkey who merely cared for and supervised jail under direct orders of sheriff and performed no discretionary duties held an "employee" of county, whose death was compensable and not a "public officer," where turnkey was appointed by sheriff, office was not provided for by statute, and turnkey received no certificate or commission, subscribed to no oath, and executed no bond.—St. Joseph County v. Claeys, 5 N.E.2d 1008, 103 Ind.App. 192.

Ind.App. 1934. Public depository held not "public officer" within statute requiring application by surety to court for release from official bond of public officer. Burns' Ann.St. § 49–134, and § 12611 et seq. (repealed 1935).—State ex rel. Board of Finance of Washington Tp. v. Aetna Casualty & Surety Co. of Hartford, Conn., 189 N.E. 536, 100 Ind.App. 46.—Dep & Escr 32.

Ind.App. 1 Div. 1921. One appointed as policeman of the city of Elkhart by the board of metropolitan police commissioners in accordance with the Metropolitan Police Act of 1897, Laws 1897, c. 59 (Burns' Ann.St. §§ 48–6301, 48–6304—48–6315), as amended by the Acts 1907, Laws 1907, c. 175, 1909, Laws 1909, c. 56 (Burns' Ann.St. §§ 48–6301, 48–6312), and 1911, Laws 1911, c. 75 (Burns' Ann. St. §§ 48–6302, 48–6303), was a "public officer," and not an "employé," of the city, as defined by Workmen's Compensation Act, § 76, cl. "b."—Shelmadine v. City of Elkhart, 129 N.E. 878, 75 Ind.App. 493.—Work Comp 384.

Ind.App. 1 Div. 1920. A deputy county treasurer appointed under Burns' Ann.St.1914, § 9478, providing that the treasurer may appoint one or more deputies, and may take from them bond and surety, is a "public officer," notwithstanding under sections 9158-9160 the treasurer is responsible for all of the official acts of his deputy.—Southern Sur. Co. v. Kinney, 127 N.E. 575, 74 Ind.App. 205.

Ind.App. 2 Div. 1904. Burns' Ann.St. 1901, § 6633b, provides that county boards of education shall constitute boards of truancy, who shall appoint one truant officer in each county, and also fixes the duties and compensation of such officer. Held, that such truant officer was a "public officer," and therefore bound to qualify, before entering on the duties of his office, by taking the oath prescribed by section 7523.—Featherngill v. State, 72 N.E. 181, 33 Ind.App. 683.

Iowa 1979. Under all circumstances, including fact that position of liquor properties manager for the Iowa beer and liquor control department did not necessarily have permanency or continuity but could be abolished at any time without legislation and fact that the duties and powers of the manager were never defined pursuant to any legislative authority, nor did the manager ever exercise his authority entirely independently, liquor properties manager was an employee and not a "public officer" within contemplation of former statutes which proscribed as a felony the acceptance by any "public officer" of a reward for the performance of any official duty and the giving or offering of any reward to a "public officer" for the performance of any official duty. Code 1975, §§ 739.10, 739.11; I.C.A. § 123.21, subd. 1.—State v. Pinckney, 276 N.W.2d 433.—Brib 1(2).

Iowa 1973. Secretary of Board of Pharmacy Examiners was "public officer." I.C.A. § 748.3.—Vander Lynden v. Crews, 205 N.W.2d 686.—Offic 1.

Iowa 1959. There is a clear distinction between a "public officer" and a "public employee", and a public officer, as distinguished from a public employee, must be invested by law with a portion of the sovereignty of the state and authorized to exercise functions either of an executive, legislative or judicial character.—Francis v. Iowa Employment Sec. Commission, 98 N.W.2d 733, 250 Iowa 1300.—Offic 1.

Iowa 1959. Woman who had held positions of county superintendent of schools and state superintendent of public instruction which were statutory elective positions with officeholder delegated some of sovereign functions of government performed without control of superior officer was a "public officer" and not a "public employee" within statute providing for pensions for employees in public schools of state with record of service of 25 years or more, and time woman served in such position could not be included in determining her qualifications for pension. I.C.A. §§ 97B.41, subds. 2, 3, par. b, 97C.2, subd. 3, 294.15.—Francis v. Iowa Employment Sec. Commission, 98 N.W.2d 733, 250 Iowa 1300.—Schools 47, 48(5).

Iowa 1942. In determining whether one is a "public officer", the office itself must be created by the constitution of the state, or authorized by statute; if authorized by statute, its creation may be by direct legislative act; or the law-making power, when not inhibited by the constitution or public policy from so doing, may confer the power of creating an office upon official boards or commissions which are themselves created by the legislature, when such office is necessary to the due and proper exercise of the powers conferred upon them, and the rightful discharge of duties enjoined; a position so created by the constitution, or by direct act of the legislature, or by a board of commissions duly authorized so to do, in a proper case, by the legislature, is a public office; to constitute one a public officer, at least within the purview of the criminal law, so that he may be liable for the misappropriation of the public funds, his appointment must not only have been made or authorized as above stated, but his duties must either be prescribed by the constitution or the statutes of the state, or necessarily inhere in and pertain to the administration of the office itself; in any event the duties of the position must embrace the exercise of public powers or trusts; that is, there must be a delegation to the individual of some of the sovereign functions of government, to be exercised by him for the benefit of the public; the following among other requirements are usually though not necessarily attached to a public office: (a) An oath of office; (b) salary or fees; (c) a fixed term or duration or continuance.—Whitney v. Rural Independent School Dist. No. 4 of Lafayette Tp., 4 N.W.2d 394, 232 Iowa 61, 140 A.L.R. 1376.

Iowa 1942. The primary obligation to pay a judgment against city rested on city, and city to escape payment of that obligation could not avail itself of statute requiring an action against a public officer to be brought within three years, since a city is not a "public officer" but is a "body politic and corporate" with the right to sue and be sued. Code 1939, §§ 5738, 11007(4), 11675.—Middle States Utilities Co. v. City of Osceola, 1 N.W.2d 643, 231 Iowa 462.—Lim of Act 33.

Iowa 1941. A "public officer" as distinguished from an "employee" must be invested by law with a portion of the sovereignty of state and authorized to exercise functions either of an executive, legislative or judicial character.—Jaeger Mfg. Co. v. Maryland Casualty Co., 300 N.W. 680, 231 Iowa 151.—Offic 1.

Iowa 1941. A surety bond given by certified public accountant is not an "official bond" within statute requiring action on official bond to be brought within three years, since a certified public accountant is not a "public officer" and the accountant's certificate is not an appointment to a "public office" but is merely a "license" to practice accountancy. Code 1939, §§ 1905.11, 1905.19, 11007.—Jaeger Mfg. Co. v. Maryland Casualty Co., 300 N.W. 680, 231 Iowa 151.—Lim of Act 22(8).

Iowa 1940. The statute imposing a 3-year limitation period on an action against a "public officer" "growing out of a liability incurred * * * by the omission of an official duty" includes a city, and hence barred an action in mandamus to compel a city and officers to satisfy a judgment against city in favor of plaintiff which was instituted more than three years after judgment was entered.—Middle States Utilities Co. of Iowa v. City of Osceola, 294 N.W. 342, 229 Iowa 216, opinion superseded on rehearing by 1 N.W.2d 643, 231 Iowa 462.

Iowa 1940. A position created by direct act of the Legislature, or by a board of commissions duly authorized so to do by the Legislature, is a "public office", and to constitute one a "public officer" the duties must either be prescribed by the constitution or the statutes, or necessarily inhere in and pertain to the administration of the office itself, and the duties of the position must embrace the exercise of public powers or trusts.—McKinley v. Clarke County, 293 N.W. 449, 228 Iowa 1185.—Offic 1.

Iowa 1940. Under statute providing that an official elected or appointed by county shall not be deemed an employee for compensation purposes, a county engineer employed by the board of supervisors was a "public officer" and not an "employee" entitled to compensation for injuries received in performing the duties of his office, notwithstanding that board was authorized to "employ" engineer, where the engineer was required to take an oath and was required to superintend the construction and maintenance work of the county and was required to perform duties prescribed by statute. Code 1939, §§ 4644.17, 4644.21, 4653-4656, 4673, 4674, 4746, 4748, 4749, 4837 (I.C.A. §§ 309.17, 309.21, 309.59 to 309.62, 309.81, 309.82, 311.3, 311.5, 311.6, 319.4); Const. art. 11, § 5.—McKinley v. Clarke County, 293 N.W. 449, 228 Iowa 1185.—Work Comp 381.

Iowa 1939. The superintendent of banking as such and the superintendent of banking as receiver are juridically two persons, and superintendent as receiver cannot avoid liability for his negligence on ground that he is a "public officer" and hence not liable for his official acts or those of his assistant.—Bates v. Niles & Watters Sav. Bank of Anamosa, 285 N.W. 626, 226 Iowa 1077.—Banks 77(3).

Iowa 1935. Evidence in trial of auditor and clerk of industries of men's reformatory for embezzlement held sufficient to warrant court in finding as matter of law that such office was created by state board of control and defendant appointed to fill it, so that he was "public officer". Code 1931, § 3293.—State v. Conway, 260 N.W. 88, 219 Iowa 1155.—Embez 44(5).

Iowa 1916. A contract whereby an attorney was to act as executor on the death of his client and to receive 5 per cent. commissions, is not void on the ground that it attempts to provide compensation for a "public officer," an executor not being a public officer.—In re McIntosh's Estate, 159 N.W. 223, 182 Iowa 23.

Iowa 1904. An insurance agent, as such, is not a "public officer," nor is his character a matter of public interest; except as the public has an indirect interest in the private character and conduct of every member of society; but this interest is not sufficient to invoke the privilege in libel, granted in case where one holds or is a candidate for some position of public trust.—Morse v. Times-Republican Printing Co., 100 N.W. 867, 124 Iowa 707.

Iowa 1897. Pharmacy commissioners appointed under Laws 18th Gen.Assem. c. 75, which authorized them "to make by-laws necessary for the proper fulfillment of their duties without expense to the state," elected a treasurer as provided by by-laws they had adopted, and fixed the tenure of his office, and his compensation. Held, that he was a mere employé of the commission, and not a "public officer" within Code 1873, § 3908 (I.C.A. §§ 710.1, 710.2), providing that a public officer converting money given to him by virtue of his office is guilty of embezzlement, since the Constitution and statutes neither created nor authorized the creation of his office, nor prescribed nor authorized any one to prescribe his duties, nor delegated to him sovereign functions of government to be exercised by him for the benefit of the public.—State v. Spaulding, 72 N.W. 288, 102 Iowa 639.

Kan. 1939. Although an attorney is an officer of the court, he is not an "officer of the state," and the admission of a person to practice as an attorney is not an appointment to "public office," so as to privilege communications concerning attorney in practice of profession as communications concerning a "public officer."—Sowers v. Wells, 95 P.2d 281, 150 Kan. 630.—Libel 48(2).

Kan. 1939. The mere fact that an attorney, in the course of his private practice, represents a client whose claim concerns the public interest, does not constitute the attorney a "public officer" so as to privilege communications concerning attorney as communications concerning a public officer.—Sowers v. Wells, 95 P.2d 281, 150 Kan. 630.—Libel 48(2).

Kan. 1937. A county engineer appointed by board of county commissioners of county under authority of statute was a "public officer" whose salary, as agreed on by board, could be reduced by subsequent legislative act without impairing obligation of contract as prohibited by Federal Constitution, rather than an "employee" of the board with ministerial duties, where Legislature by statute prescribed at great length duties of county engineer, leaving to county only matter of appointment and the fixing of length of service and salary. Gen.St. 1935, 28–119, 68–501, 68–502; Laws 1933, c. 186; U.S.C.A.Const. art. 1, § 10.—Miller v. Board of Com'rs of Ottawa County, 71 P.2d 875, 146 Kan. 481.—Const Law 140(1).

Kan. 1918. A superintendent of public schools is a "public officer," within the meaning of that term as used in the statute of quo warranto, Gen.St. 1915, § 7596 (Code Civ.Proc. § 680), and he is also an "employé" of the board; and the board has power to remove him as an employé "for incompetence, negligence, or immorality, after notice and a fair hearing".—State ex rel. Hill v. Sinclair, 175 P. 41, 103 Kan. 480.

Kan. 1914. A guardian is not a "public officer," and therefore the Supreme Court, under Gen.St. 1909, § 3624, subd. 9, providing that quo warranto may be brought in the Supreme Court when any person shall unlawfully hold any public office, has no jurisdiction in quo warranto proceedings to oust a guardian.—Linderholm v. Ekblad, 139 P. 1015, 92 Kan. 9.—Courts 207.6.

Kan. 1914. A guardian is not a "public officer."—Linderholm v. Ekblad, 139 P. 1015, 92 Kan. 9.—Guard & W 1.

Ky. 1964. Water district commissioner was "public officer" within statute prohibiting public officer from receiving profit on public funds and was "officer" within statute prohibiting officer from taking a bribe. KRS 61.190, 74.520, 432.350(2).—Com. v. Howard, 379 S.W.2d 475.—Brib 1(2); Offic 121.

Ky. 1949. Public office, in order to make incumbent a "public officer" within constitutional limitation on salary, must be created by Constitution or Legislature, must contain delegation of portion of government's sovereign power to be exercised by incumbent for benefit of public, and powers and duties must be defined by authorities creating position and be performed by incumbent independently, except for functions of deputy officer, and position must also have some permanency. Const. § 246.—Reynolds v. Board of Ed. of Lexington, 224 S.W.2d 442, 311 Ky. 458.—Offic 99.

Ky. 1949. Superintendent of city schools of Lexington, Ky., who had duty of carrying into effect laws and regulations of State Board of Education and had general supervision of conduct of schools, course of instruction, management of teachers, and discipline of pupils subject to control of board of education, was a "public officer" within meaning of constitutional limitation on salary. KRS 160.370 to 160.390; Const. § 246.—Reynolds v. Board of Ed. of Lexington, 224 S.W.2d 442, 311 Ky. 458.—Mun Corp 211.

Ky. 1949. Assistant superintendent of city schools of Lexington, Ky., who was business director for the State Board of Education and subject to its control, was a "public officer" within meaning of constitutional limitation on salary. KRS 160.430; Const. § 246.—Reynolds v. Board of Ed. of Lexington, 224 S.W.2d 442, 311 Ky. 458.—Mun Corp 211.

Ky. 1944. School attendance officer is a "public officer", since office is created by law for a fixed term, and appointee is required to take oath of office and is invested with certain portions of functions of government to be exercised for public benefit. Ky.St. §§ 4399a–7 to 4399a–11, 4434–6.—Bernard v. Humble, 182 S.W.2d 24, 298 Ky. 74.—Schools 161.

Ky. 1940. A "school teacher" is not properly speaking a "public officer," yet his employment is in a public capacity, and he is treated in some cases as a public official, and in others he is not.—Cottongim v. Stewart, 142 S.W.2d 171, 283 Ky. 615.—Schools 133.

Ky. 1939. Although a master commissioner is a "public officer" he is not a "state officer" nor a "county officer" and hence neither the attorney general nor the county attorney is required to represent the commissioner in defending suit to recover an amount from funds belonging to the master commissioner's office. Ky.St.1936, §§ 126, 127, 1761–1 et seq.—Shannon v. Ray, 132 S.W.2d 545, 280 Ky. 31.—Court Comrs 3.

Ky. 1938. A suit in Franklin circuit court to recover excessive costs allegedly taxed by master commissioner of Jefferson circuit court who sold realty in satisfaction of liens against it would not lie, in view of statute providing for an action against a public officer for an act done by him in virtue or under color of his office, or for neglect of official duty, to be brought in county wherein the cause of action or some part of it arose, the master commissioner being a "public officer." Civ.Code Prac. § 63, subd. 2; Ky.St. § 1740.—Commonwealth, for Use and Ben. of Bouteiller v. Ray, 122 S.W.2d 750, 275 Ky. 758.—Venue 11.

Ky. 1937. County superintendent of schools held "public officer" within Constitution forbidding change of compensation during term. Const. §§ 161, 235.—Whitley County Bd. of Educ. v. Rose, 102 S.W.2d 28, 267 Ky. 283.—Offic 100(2).

Ky. 1935. Poorhouse keeper appointed by order of fiscal court is an "employee" or "agent" of court and not a "public officer."—Miracle v. Hopkins, 86 S.W.2d 681, 260 Ky. 712.—Paupers 7.

Ky. 1935. A mail carrier is a "public officer" within the meaning of the statute forbidding the holding of two offices at the same time.—Waddle v. Hughes, 84 S.W.2d 75, 260 Ky. 269.

Ky. 1935. Poorhouse keeper, appointed by order of fiscal court for two years at stipulated salary until further order of court, was an employee or agent of appointing court and not a "public officer," and keeper's salary was subject to terms of employment and could be reduced by fiscal court without violating Constitution. Ky.St. § 1840; Const. §§ 161, 235.—Graves County v. Dowdy, 80 S.W.2d 597, 258 Ky. 544.—Offic 100(2).

Ky. 1934. An individual who has been appointed or elected in a manner prescribed by law, who has a designation or title given him by law, and who exercises functions concerning the public, assigned to him by the law, is a "public officer."—Hirschfeld v. Commonwealth ex rel. Attorney General, 76 S.W.2d 47, 256 Ky. 374.

Ky. 1934. Chief clerk of House of Representatives is "public officer" within section of Constitution limiting compensation of such officers. Const. § 246.—Sanders v. Talbott, 72 S.W.2d 758, 255 Ky. 50.—States 61(2).

Ky. 1930. Under Ky.St. §§ 4405, 4406, 4408, 4415, 4420a--1, and 4399a--1 to 4399a--14, county superintendent is executive officer and secretary of board of education, and must attend all its meetings; he may call special meetings, and must give written approval to all contracts of board; he may administer oaths, and is required to formulate budget and sign all appropriations; and, among other duties, he represents state superintendent in examination of teachers; "public officer" being person vested with some portion of functions of government, to be exercised for benefit of public.—Board of Educ. of Boyle County v. McChesney, 32 S.W.2d 26, 235 Ky. 692.

Ky. 1926. "Public officer" is one invested with portion of functions of government to be exercised for public benefit whether term is fixed or at will.—Shanks v. Howes, 283 S.W. 966, 214 Ky. 613.—Offic 1.

Ky. 1926. Chief clerk of the House of Representatives is a "public officer" within provision forbidding changing salaries of officers during term of office. Const. §§ 40, 46, 235, 249; Ky.St. §§ 1988, 1989, 1989al-1989a3, 1990-1992.—Shanks v. Howes, 283 S.W. 966, 214 Ky. 613.—Offic 100(2).

Ky. 1915. A tax collector of a city, elected pursuant to Ky.St. § 3188, is a "public officer," and his official bond must conform to sections 186d, 3751, 3752, and any limitation is not binding on the city.—Bankers' Surety Co. v. City of Newport, 172 S.W. 940, 162 Ky. 473.—Mun Corp 173(1).

Ky. 1911. A "public officer" being one who renders a public service, or service in which the general public is interested, a municipal fireman is a public officer, as he is charged with the public duty of protecting the property in the municipality from fire.—Schmitt v. Dooling, 140 S.W. 197, 145 Ky. 240, 36 L.R.A.N.S. 881, Am.Ann.Cas. 1913B,1078.—Mun Corp 123.

Ky. 1907. "Public officer," as used in Civ.Code Prac. § 63, providing that an action against a public officer for an act done by him in virtue of his office shall be brought in the county where the cause of action arose, includes an officer of the United States as well as one of the state.—Layne v. Sharp, 105 S.W. 373, 32 Ky.L.Rptr. 33.

La. 1967. Relation between sheriff and his deputy is an official and not a private relation, deputy is representative of sheriff in his official capacity, he is "public officer" or "public official" whose authority and duty are regulated by law and so far as public is concerned, acts of deputy are acts of sheriff himself. LSA–R.S. 33:1433; LSA–Const. art. 19, § 1.—Thompson v. St. Amant, 196 So.2d 255, 250 La. 405, certiorari granted 88 S.Ct. 766, 389 U.S. 1033, 19 L.Ed.2d 820, reversed 88 S.Ct. 1323, 390 U.S. 727, 20 L.Ed.2d 262.—Sheriffs 79.

La. 1944. An auctioneer is not a "public officer" within statute requiring the registering of bonds of public officers and declaring the existence of legal mortgages by reason of the registration. Rev.St. §§ 139, 141, 142; § 140, as amended by Act No. 45 of 1908; § 145, as amended by Act No. 315 of 1942; § 351, as amended by Act No. 180 of 1928; Rev.Civ.Code art. 3312.—State ex rel. Danziger v. Recorder of Mortgages for Parish of Orleans, 19 So.2d 129, 206 La. 259.—Auctions 5.

La. 1940. A "public office" is agency for state, and person whose duty is to perform such agency, that is, to do some act, acts or series of acts for state, is "public officer".—State v. Dark, 196 So. 47, 195 La. 139.—States 44.

La. 1940. A "public office" is right, authority and duty, created and conferred by law investing individual with some portion of sovereign functions of government, to be exercised by him for public benefit, for given period fixed by law or enduring at pleasure of creating power, and such individual is "public officer."—State v. Dark, 196 So. 47, 195 La. 139.—Offic 1.

La. 1939. Deputy sheriff is not a representative of the sheriff in his individual capacity, but he is a "public officer" whose authority and duty are regulated by law.—Gray v. De Bretton, 188 So. 722, 192 La. 628.—Sheriffs 17.

La. 1935. Police juror is a "public officer" and "state officer" as respects validity of statute passed by Extraordinary Session pursuant to Governor's proclamation convening session for action upon enumerated objects, including "appointment and election of public officers". Act No. 22 of 1934, 3d Ex.Sess.; Rev.St. § 2608, LSA–R.S. 42:2; Const. 1921, art. 5, §§ 11, 14, 21; art. 9, § 6; art 19, § 1.—State ex rel. Porterie v. Smith, 166 So. 72, 184 La. 263.—Statut 5.

La. 1931. Parish superintendent of schools is not "public officer" within section of Constitution providing for removal of "public officer" by judgment of district court of his domicile (LSA-Const. 1921, art. 9, § 6, and art. 8, §§ 1, 13; Act No. 100 of 1922, § 19, LSA-R.S. 17:54).—State ex rel. Harvey v. Stanly, 138 So. 845, 173 La. 807.—Schools 48(4).

La. 1927. An officer elected by the people is a "public officer" within the meaning of Civ.Code, art. 1992 (LSA--C.C.), and Code Prac. art. 647, exempting salaries of public officers from seizure under garnishment proceedings.—Fischer v. Dubroca, 111 So. 710, 163 La. 292.

La. 1926. Statute does not make bank directors quasi public officials, subject to civil action for delinquency in performing duties. Act No. 193 of 1910, § 1; "public officer."—Allen v. Cochran, 107 So. 292, 160 La. 425, 50 A.L.R. 459.—Banks 57.

La. 1925. Indictment alleging that offense had never been brought to attention of public officer until December 1, 1924, held to negative prescription under Rev.St. § 986, as amended by Act No. 73 of 1898; "public officer" as used in indictment being broader than words of statute, "public officer having power to direct investigation or prosecution," and inclusive of latter.—State v. Sullivan, 105 So. 631, 159 La. 589.—Ind & Inf 87(2).

La. 1922. While, under Rev.St. § 3542, LSA-R.S. 33:1433, and Code Prac. art. 764, a deputy sheriff is under the sheriff's general directions, and the sheriff is responsible for his conduct, the deputy is responsible to the state, being criminally responsible for his discrepancies in office, and is a "public officer."—State v. Titus, 95 So. 106, 152 La. 1011.—Sheriffs 99.

La. 1905. In the most general and comprehensive sense, a "public office" is an agency for the state, and a person whose duty it is to perform this agency is a "public officer." Stated more definitely, a "public office" is a charge or trust conferred by public authority for a public purpose, the duties of which involve, in their performance, the exercise of some portion of sovereign power, whether great or small. A public officer is an individual who has

been elected or appointed in the manner prescribed by law, who has a designation or title given to him by law, and who exercises the functions concerning the office assigned to him by law. A parish superintendent is an officer.—State ex rel. Smith v. Theus, 38 So. 870, 114 La. 1097.

La.App. 1 Cir. 1987. In determining whether party is "public officer" or "employee" of political subdivision, court should consider: whether he exercises any sovereign function of government; whether he must take official oath of office; whether his duties and powers are prescribed by statute or by contract; whether duration or term of employment is fixed by statute; whether position carries high degree of dignity and independence; whether he is under direct control and supervision of employer; whether he makes important policy decisions; and whether he has to meet certain qualifications prescribed by law. LSA-C.C. arts. 3534, 3544 (Repealed).—Steece v. State, Dept. of Agriculture, 504 So.2d 984.—Offic 1.

La.App. 1 Cir. 1973. A parish school superintendent is neither a "teacher" nor an "employee" within meaning of statutes entitling teachers to accumulated sick leave and entitling school board employees to sick leave benefits; rather, a parish school superintendent is a "public officer." LSA–R.S. 17:54, 17:81–17:100, 17:425, 17:441, 17:571 et seq., 17:571(23), 17:1201, subd. B, 17:1205, 17:1206; LSA–Const. art. 12, § 10.—Sauls v. Tangipahoa Parish School Bd., 273 So.2d 899, writ not considered 275 So.2d 868.—Schools 48(5).

La.App. 3 Cir. 1996. Municipal attorney in Lawrason Act municipality (i.e., one governed by mayor-board of aldermen form of government) was "public officer" who was thus entitled to continue discharging duties of office until successor was properly appointed by mayor and approved by board of aldermen; attorney's term of office did not expire with term of office of mayor who appointed him, as attorney was not elected by municipal board, but rather, he was appointed by mayor and approved by board of aldermen. LSA-R.S. 33:381, subd. A, 33:386, subds. A, C, 42:1, 42:2.—Ardoin v. Rougeau, 670 So.2d 441, 1995-774 (La. App. 3 Cir. 1/31/96), writ denied 671 So.2d 928, 1996-0539 (La. 4/19/96).—Mun Corp 149(2).

La.App. 3 Cir. 1996. Municipal attorney in Lawrason Act municipality (i.e., one governed by mayor-board of aldermen form of government) was "public officer," even though position of city attorney is not listed in statute that identifies certain officers of Lawrason Act municipality; that list is not exhaustive, as power to appoint other municipal officers was found in another statute. LSA-R.S. 33:381, subd. A, 33:386, subds. A, C.—Ardoin v. Rougeau, 670 So.2d 441, 1995-774 (La.App. 3 Cir. 1/31/96), writ denied 671 So.2d 928, 1996-0539 (La. 4/19/96).—Mun Corp 123.

La.App. 3 Cir. 1992. Statute defining "public officer" and "public employee," for purposes of offense of public intimidation, is sufficiently broad to include police officers. LSA-R.S. 14:2(9), 14:122.—State v. Love, 602 So.2d 1014.—Extort 25.1.

La.App. 3 Cir. 1982. Where plaintiff in defamation suit had been deputy sheriff for many years and had run for public office on three prior occasions, and where alleged defamation arose out of his participation in election controversy, he was either "public officer" and/or "public figure" for purposes of fixing burden of proof, and was bound to prove that defendant was guilty of actual malice or reckless disregard of the truth.—Romero v. Abbeville Broadcasting Service, Inc., 420 So.2d 1247.—Libel 101(4).

La.App. 3 Cir. 1972. Parish superintendent of schools is a "public officer" within contemplation of statute providing that an action shall be brought in the name of the State when a person usurps or unlawfully attempts to remain in possession of any public office. LSA–R.S. 42:76.—State ex rel. Broussard v. Gauthe, 265 So.2d 828, application denied 267 So.2d 211, 263 La. 105.—Schools 48(4).

La.App. 3 Cir. 1970. Member of parish planning commission was a "public officer" within statute and was subject to removal under provisions of Constitution. LSA–R.S. 42:1; LSA–Const. art. 9, §§ 1, 6.—Waters v. Karst, 235 So.2d 222, application not considered 239 So.2d 173, 256 La. 793.—Counties 67.

La.App.Orleans 1930. Republican state central committeeman held "public officer" entitled to injunction protecting de facto occupancy of office until disputed title could be litigated. Act No. 97 of 1922; LSA-C.C. art. 21; LSA-Const.1921, art. 1, § 6; art. 7, §§ 35, 81.—Dastugue v. Cohen, 131 So. 746, 14 La.App. 475.—Offic 82.

La.App.Orleans 1928. Fireman is "public officer," within law exempting salary from seizure under garnishment process. LSA-C.C. art. 1992; Code Prac. art. 647 (LSA-C.C.P. art. 2295), Act No. 184 of 1918.—Industrial Discount Co. v. Scherer, 119 So. 295, 9 La.App. 331.—Exemp 48(1).

Me. 1938. A superintendent of schools is a "public officer" and his acts in that capacity, so long as in line with the performance of his official duties, are presumed to have been done in accordance with law. Rev.St.1930, c. 19, § 70(e), as amended by Pub.Laws 1935, c. 9.—Benson v. Inhabitants of Town of Newfield, 1 A.2d 227, 136 Me. 23.—Evid 83(2); Schools 63(3).

Me. 1936. Tax collector in a town is "public officer" owing statutory duties to public and not to town alone.—Tozier v. Woodworth, 188 A. 771, 135 Me. 46.—Tax 2807.

Me. 1906. The superintendent of streets in Oldtown in 1904-05 was not an employé or agent of the city entitled to damages for breach of contract for employment, but was a "public officer" possessing official powers and charged with public duties, and hence can recover only the salary or emoluments established by law for that office to be paid by the city.—Stephens v. City of Oldtown, 65 A. 115, 102 Me. 21.

Md. 1960. Where Anne Arundel County Business Manager was required by statute to represent county in all departments of county government, to appoint and remove any officers of county, and to file bond, and had power to supervise all departments, offices, and agencies of county government within limits imposed upon jurisdiction of Board of County Commissioners, Manager exercised continuously a substantial part of governmental power of Anne Arundel County, and was therefore a "public officer". Anne Arundel County Code, 1957, §§ 2–37, 2–39, 2–40.—Hetrich v. County Com'rs of Anne Arundel County, 159 A.2d 642, 222 Md. 304.—Counties 61.

Md. 1959. Superintendent of the Maryland State Reformatory for Males was a "public officer," and his duties in safely confining inmate were public in character and "quasi-judicial" in nature, in that they involved exercise of discretion, and therefore superintendent was not liable in wrongful death action for death resulting from fatal injuries inflicted on inmate by other prisoners, at least in absence of allegation of malice or evil purpose on part of superintendent, that he knew of some unusual danger to inmate, or that superintendent participated in inflicting the injuries. Code 1957, art. 27, § 675; art. 67, § 1 et seq.—State to Use of Clark v. Ferling, 151 A.2d 137, 220 Md. 109.—Prisons 10.

Md. 1941. A person who receives no commission, takes no oath of office, has no term of office fixed by statute or ordinance, and exercises no portion of the sovereign power of the government, but merely performs duties required of him by officials employing him, is not a "public officer" within constitutional provision requiring taking oath of office by public officers. Const. art. 1, § 6.—Jackson v. Cosby, 22 A.2d 453, 179 Md. 671.—Offic 1.

Md. 1933. Generally, county treasurer falls within specification of "public officer."—Calvert County Com'rs v. Monnett, 164 A. 155, 164 Md. 101, 86 A.L.R. 1258.—Counties 61.

Md. 1933. Treasurer of Calvert County, held "public officer" within constitutional provision prohibiting increasing or diminution of public officer's compensation during term of office. Const. art. 3, § 35; Acts 1931, c. 207.—Calvert County Com'rs v. Monnett, 164 A. 155, 164 Md. 101, 86 A.L.R. 1258.—Offic 100(2).

Md. 1899. A public officer is the person whose duty it is to perform the agency for the state of a public office. The essence of it is the duty of performing an agency; that is, of doing some act or acts or series of acts for the state. State v. Stanley, 66 N.C. 59, 8 Am.Rep. 488. Similar definitions might be almost indefinitely multiplied. But, after all, it is rather a narrow view to lay down a general definition of the term "public officer," and then to measure by it the meaning of that same term, no matter under what conditions it may be used. The nature of the duties, the particular method in which they are to be performed, the end to be attained, the depository of the power conferred, and the whole surroundings, must be all considered when the question as to whether a position is a public office or not is to be solved.—Board of County School Com'rs of Worcester County v. Goldsborough, 44 A. 1055, 90 Md. 193.

Mass. 1975. A member of a committee of a political party is not a "public officer," nor is a delegate to a national political party convention.—Sears v. Secretary of the Com., 341 N.E.2d 264, 369 Mass. 392.—Elections 121(1), 131.

Mass. 1972. As superintendent of state hospital, physician was a "public officer" and consequently not responsible under the doctrine of respondeat superior for alleged assault and battery committed by his servants and agents upon person confined at such hospital.—Beaumont v. Segal, 283 N.E.2d 858, 362 Mass. 30.—Health 770.

Mass. 1967. Employment of teacher as assistant professor of mathematics by private institution of higher learning did not constitute teacher a "public officer."—Pedlosky v. Massachusetts Institute of Technology, 224 N.E.2d 414, 352 Mass. 127.—Colleges 8(1).

Mass. 1953. Although city assessor is a "public officer", he is elected or appointed by certain officials of a municipality or by inhabitants of community where his duties are performed and by which he is paid, and so, in a sense, is regarded as a municipal officer.—Williams v. City Manager of Haverhill, 110 N.E.2d 851, 330 Mass. 14.—Mun Corp 971(1).

Mass. 1952. A city assessor is a "public officer". G.L.(Ter.Ed.) c. 41, § 27, as amended, St.1936, c. 118, § 1.—City Manager of Medford v. Civil Service Com'n, 108 N.E.2d 526, 329 Mass. 323.—Mun Corp 971(1).

Mass. 1945. A city collector of taxes is not a "public officer" having his duties defined by law, and is not an agent of the city in performance of his duties prescribed by laws of commonwealth even though elected by municipality. St.1895, c. 148, as amended, §§ 45, 46.—Hardman v. Collector of Taxes of North Adams, 58 N.E.2d 845, 317 Mass. 439.—Tax 2801.

Mass. 1943. The commissioner of soldiers' relief of the city of Lawrence was not a mere "employee" but was a "public officer", within statute imposing a penalty upon a public officer who corruptly requests or accepts a bribe. G.L.(Ter.Ed.) c. 115, §§ 3, 5, 12, 17, 19 and § 15, as amended by St.1932, c. 106; c. 268, § 8 (M.G.L.A.).—Com. v. Dowe, 52 N.E.2d 406, 315 Mass. 217.—Brib 1(2).

Mass. 1943. An "attorney at law" is not merely a member of a profession practicing for personal gain, nor is he a "public officer" but is an "officer of the court".—In re Keenan, 47 N.E.2d 12, 313 Mass. 186.—Atty & C 14.

Mass. 1941. The incumbent of office of mayor of city of Cambridge is a "public officer", on issue whether elected mayor who was convicted of bribery, and whose duties were being performed by president of city council, was entitled to his salary.

G.L.(Ter.Ed.) c. 43, §§ 56–63, as amended, and §§ 58, 62; St.1941, c. 505.—Bell v. Treasurer of Cambridge, 38 N.E.2d 660, 310 Mass. 484.—Mun Corp 162.

Mass. 1940. Order of municipal council of city of Taunton which required superintendent of streets to perform duties, exercise powers and be subject to obligations of surveyor of highways, and provided that the superintendent should make all necessary contracts for supply of labor and materials, was construable as imposing on the superintendent the duty as "public officer" of repairing public highway, so that city was not liable for damage to cranberry land and crop allegedly caused by negligent manner in which the repairs were made by the superintendent. G.L.(Ter.Ed.) c. 39, § 1; c. 40, § 21; c. 41, §§ 66, 68; St.1882, c. 211, § 9; St.1909, c. 448, § 19.—Ryder v. City of Taunton, 27 N.E.2d 742, 306 Mass. 154.—Mun Corp 747(2).

Mass. 1940. A person who is a "public officer" of the city for one purpose may be the "agent" of the city for another purpose.—Ryder v. City of Taunton, 27 N.E.2d 742, 306 Mass. 154.—Mun Corp 123.

Mass. 1940. It has been held generally that highway surveyors and road commissioners are "public officers," and in the performance of their statutory duties, do not act as "agents" of a municipality. It has also been held that a superintendent of streets was likewise a "public officer."—Ryder v. City of Taunton, 27 N.E.2d 742, 306 Mass. 154.

Mass. 1939. A member of gas and electric commission of Holyoke was a "public officer," where commission was created and its duties defined by statute. St.1922, c. 173.—Adie v. Mayor of Holyoke, 21 N.E.2d 377, 303 Mass. 295.—Mun Corp 206.

Mass. 1938. The commissioner of public works of city could properly be made a true agent of city with regard to contract for additions to city's sewage treatment plant so as to render city liable for the commissioner's acts, notwithstanding his position and duties were created and imposed by statute so that for other purposes he was a "public officer."—Daddario v. City of Pittsfield, 17 N.E.2d 894, 301 Mass. 552.—Mun Corp 374(1).

Mass. 1938. The commissioner of agriculture is a "public officer" as respects statutes pertaining to removal of public officers from office. G.L.(Ter. Ed.) c. 20, §§ 1–4; c. 30, §§ 8, 9.—Murphy v. Casey, 15 N.E.2d 268, 300 Mass. 232.—Agric 2.

Mass. 1938. Under statute creating a building department in the city of Boston under the charge of a building commissioner who has power of appointment of employees and assistants with the approval of the mayor and who grants permits for construction, alteration or destruction of buildings and whose duties are defined in the main with certainty, the building commissioner is "public officer" for whose acts in ordering the destruction of a building on ground of its dilapidated condition the city of Boston is not liable. St.1907, c. 550, §§ 6, 7, 129, and §§ 1, 4, and 5, as amended by St.1923, c. 462, §§ 1–3.—New England Trust Co. v. City of Boston, 15 N.E.2d 255, 300 Mass. 321.—Mun Corp 747(1).

Mass. 1935. Commissioner of banks is "public officer" performing duties imposed on him by law, exercising visitatorial powers and charged with rigid examination of affairs of trust companies. G.L., Ter.Ed., c. 167, §§ 22 to 36, and §§ 31A and 35A, as added by St. 1933, c. 277 and c. 302.—Lawrence Trust Co. v. Chase Securities Corp., 198 N.E. 905, 292 Mass. 481.—Banks 17.

Mass. 1933. Commissioner of Banks liquidating affairs of trust company acts as "public officer" and not as "receiver" appointed by court. G.L.,Ter. Ed., c. 167, §§ 22–36.—Commissioner of Banks v. Highland Trust Co., 186 N.E. 229, 283 Mass. 71.—Banks 317(2).

Mass. 1933. Commissioner of Public Works in performance of duties imposed by statute was not agent of city, but "public officer" for whose acts city was not responsible.—Malinoski v. D.S. McGrath, Inc., 186 N.E. 225, 283 Mass. 1.—Mun Corp 747(2).

Mass. 1926. Clerk of municipal court held a "public officer" and not an "employee" within retirement statute.—O'Connell v. Retirement Board of City of Boston, 150 N.E. 2, 254 Mass. 404.—Clerks of C 8.

Mass. 1918. Officer charged with duties of surveyor of highways is "public officer," and not agent, employe, or officer of town, which is not responsible for his acts in diverting surface water from street into culvert.—Blaisdell v. Inhabitants of Town of Stoneham, 118 N.E. 919, 229 Mass. 563.—Mun Corp 747(1).

Mass. 1909. An assistant city auditor, whose duty it is to assist the city auditor and to act in his absence, is a "public officer," defined as one the performance of whose duties involved the exercise of some portion of the sovereign power, and in whose proper performance all citizens are interested, either as members of the entire body politic or of some subdivision of it.—Attorney General v. Tillinghast, 89 N.E. 1058, 203 Mass. 539, 17 Am. Ann.Cas. 449.—Mun Corp 133.

Mass. 1907. A janitor of a police station is not a "public officer."—Sims v. O'Meara, 79 N.E. 824, 193 Mass. 547.

Mass. 1888. A "public office" is a trust or charge, created and defined by the public authority. A road commissioner elected under the provisions of Pub.St. c. 27, §§ 74-77, is not an officer of the town from which he is elected, but is a "public officer," for whose acts the town is not responsible.—Clark v. Town of Easton, 14 N.E. 795, 146 Mass. 43.

Mich. 1952. A sheriff is a "public officer" within statute exempting from garnishment persons who are in possession of money as a public officer for which he is accountable to principal defendant. Comp.Laws 1948, § 628.37.—Hyma v. Hippler, 55 N.W.2d 791, 335 Mich. 188.—Garn 58.

Mich. 1944. The duties of a "public officer" must be more than those of a mere agent or servant, and he must be endowed by law with power and authority to use his own discretion.—People v. Freedland, 14 N.W.2d 62, 308 Mich. 449.—Offic 1.

Mich. 1944. In determining whether a person is a "public officer", each case should be decided on its peculiar facts and involves a consideration of the legislative intent in framing the particular statute by which the position is created.—People v. Freedland, 14 N.W.2d 62, 308 Mich. 449.—Offic 1.

Mich. 1939. Where justice of peace was elected to fill a vacancy and thereafter re-elected for period of four years, and in that capacity received money which he was charged with having knowingly and unlawfully appropriated to his own use, accused could not assert that by reason of his having failed to properly qualify because no bond was filed as required by city charter he was not a "public officer," and therefore could not be convicted for violation of statute regarding malfeasance of public officer, since accused was an "officer de facto." Pub.Acts 1931, No. 328, § 175; Comp.Laws 1929, §§ 996, 1026, 3350.—People v. Matthews, 286 N.W. 675, 289 Mich. 440.—Embez 11(2).

Mich. 1935. Under Saginaw city charter prohibiting contractual relations between city officers and city, member of charter commission held not entitled to mandamus compelling allowance of claim against city based on contract, since member was a "public officer," and as such a "city officer" who could not contract an indebtedness against city.—Marxer v. City of Saginaw, 258 N.W. 627, 270 Mich. 256.—Mun Corp 231(1).

Mich. 1935. A "public office" is defined as a public station or employment conferred by election or appointment, and embraces the ideas of tenure, duration, emolument, and duties, and the true test of a public office is whether it is a parcel of administration of the government, civil or military, or is itself created directly by the lawmaking power. A "public office" is also defined as an employment on behalf of the government in any station or public trust, not merely transient, occasional, or incidental, and means the right to exercise generally the functions of a public trust or employment and to receive the emoluments belonging to it and to hold the place and perform the duty for the term and by the tenure prescribed by law. A "public officer" is defined as one whom the people have chosen by reason of public confidence to perform a public function in relation to public business.—Marxer v. City of Saginaw, 258 N.W. 627, 270 Mich. 256.

Mich. 1934. Justice of peace of city of Pontiac was "public officer" whose salary could not be changed after his election. Loc.Acts 1907, No. 398; Comp.Laws 1929, §§ 16215–16217; Const. art. 7, § 15; art. 16, § 3.—Holland v. Adams, 257 N.W. 841, 269 Mich. 371.—Offic 100(2).

Mich. 1916. The stockkeeper, appointed by the mayor of Battle Creek pursuant to a resolution of the common council, who took an oath of office, had charge of the city yard where tools, roadscrapers, plows, brick, etc., were located, and had a key to the yard and the building therein where some of the material was kept under cover, letting the city employés in and out, and keeping the globes for the street lights, which were delivered to him by the man who took care of the lights, was an employé of the city, and not a "public officer," within the charter thereof (chapter 9, § 1), providing that all appointive officers hereafter appointed by the mayor and common council, etc., for a definite or indefinite term of office, unexpired when the charter goes into effect, shall continue in office under the charter until appointment of their successors.—Jones v. City of Battle Creek, 159 N.W. 145, 193 Mich. 1.

Mich.App. 2003. A police officer is a "public officer" for purposes of evaluating a charge of misconduct in office. M.C.L.A. § 750.505.—People v. Hardrick, 671 N.W.2d 548, 258 Mich.App. 238, appeal denied 676 N.W.2d 629, 469 Mich. 1014.—Mun Corp 190.

Minn. 1974. State Board of Health was "public officer" within statute providing for venue of actions against public officer for acts done by virtue of his office. M.S.A. §§ 144.01, 542.03.—Ebenezer Society v. Minnesota State Bd. of Health, 223 N.W.2d 385, 301 Minn. 188.—Venue 11.

Minn. 1943. A "public officer" is distinguished from a "public employee" in the greater importance, dignity, and independence of the former's position.—Tillquist v. Department of Labor and Industry, Industrial Commission, Division of Boiler Inspection, 12 N.W.2d 512, 216 Minn. 202.—Offic 1.

Minn. 1943. Whether a person is a "public officer" depends, not upon what the particular position may be designated by statute, but rather upon the power granted, the duties performed, and other circumstances which indicated true character.—Tillquist v. Department of Labor and Industry, Industrial Commission, Division of Boiler Inspection, 12 N.W.2d 512, 216 Minn. 202.—Offic 1.

Miss. 1971. Policeman for city of Jackson, who was injured in accident and was paid salary during the eight and one-half months that he was disabled, was an "employee" of the city and not a "public officer" thereof, but policeman was entitled to his salary so long as he was not suspended, discharged, nor relieved of duty, and city was estopped from denying that it owed salary which it had paid to officer as result of its employment contract with him, and subrogation did not lie wherein city could recover salary paid to policeman where from the record there was no evidence that $10,000 settlement between policeman and third-party tort-feasor included recovery for anything other than pain and suffering.—City of Jackson v. Little, 248 So.2d 795.—Estop 62.4; Mun Corp 186(1); Subrog 2.

Miss. 1958. Fact that duties which city engineer is appointed to perform are duties concerning the public does not make him a "public officer".—Damon v. Slaughter, 101 So.2d 342, 233 Miss. 117.—Mun Corp 123.

Miss. 1951. A school trustee is a "public officer" within meaning of statute authorizing quo warranto proceedings to test the right of a public officer to such office. Code 1942, § 1120.—State ex rel. Livingston v. Bounds, 54 So.2d 276, 212 Miss. 184.—Quo W 11.

Miss. 1944. A "public officer", broadly speaking, is a person appointed or elected to perform a designated duty concerning the public and includes a municipal policeman.—Glover v. City of Columbus, 19 So.2d 756, 197 Miss. 467, 156 A.L.R. 1350.—Mun Corp 180(1).

Miss. 1944. A policeman of the city of Columbus who served only by permission of city's mayor and city council, who prescribed policemen's duties and supervised performance thereof, was not a "public officer" within meaning of constitutional provisions so as to be entitled to remain in office until expiration of his term unless convicted on an indictment charging him with commission of crime. Laws 1884, c. 390, §§ 16, 20, 21; Const.1890, §§ 20, 175.—Glover v. City of Columbus, 19 So.2d 756, 197 Miss. 467, 156 A.L.R. 1350.—Mun Corp 184(3).

Miss. 1944. A "public officer" within meaning of Constitution provisions pertaining to term of office and removal from office must have a continuing duty defined by rules prescribed by law, dischargeable by officer in his own right. Const.1890, §§ 20, 175.—Glover v. City of Columbus, 19 So.2d 756, 197 Miss. 467, 156 A.L.R. 1350.—Offic 1.

Miss. 1941. Whether secretary of Board of Barber Examiners is a member of the board is immaterial as affecting right of state auditor to sue for misapplication of funds, since in either event, secretary would be a "public officer" or "public employee". Code 1930, § 7179; Laws 1932, c. 118, § 4.—Causey v. Phillips, 4 So.2d 215, 191 Miss. 891.—Admin Law 118.1; Licens 21.

Miss. 1938. The statute allowing county superintendent of education in first class counties an office assistant and authorizing board of supervisors in second and third class counties to employ clerical assistant in county superintendent's office does not create "public office," but simply provides for employee, who is not subject to indictment as "public officer" for attempt to defraud county. Code 1930, §§ 6498, 6567.—Waggoner v. State, 184 So. 633, 183 Miss. 510.—False Pret 18.

Miss. 1919. Even if Laws 1910, c. 114, and Laws 1912, c. 170, did not repeal Code 1906, § 12, relating to the management of Alcorn Agricultural and Mechanical College, appellant, elected secretary, treasurer, and business manager thereof, pursuant to section 12, is not a "public officer" of the state within Const.1890, § 175, providing exclusive method of removing a public officer; the essential distinction between an employment and an office being that in an office the duties and powers are prescribed by law.—McClure v. Whitney, 82 So. 259, 120 Miss. 350.—Colleges 7.

Miss. 1916. Code 1906, § 2401, provides that a competent physician shall be appointed county health officer for and from each county by the state board of health, for a term of two years. Section 2494 defines his duties and places him under the joint supervision of the state board of health and the board of county supervisors. Section 2509 provides for his salary. Sections 2516 and 2516a define his authority in certain matters, and section 2490 provides that the state board of health may remove any county health officer and fill the vacancy thereby occasioned. Held, that the county health officer was a "public officer," who could not be removed by the state board of health at any meeting without reason, notice, or hearing, and who was removable only for good and reasonable cause.—Ware v. State, 71 So. 868, 111 Miss. 599, suggestion of error overruled 72 So. 237.

Miss. 1910. A city marshal elected by the people is a "public officer," within Const.1890, § 175, providing that such officer shall not be removed from office for willful neglect of duty or misdemeanor in office, except on an indictment and conviction.—Lizano v. City of Pass Christian, 50 So. 981, 96 Miss. 640.—Mun Corp 183(3).

Miss. 1908. "A 'public officer' is one who has some duty to perform concerning the public, and he is not the less a public officer because his duty is confined to narrow limits, because it is the duty or the nature of that duty which makes him a public officer and not the extent of his authority." Hence the clerk of the penitentiary board, created by Code 1906, § 3598, which calls the officers therein provided for employees of the penitentiary, is a "public officer," and may maintain quo warranto as such.—Yerger v. State, 45 So. 849, 91 Miss. 802.

Mo. 2005. Individual invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public, is a "public officer."—State ex rel. Howenstine v. Roper, 155 S.W.3d 747.—Offic 1.

Mo. 1967. County court judge was "public officer" within "nepotism provision" of constitution that any public officer who by virtue of office or employment names or appoints to public office or employment any relative within the fourth degree by consanguinity or affinity shall forfeit his office. V.A.M.S.Const. art. 7, § 6.—State ex inf. Stephens v. Fletchall, 412 S.W.2d 423.—Counties 43.

Mo. 1954. A committeewoman for a political party is elected under statutes enacted by General Assembly and is charged with duty of performing certain functions of government, and is, therefore, a "public officer". V.A.M.S. § 120.790.—Noonan v. Walsh, 273 S.W.2d 195, 364 Mo. 1169.—Elections 121(1).

Mo. 1952. Clerk of Court of Appeals is subject to supervision, direction and control of court by whom he is appointed and whom he serves, and therefore he is an "officer of the court," and not a "state officer" or "public officer" within constitutional provision prohibiting increase in compensation during term of office. Section 483.240 RSMo 1949, V.A.M.S.; Const. art. 4, § 28; art. 5, § 26; art. 7, § 13, V.A.M.S.; Sections 33.100, 483.240 RSMo 1949, V.A.M.S.; Laws 1949, pp. 56, 210, §§ 4.110, 10.690; Laws 1951, H.B. No. 5,

§ 4.290.—State ex rel. Webb v. Pigg, 249 S.W.2d 435, 363 Mo. 133.—Offic 100(2); States 63.

Mo. 1947. In determining meaning of words "public office" and "public officer", each case must be determined from the pertinent facts, including consideration of intention and subject matter of the enactment of the statute or the adoption of the constitutional provision.—State ex rel. Scobee v. Meriwether, 200 S.W.2d 340, 355 Mo. 1217.—Offic 1.

Mo. 1942. That the article of St. Louis charter creating Department of Personnel to be headed by Director of Personnel provides some checks and balances between the director, the Civil Service Commissioners, and other municipal officers, does not make the director any the less a "public officer" within constitutional provision requiring an officer to be a resident of the state for one year next preceding his appointment or election. V.A.M.S. Const. art. 8, § 10.—Kirby v. Nolte, 164 S.W.2d 1, 349 Mo. 1015.—Mun Corp 123.

Mo. 1942. Where plaintiff city official appealed from adverse judgment in suit against City of Warrensburg for $1,095.66, Supreme Court was without jurisdiction, and transfer to Kansas City Court of Appeals was ordered in view of fact that city was not a "political subdivision of the state" within the constitution, plaintiff was not a "public officer," and amount involved was not within the jurisdictional amount of Supreme Court. Const.Mo. art. 6, § 12; Amend.1884, art. 6.—Stratton v. City of Warrensburg, 159 S.W.2d 766, transferred to 167 S.W.2d 392, 237 Mo.App. 280.—Courts 231(5), 231(50).

Mo. 1940. A sheriff is a "public officer".—State, on Inf. of McKittrick v. Williams, 144 S.W.2d 98, 346 Mo. 1003.—Sheriffs 1.

Mo. 1938. The duties to be performed, method of performance, end to be attained, depository of power granted, and surrounding circumstances must be considered in determining meaning of "public office" or "public officer," and in determining the question it is not necessary that all criteria be present in all cases, but a delegation of some part of sovereign power is an important matter to be considered.—State ex inf. McKittrick v. Bode, 113 S.W.2d 805, 342 Mo. 162.—Offic 1.

Mo. 1938. As respects whether director of conservation could be ousted from his position because he had not resided in state one year next preceding his appointment, director of conservation, whose duties were to direct, regulate, guide, manage, and superintend the matter of conservation, was a "public officer." Const. Amend. No. 4, see Laws 1937, pp. 614, 615, and art. 8, § 10.—State ex inf. McKittrick v. Bode, 113 S.W.2d 805, 342 Mo. 162.—States 52.

Mo. 1938. The word "director" is defined as one who, or that which directs; as one who directs or regulates, guides or orders; a manager or superintendent, or a chief administrative official. As respects whether director of conservation could be ousted from his position because he had not resided in state one year next preceding his appointment, director of conservation, whose duties were to direct, regulate, guide, manage, and superintend the matter of conservation, was a "public officer." V.A.M.S.Const. Amend. No. 4, see Laws 1937, pp. 614, 615, and art. 8, § 10.—State ex inf. McKittrick v. Bode, 113 S.W.2d 805, 342 Mo. 162.

Mo. 1938. As respects whether director of conservation could be ousted from his position because he had not resided in state one year next preceding his appointment, director of conservation, whose duties were to direct, regulate, guide, manage, and superintend the matter of conservation, was a "public officer."—State ex inf. McKittrick v. Bode, 113 S.W.2d 805, 342 Mo. 162.

Mo. 1933. Mayor of third class city is "public officer" within nepotism provision of Constitution. V.A.M.S. Const. art. 14, § 13; Mo.St.Ann. § 6723, p. 5590, V.A.M.S. § 77.370.—State ex inf. Ellis ex rel. Patterson v. Ferguson, 65 S.W.2d 97, 333 Mo. 1177, certiorari denied Ferguson v. State of Missouri ex inf Ellis, 54 S.Ct. 559, 291 U.S. 682, 78 L.Ed. 1070.—Mun Corp 156.

Mo. 1933. "Public office" is right, authority, and duty, created and conferred by law, whereby individual is invested with portion of government's sovereign functions, to be exercised by him for public benefit for period fixed by law, and "public officer" is one receiving his authority from law and discharging some functions of government.—State ex inf. Ellis ex rel. Patterson v. Ferguson, 65 S.W.2d 97, 333 Mo. 1177, certiorari denied Ferguson v. State of Missouri ex inf Ellis, 54 S.Ct. 559, 291 U.S. 682, 78 L.Ed. 1070.

Mo. 1933. "Public office" is authority and duty conferred by law by which for given period individual is invested with portion of "sovereignty of state," to be exercised by him for public benefit, and individual so invested is "public officer."—State ex rel. Pickett v. Truman, 64 S.W.2d 105, 333 Mo. 1018.—Offic 1.

Mo. 1933. Delinquent tax attorney employed by tax collector held "employee" and not a "public officer," so that county judge was not required to administer oath to attorney. V.A.M.S. Const. art. 14, § 6; V.A.M.S. §§ 315.170, 315.220, 315.230, 419.050.—State ex rel. Pickett v. Truman, 64 S.W.2d 105, 333 Mo. 1018.—Tax 2805.

Mo. 1933. School director *held* a "public officer" within constitutional amendment forbidding nepotism by public officer of political subdivision of state. Mo.R.S.A. Const. art. 14, § 13.—State ex inf. McKittrick v. Whittle, 63 S.W.2d 100, 333 Mo. 705, 88 A.L.R. 1099.—Offic 29.

Mo. 1929. Election of ward committeeman at primary is "election" of "public officer," subject to contest. Rev.St.1939, § 11632; Acts 1st Ex.Sess. 1921, p. 68; V.A.M.S.Const. art. 8, § 3.—State ex rel. Dawson v. Falkenhainer, 15 S.W.2d 342, 321 Mo. 1042.—Elections 271.

Mo. 1928. A receiver appointed by the federal court is a federal officer as affects taxation of his income; a "public officer" being an officer who

receives his authority from the law and discharges some of the functions of government.—State ex rel. Thompson v. Truman, 4 S.W.2d 433, 319 Mo. 423.

Mo. 1926. Assistant commissioner of permanent seat of government is not "public officer," within constitutional prohibition of increase in compensation during term. Const. art. 14, § 8.—State ex rel. Hueller v. Thompson, 289 S.W. 338, 316 Mo. 272.—Offic 100(2).

Mo. 1926. Probation officer, exercising powers created by statute, held a "public officer". Rev.St. 1919, §§ 2591-2613 (V.A.M.S. § 211.010 et seq.)—Hasting v. Jasper County, 282 S.W. 700, 314 Mo. 144.—Infants 17.

Mo. 1926. Officer receiving authority from the law, and discharging some functions of government, is a "public officer."—Hasting v. Jasper County, 282 S.W. 700, 314 Mo. 144.—Offic 1.

Mo. 1923. A "public officer" is one elected or appointed in the manner prescribed by law, as an agent of the public in the performance of duties imposed by law and exercise of authority necessary and incidental to a proper discharge of such duties.—State ex rel. Zevely v. Hackmann, 254 S.W. 53, 300 Mo. 59.

Mo. 1914. An appointee to the position of member of a county highway board, created by Laws 1913, p. 665, is a "public officer," within Const. art. 14, § 7 (V.A.M.S.Const.), authorizing the Legislature to provide for the removal of officers, and, in the absence of any special provision for the removal of members of the board, a member may only be removed as prescribed by Rev.St. 1909, § 10204 et seq. (V.A.M.S. § 106.220).—State ex rel. Flowers v. Morehead, 165 S.W. 746, 256 Mo. 683.

Mo. 1905. The individual invested with the "right, authority and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, or invested with some portion of the sovereign functions of the government to be exercised by him for the benefit of the public," is a "public officer."—State ex rel. Mosconi v. Maroney, 90 S.W. 141, 191 Mo. 531.

Mo.App. E.D. 1981. "Public office" is the right, authority and duty, created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public; the individual so invested is a "public officer."—State ex rel. Eli Lilly & Co. v. Gaertner, 619 S.W.2d 761.—Offic 1.

Mo.App. 1939. Although an "attorney" is not a "public officer" in constitutional or statutory sense, he is an "officer of the court" obligated to public for proper administration of justice.—In re Sizer, 134 S.W.2d 1085.—Atty & C 14.

Mo.App. 1939. A lawyer is not a "public officer" in the constitutional or statutory sense of the term, but he is an "officer of the court," and as such owes a definite obligation to the public as a whole in the matter of the proper administration of justice.—In re Fenn, 128 S.W.2d 657, 235 Mo.App. 24.

Mo.App. 1937. An attorney is not "public officer" in constitutional or statutory sense, but is "officer of court" obligated to public for proper administration of justice.—In re Lacy, 112 S.W.2d 594, 234 Mo.App. 71.—Atty & C 14.

Mo.App. 1937. Sheriff is only responsible for wrongs of deputy sheriff when he acts officially, since deputy is "public officer" and not "servant" or "agent" of sheriff in private sense.—Humphrey v. Ownby, 104 S.W.2d 398.—Sheriffs 100.

Mo.App. 1931. Deputy sheriff is "public officer" subject to general limitations in matter of salary and fees. Rev.St.1929, § 11513, V.A.M.S. § 57.200 note.—Scott v. Endicott, 38 S.W.2d 67, 225 Mo.App. 426.—Sheriffs 32.

Mont. 1988. Law clerk, acting as employee of court, is not exercising sovereign power of state and thus is not "public officer" subject to ouster under quo warranto proceedings.—State ex rel. Paugh v. Bradley, 753 P.2d 857, 231 Mont. 46.—Quo W 25.

Mont. 1988. Master of district court does not exercise sovereign judicial authority and is not "public officer" subject to ouster through quo warranto proceedings.—State ex rel. Paugh v. Bradley, 753 P.2d 857, 231 Mont. 46.—Quo W 25.

Mont. 1975. Division of workmen's compensation is a "public officer" within meaning of statute fixing venue of action against a public officer in county where the cause, or some part thereof, arose. R.C.M.1947, § 93-2902.—Lunt v. Division of Workmen's Compensation, Dept. of Labor and Industry of State, 537 P.2d 1080, 167 Mont. 251.—Venue 11.

Mont. 1972. Member of constitutional convention was "public officer" within meaning of constitutional provisions prohibiting public officers from simultaneously holding more than one public office. Const. art. 5, § 7; art. 19, § 8; Laws 1971, c. 296 as amended by Laws 1st Ex.Sess.1971, c. 1.—Mahoney v. Murray, 496 P.2d 1120, 159 Mont. 176.—Offic 30.5.

Mont. 1958. Commissioner of public works of city was a "public officer" of city and under duty to account for all funds which might come into his hands as such officer. R.C.M.1947, § 11-702.—City of Roundup v. Liebetrau, 327 P.2d 810, 134 Mont. 114.—Mun Corp 178.

Mont. 1948. One who holds a position at the will of the appointing power is not usually classed as a "public officer".—State ex rel. Rusch v. Board of Com'rs of Yellowstone County, 191 P.2d 670, 121 Mont. 162.—Offic 1.

Mont. 1948. Permanency or continuity of the tenure is an element necessary to make the holder of a position a "public officer".—State ex rel. Rusch v. Board of Com'rs of Yellowstone County, 191 P.2d 670, 121 Mont. 162.—Offic 1.

Mont. 1948. A deputy sheriff is not a "public officer" within the Constitution so as to be entitled to payment of salary while disabled from performing the duties of his office due to a serious illness. Rev.Codes 1935, §§ 4874, 4878, 4891; Const. art. 5, § 31.—State ex rel. Rusch v. Board of Com'rs of Yellowstone County, 191 P.2d 670, 121 Mont. 162.—Sheriffs 32.

Mont. 1943. One holding appointive position at appointing power's will is not a "public officer", as existence of definite tenure is element requisite to make holder of position a public officer.—Adami v. Lewis and Clark County, 138 P.2d 969, 114 Mont. 557.—Offic 1.

Mont. 1941. For a person to be "public officer", rather than mere "employee", his position must be created by Constitution, Legislature, or municipal or other body under authority conferred by Legislature, portion of government's sovereign power must be delegated to holder of such position to be exercised for public benefit, powers and duties of such holder must be defined directly or impliedly by Legislature or through legislative authority, his duties must be performed independently and without control of superior power other than the law, unless they be those of inferior or subordinate office created or authorized by Legislature and placed thereby under general control of superior officer or body, position must have some permanency and continuity and not be only temporary or occasional, and holder thereof must take and file official oath, hold commission or other written authority, and give official bond, if required by proper authority.—State ex rel. Dunn v. Ayers, 113 P.2d 785, 112 Mont. 120.—Offic 1.

Mont. 1941. The act providing for appointment, tenure, salaries and removal of superintendent and assistant superintendent of state insane asylum created "office" of assistant superintendent of such asylum, and one appointed to such position under act is "public officer", not "employee". Rev.Codes 1935, §§ 1415, 1417.—State ex rel. Dunn v. Ayers, 113 P.2d 785, 112 Mont. 120.—Asylums 17.

Mont. 1936. Superintendent of county poor farm was "county employee" and not "public officer," and hence statutory disputable presumptions that official duty has been regularly performed and that ordinary course of business has been followed were not applicable in motorist's suit against county for injuries sustained in collision with county truck driven by superintendent. Rev.Codes 1935, §§ 4521, 4534, 4725, 10606 (15, 20), 10672.—Gagnon v. Jones, 62 P.2d 683, 103 Mont. 365.—Evid 83(4).

Mont. 1935. "Public officer," within constitutional provision prohibiting increase or diminution of officer's salary, includes all individuals holding public office by election or appointment for definite period, whether office be state, county, or municipal (Const. art. 5, § 31).—Poorman v. State Board of Equalization, 45 P.2d 307, 99 Mont. 543.—Offic 100(2).

Mont. 1927. Legislature has power to require county treasurer to collect city taxes levied under city law; "public officer."—State v. McFarlan, 252 P. 805, 78 Mont. 156.—Tax 2801.

Neb. 1950. The constitutional provision prohibiting legislature from increasing or diminishing salary of a "public officer" during his term of office applies not only to constitutional officers but to all other officers whose salaries should be fixed by legislature after adoption of provision, and is applicable to office of county supervisor. Const.1875, art. 3, § 19, as amended in 1920.—Ramsey v. Gage County, 43 N.W.2d 593, 153 Neb. 24.—Offic 100(2).

Neb. 1941. An agreement by a "public officer" such as a county surveyor, to perform services required of him for a less compensation than that fixed by law is contrary to public policy and void. Comp.St.1929, § 33-119.—Hansen v. Cheyenne County, 297 N.W. 902, 139 Neb. 484.—Contracts 125.

Neb. 1924. Whether deputies appointed by "public officers" are to be regarded as "public officers" themselves depends upon the circumstances and method of their appointment. Where such appointment is provided for by law, and a fortiori where it is required by law, which fixed the powers and duties of such deputies, and where such deputies are required to take the oath of office and to give bonds for the performance of their duties, the deputies are usually regarded as public officers. * * * But where the deputy is appointed merely at the will and pleasure of his principal to serve some purpose of the latter, he is not a "public officer" but a mere servant or agent. So a special deputy employed only in a particular case is not a "public officer."—Baker v. State, 200 N.W. 876, 112 Neb. 654.

Neb. 1921. A janitor of a courthouse is not a "public officer," but an employee.—Scott v. Scotts Bluff County, 183 N.W. 573, 106 Neb. 355.

Neb. 1914. A county attorney is a "public officer" within Cr.Code, § 176, making it a crime to attempt to bribe a public officer.—McMartin v. State, 145 N.W. 695, 95 Neb. 292.—Brib 1(2).

Nev. 2001. Statutory definition of "public officer" provided in chapter governing public officers and employees controls the definition of "public officer" for purposes of open meeting law. N.R.S. 241.010 et seq., 281.005, subd. 1.—University and Community College System of Nevada v. DR Partners, 18 P.3d 1042, 117 Nev. 195.—Admin Law 124.

Nev. 2001. Community college president was not a "public officer," and thus open meeting law did not prohibit interviews of applicants for that position from being held in closed session; position was not created by state constitution, statute, or charter or ordinance of a political subdivision of the state, and president was wholly subordinate and responsible to Board of Regents. N.R.S. 241.010 et seq., 281.005, subd. 1.—University and Community College System of Nevada v. DR Partners, 18 P.3d 1042, 117 Nev. 195.—Colleges 7.

Nev. 1985. Sworn deputy city marshal supervised by city marshal was "public officer" for pur-

poses of statute prohibiting public officers from receiving compensation for official service which has not been actually rendered. N.R.S. 193.019, 197.110.—State v. Rhodig, 707 P.2d 549, 101 Nev. 608, rehearing denied.—Mun Corp 183(4).

Nev. 1978. "Public officer" is invested with some portion of the sovereign functions of government, while a mere "employee" is not. N.R.S. 281.005, subd. 1.—Eads v. City of Boulder City, 587 P.2d 39, 94 Nev. 735.—Offic 1.

Nev. 1973. Term "officials" used in statute approving overtime pay as alternative to compensatory vacation time as compensation for overtime hours worked by employees to meet certain emergency situations should be construed to mean "public officer" as such words are used in statute defining public officer as person elected or appointed to position established by Constitution or statute or by charter or ordinance of political subdivision of state which position involves continuous exercise, as part of regular and permanent administration of government, of public power, trust or duty. N.R.S. 281.005, subd. 1, 281.100.—Mullen v. Clark County, 511 P.2d 1036, 89 Nev. 308, appeal after remand 533 P.2d 156, 91 Nev. 172.—Offic 99.

Nev. 1942. The proper officer of a corporation is a "public officer" charged with the duty of transferring on books of mining corporation stock which has been sold at sheriff's sale, and for which a certificate of sale has been issued by sheriff, and he may be compelled to do so by mandamus. Comp. Laws, §§ 1617, 8843, 8853.—Petition of Simrak, 132 P.2d 605.—Mand 126; Mines 104.

N.H. 1906. A "public officer" is one who has some duty to perform concerning the public; and he is not less so when his duty is confined to narrow limits, because it is the duty and the nature of that duty which makes him a public officer, and not the extent of his authority; and, where an employment or duty is a continuing one which is defined by rules or prescribed by law and not by contract, such a charge or employment is an office, and the person who performs it is an officer. A notary public is a public officer.—In re Opinion of the Justices, 62 A. 969, 73 N.H. 621, 5 L.R.A.N.S. 415, 6 Am.Ann.Cas. 283.

N.J. 1986. Attorney who resigned as administrative law judge in Office of Administrative Law, where he had been assigned a budget appeal involving township board of education, and who was retained as private attorney by board of education to investigate and bring tenure charges against its superintendent, did not have disqualifying conflict of interest under professional conduct rule which provides that a lawyer shall not represent private client in connection with matter in which the lawyer participated personally and substantially as public officer or employee, about which the lawyer acquired knowledge of confidential information as public officer or employee, or for which the lawyer had substantial responsibility as public officer or employee, assuming the provision would apply to the administrative law judge as a "public officer"; the two matters were unrelated. RPC 1.11(a), (a)(1–3).—Matter of Tenure Hearing of Onorevole, 511 A.2d 1171, 103 N.J. 548.—Atty & C 21.5(2).

N.J.Err. & App. 1943. A "public office" is a right, authority and duty created and conferred by law by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public. The individual so invested is a "public officer".—Wilentz ex rel. Golat v. Stanger, 30 A.2d 885, 129 N.J.L. 606.

N.J.Err. & App. 1933. Notary public is "public officer" within rule prohibiting assignment of fees.—Kip v. People's Bank & Trust Co., 164 A. 253, 110 N.J.L. 178.—Assign 15.

N.J.Super.A.D. 1983. Operative head of independent social service agency was not "public officer" within meaning of common-law crime of misconduct in office retained by statute, notwithstanding that part of Comprehensive Employment and Training Act funds received by agency were used to finance his salary, where he simply supervised expenditure of CETA grant monies under contractual arrangement between agency as his employer and CETA. N.J.S.A. 2A:85–1 (Repealed); Comprehensive Employment and Training Act, § 2 et seq., 29 U.S.C. (1976 Ed.) § 801 et seq.—State v. Williams, 458 A.2d 1295, 189 N.J.Super. 61, certification denied 468 A.2d 193, 94 N.J. 543.—Offic 121.

N.J.Super.A.D. 1966. Mason foreman on public project, with duty to supervise and authority to report on employee, was a "public officer" within statute prohibiting unlawful taking by public officer by color of office, with respect to alleged improper payment by employee. N.J.S. 2A:105–1, N.J.S.A.—State v. Attanasio, 223 A.2d 42, 92 N.J.Super. 267, certification denied 225 A.2d 365, 48 N.J. 354.—Brib 1(2).

N.J.Super.A.D. 1955. A fireman, like a policeman, is a "public officer" especially when he holds a superior rank.—Guth v. North Bergen Tp., 113 A.2d 50, 35 N.J.Super. 24.—Mun Corp 194.

N.J.Sup. 1944. Under the charter of the city of Paterson investing police officers with all the power of a constable and under general statute law, a policeman of the city of Paterson is recognized as a "public officer". N.J.S.A. 2:206–2, 33:1–71, 39:5–25, 40:47–15; P.L.1871, p. 822, §§ 32, 33.—Duncan v. Board of Fire and Police Com'rs of City of Paterson, 37 A.2d 85, 131 N.J.L. 443.—Mun Corp 180(1).

N.J.Sup. 1937. Town *held* not liable for conversion by recorder of money deposited in lieu of bail, even presuming exaction was legal, since recorder was a "public officer," and since town could not benefit from transaction and had no interest therein, in that money would either be paid to defendant in criminal proceeding on compliance with terms of deposit, or to county on defendant's default. N.J.S.A. 2:187-10 et seq., 2:225-1.—Lennen v. Town

of Belleville, 189 A. 652, 117 N.J.L. 456.—Mun Corp 747(1).

N.J.Super.L. 1961. Duties to be performed, not mode of appointment, constitutes test of individual's being public officer, and if he is concerned with administration of public duties his duties are governmental in nature, he is invested with any position of political power partaking in any degree of administration of civil government and performing duties which flow from sovereign authority he is "public officer".—La Polla v. Board of Chosen Freeholders of Union County, 176 A.2d 821, 71 N.J.Super. 264.—Offic 1.

N.J.Super.L. 1960. One who holds position of senior division material inspector for State Highway Department is a "public officer", and as a public officer he has obligation and duty to comply with all reasonable rules and regulations promulgated by State Highway Department or its Commissioner, and as a civil service employee he is under a similar obligation with respect to civil service rules and regulations, and in addition he has implied duty to act with honesty and fairness toward the State and persons doing work for State Highway Department, or its contractors and subcontractors, in inspecting, testing and certifying work done and materials furnished.—Pfitzinger v. Board of Trustees of Public Emp. Retirement System, 163 A.2d 388, 62 N.J.Super. 589.—High 96(1).

N.J.Super.L. 1960. Investigator for Division of Alcoholic Beverage Control who was appointed under statute giving him authority to arrest, without warrant, for violations of statute committed in his presence and authority and powers of peace officers to enforce the statute and authority to conduct an investigation ordered by the commissioner, was a "public officer" and not the holder of a position or mere employment, and he was not entitled to recover his salary from date that he was wrongfully discharged until he was reinstated. R.S. 33:1–4, subd. d, N.J.S.A.—Gobac v. Davis, 162 A.2d 140, 62 N.J.Super. 148.—Int Liq 129.5.

N.J.Ch. 1942. The commissioner of banking and insurance, possessed of the business and affairs of a building and loan association pursuant to statute, acts as a "public officer" in the discharge of a public duty, and any act done by him in good faith in the discharge of that duty will not be disturbed by court of chancery, especially where it is sought merely to substitute the court's discretion for that of the commissioner. N.J.S.A. 17:12–65, 17:12–66 to 17:12–80, 17:12–72, 17:12–76.—Manshel v. Agger, 26 A.2d 266, 131 N.J.Eq. 444.—B & L Assoc 42(6).

N.J.Cir.Ct. 1937. Reduction by county board of chosen freeholders, pursuant to statute, of statutory salary of sheriff of county in classification including six other counties *held* unconstitutional as violating provision prohibiting passage of special laws changing allowance of public officers during their terms, since sheriff is a "public officer" in state government, even though chosen by voters to serve in county. P.L.1933, c. 171, § 1 et seq.; c. 446, §§ 1, 3; N.J.S.A.Const., as amended, art. 4, § 7, par. 11, art. 7, § 2, par. 7.—Doyle v. Warren County, 192 A. 390, 15 N.J.Misc. 434.—Statut 102(2).

N.J.Com.Pl. 1935. As respects jurisdiction of county court on appeal de novo from determination of village director of public safety demoting detective to rank of patrolman, a policeman is a "public officer". N.J.S.A. 40:42-1 et seq., 40:47-1 et seq., 40:47-6; P.L.1935, p. 67.—Village of Ridgewood v. Howard, 179 A. 461, 13 N.J.Misc. 510.—Mun Corp 180(2).

N.M. 1967. Election judge who accompanied messenger while he was delivering ballot boxes to county clerk and who was injured in automobile accident occurring on the trip was not "workman" nor "employee" of board of county commissioners within Workmen's Compensation Act but was a "public officer". 1953 Comp. § 59–10–12(h, i).—Candelaria v. Board of County Com'rs of Valencia County, 423 P.2d 982, 77 N.M. 458.—Work Comp 378.

N.M. 1951. A "public officer" is the right, authority and duty, created and conferred by law by which for a given period either fixed by law or enduring at pleasure of the creating power, an individual is vested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public and the individual so invested is a public officer.—Pollack v. Montoya, 234 P.2d 336, 55 N.M. 390.—Offic 1.

N.M. 1936. Under statute authorizing employment of special tax attorney by state tax commission to carry out commission's duty of collecting delinquent taxes, special tax attorney was employee of commission who possessed no portion of sovereign power of state, and hence was not "public officer", precluding quo warranto proceeding to test right of member of Legislature to hold such position. Comp.St.1929, §§ 9-130, 115-101 et seq., 115-104(a), 141-443 to 141-446, 141-449, 141-701, 141-703; Const. art. 4, § 28.—State ex rel. Gibson v. Fernandez, 58 P.2d 1197, 40 N.M. 288.—Quo W 10.

N.M. 1915. A deputy assessor, who is required by statute to take an official oath, is a "public officer," and hence cannot claim compensation from the county, in the absence of a statute fixing his salary or compensation and providing for the payment of the same out of the county treasury.—State ex rel. Baca v. Montoya, 146 P. 956, 20 N.M. 104.

N.M.App. 1994. Wrongfully terminated police officer was "public employee," whose back pay could be reduced by amount employee earned between discharge and reinstatement, rather than "public officer" who was entitled to full back pay without deduction of interim wages.—Walck v. City of Albuquerque, 875 P.2d 407, 117 N.M. 651, certiorari denied 884 P.2d 1174, 118 N.M. 695.—Mun Corp 186(4).

N.Y. 1968. "Public officer" within constitutional provision that public officer who refuses to sign waiver of immunity when called before grand jury should be removed or forfeit his office, does not

distinguish between high-ranking administrative public officials and those in lower grades, and included city parking fee collector. Const. art. 1, § 6.—State v. Perla, 289 N.Y.S.2d 957, 21 N.Y.2d 608, 237 N.E.2d 215, reversed 88 S.Ct. 2062, 392 U.S. 296, 20 L.Ed.2d 1108.—Mun Corp 151, 156; Offic 64, 66.

N.Y. 1939. A town attorney appointed in pursuance of provisions of the Town Law is a "public officer." Town Law, § 20.—Sullivan v. Taylor, 18 N.E.2d 531, 279 N.Y. 364.—Towns 28.

N.Y. 1912. Director of a trust company is not a "public officer" within Penal Law, § 1857, punishing omission of public duty by public officer.—People v. Knapp, 99 N.E. 841, 28 N.Y.Crim.R. 285, 206 N.Y. 373, Am.Ann.Cas. 1914B, 243.—Banks 314.

N.Y. 1907. A clerk appointed under Greater New York Charter, § 1571, authorizing the coroner to appoint a clerk, etc., who performs routine duties in strict subordination to a public officer, and with no authority under the statute to do anything except where it is authorized and directed by such officer, is not a "public officer," and hence when dismissed in violation of Civil Service Law, § 21, Laws 1899, p. 809, c. 370, as amended by Laws 1904, p. 1694, c. 697, mandamus is his remedy.—People ex rel. Hoefle v. Cahill, 81 N.E. 453, 188 N.Y. 489.

N.Y. 1903. A notary public is a "public officer," within the meaning of Const.N.Y. art. 13, § 5, prohibiting the use of free transportation by a public official.—People v. Wadhams, 68 N.E. 65, 176 N.Y. 9.

N.Y. 1895. After quoting Henley v. Mayor, 5 Bing. 91, and Case of Wood, N.Y., 2 Cow. 29, it was said that a railroad policeman employed by a corporation is a "public officer" within Const. art. 13, § 5, providing that no public officer shall receive a pass over any railroad.—Dempsey v. New York Cent. & H.R.R. Co., 40 N.E. 867, 146 N.Y. 290.

N.Y.A.D. 1 Dept. 1978. Branch manager of Catskill regional offtrack betting corporation was neither a "public officer" nor "public employee" within meaning of statute that no public officer or employee shall hold a license from State Racing and Wagering Board. McK.Unconsol.Laws, §§ 8052, 8052, subds. 1, 3, 3(b), 8113, 8162, subd. 1.—Petillo v. New York State Racing and Wagering Bd., 406 N.Y.S.2d 471, 63 A.D.2d 952, appeal dismissed 45 N.Y.2d 838.—Offic 18.

N.Y.A.D. 2 Dept. 1990. Assistant director of purchasing for municipality was "public officer" who was not entitled to hearing prior to his dismissal following his conviction of felony; position of assistant director of purchasing was equivalent to assistant purchasing agent under General City Law. McKinney's Public Officers Law § 30, subd. 1, par. e; McKinney's General City Law § 20-a.—Papa v. DeLuca, 554 N.Y.S.2d 310, 160 A.D.2d 876.—Mun Corp 159(4).

N.Y.A.D. 2 Dept. 1989. County director of probation was not a "public officer" who was required to file official oath within 30 days after commencement of term, but was only a "public employee" who had to take and file oath upon original appointment to public employment and since he had taken oath upon appointment as assistant director of probation, he could not be terminated as county director for neglecting to take and file oath of office. McKinney's Public Officers Law § 1 et seq.; McKinney's Executive Law §§ 256, 257, subds. 1, 6; McKinney's Civil Service Law §§ 52, 62; McKinney's CPLR 7803, subd. 3.—Fanelli v. O'Rourke, 537 N.Y.S.2d 252, 146 A.D.2d 771.—Courts 55; Offic 36(1), 69.7.

N.Y.A.D. 2 Dept. 1988. Community superintendent for community school district was "public officer" whose resignation had to be in writing. McKinney's Education Law §§ 2566, subd. 1, 2573, subds. 1, 6, 2590-e, subd. 1, par. a, 2590-f, subd. 1, 2590-j, subds. 7(b, d), 8; McKinney's Public Officers Law § 31, subd. 2.—Petrella v. Siegel, 526 N.Y.S.2d 137, 136 A.D.2d 81, appeal granted 532 N.Y.S.2d 369, 72 N.Y.2d 803, 528 N.E.2d 521, affirmed 537 N.Y.S.2d 124, 73 N.Y.2d 846, 534 N.E.2d 41.—Schools 63(1).

N.Y.A.D. 2 Dept. 1957. Foreman, who was employed in Highway Department of Town of Southampton and paid on hourly basis was a "civil service employee" and not "public officer" within meaning of statute making it unlawful for public officer to receive or agree to receive a fee or other compensation for his official services and indictment against foreman charging him with receiving or agreeing to receive an illegal fee stated no crime against him. Penal Law, § 855.—People v. Carter, 167 N.Y.S.2d 441, 4 A.D.2d 879.—High 96(3).

N.Y.A.D. 2 Dept. 1952. The term "public officer" as used in venue statute fixing place of trial where cause of action arises, does not include a lawyer. Civil Practice Act, § 184, subd. 2.—Locke v. Singer, 112 N.Y.S.2d 676, 279 A.D. 1097.—Venue 11.

N.Y.A.D. 2 Dept. 1931. Teacher is not "public officer," within statute providing that one holding other city office shall be deemed to have vacated office. Greater New York Charter, § 1549.—Gelson v. Berry, 250 N.Y.S. 577, 233 A.D. 20, affirmed 178 N.E. 791, 257 N.Y. 551.—Mun Corp 142.

N.Y.A.D. 2 Dept. 1923. Where a city health officer was not one of the officers enumerated by the city charter, nor was any provision made for his taking an oath of office, the only charter provision being that he should be appointed by the commissioner of public safety, he was a mere subordinate of the commissioner, and was not a "public officer," and hence did not come under Public Health Law, § 20, providing a four-year term for public health officers.—Conolly v. Craft, 200 N.Y.S. 69, 205 A.D. 583.—Health 364.

N.Y.A.D. 2 Dept. 1910. A city marshal, holding office under Greater New York Charter (Laws 1901, c. 466) § 1424, is a "public officer," within Municipal Court Act (Laws 1902, c. 580) § 333, authorizing increased costs where the successful defendant is a public officer appointed or elected

under the authority of the state.—Scherl v. Flam, 121 N.Y.S. 522, 136 A.D. 753.—Costs 66.

N.Y.A.D. 3 Dept. 1987. Executive director of housing authority was not "public officer" whose term of office was governed by Constitution article providing that when duration of office is not specified by constitutional law, office is held during pleasure of authority making appointment; provision of Public Housing Law authorizing employment of executive director neither prescribes duties and powers of secretary/executive director nor does it mandate creation or filling of that position. McKinney's Const. Art 13, § 2; McKinney's Public Housing Law § 32, subd. 1.—Lake v. Binghamton Housing Authority, 516 N.Y.S.2d 324, 130 A.D.2d 913.—Mun Corp 192.

N.Y.A.D. 3 Dept. 1931. County attorney appointed by board of supervisors held not "public officer," but "public employee," as respects right to hold over and to compensation. Public Officers Law, § 5; County Law, § 210.—People ex rel. Dawson v. Knox, 247 N.Y.S. 731, 231 A.D. 490, affirmed 196 N.E. 582, 267 N.Y. 565.—Dist & Pros Attys 2(5).

N.Y.A.D. 3 Dept. 1931. That county attorney took official oath did not make him "public officer." County Law, § 210; Public Officers Law, § 5.—People ex rel. Dawson v. Knox, 247 N.Y.S. 731, 231 A.D. 490, affirmed 196 N.E. 582, 267 N.Y. 565.—Dist & Pros Attys 1.

N.Y.A.D. 4 Dept. 1945. A teacher in the public schools, though having tenure, is not a "public officer" but an employee of the board of education, and her employment is contractual and subject to reasonable regulations by the board. Education Law § 872, subd. 3.—People ex rel. Patterson v. Board of Ed. of City of Syracuse, 54 N.Y.S.2d 80, 269 A.D. 39, appeal denied 56 N.Y.S.2d 196, 269 A.D. 807, appeal denied 62 N.E.2d 491, 294 N.Y. 869, modified 67 N.E.2d 372, 295 N.Y. 313, motion denied 68 N.E.2d 58, 295 N.Y. 980.—Schools 136.

N.Y.Sup. 1988. Town attorney was a "public officer" within meaning of section of the Public Officers Law providing that if no successor is appointed, officer holds over until one is appointed and qualifies for the office. McKinney's Public Officers Law § 5.—Riester v. Reilly, 524 N.Y.S.2d 165, 138 Misc.2d 68.—Towns 28.

N.Y.Sup. 1981. Assistant building inspector who has same powers as building inspector is "public officer."—Winkler v. Moore, 442 N.Y.S.2d 937, 110 Misc.2d 785.—Offic 1.

N.Y.Sup. 1981. In determining whether individual is "public officer," court must consider nature of office, functions and duties of office with regard to manner in which they concern and affect public, whether such duties involve some portion of sovereign power, tenure of occupant and whether agency involved was created for public purposes. Penal Law §§ 10.00, 10.00, subd. 15.—People v. Confoy, 441 N.Y.S.2d 941, 110 Misc.2d 252.—Offic 1.

N.Y.Sup. 1978. In light of the duties of city's director for youth, he was a "public officer" rather than a "public employee," and thus had no vested property rights in his employment and was not entitled to due process protection which would flow from such rights, nor was he protected by the Civil Service Law, and his dismissal, allegedly on patronage grounds, was not precluded. Civil Service Law § 1 et seq.—Gallagher v. Griffin, 402 N.Y.S.2d 516, 93 Misc.2d 174.—Const Law 102(1), 277(2); Mun Corp 125, 156.

N.Y.Sup. 1963. Port of New York Authority is a "public office", and employee thereof was a "public officer" within bribery statutes. Penal Law, §§ 372, 1826; McK.Unconsol.Laws, §§ 6405, 6459.—People v. Breslow, 241 N.Y.S.2d 201, 39 Misc.2d 576.—Brib 1(2).

N.Y.Sup. 1955. Generally, where either the people or the Legislature creates an office or designates a person to perform some function of government, the head of such office is a "public officer", but the persons employed to carry out the details of the work, to whom the head of such office delegates part of his work, are holders of positions. Public Officers Law, § 30.—Application of Sweeney, 147 N.Y.S.2d 612, 1 Misc.2d 125.—Offic 1.

N.Y.Sup. 1953. Captain in city police department was a "public officer" within statute providing for vacature of public office upon conviction of a felony or a crime involving violation of oath of office. Public Officers Law, § 30, subd. 5.—Tourjie v. Noeppel, 120 N.Y.S.2d 478.—Mun Corp 184(3).

N.Y.Sup. 1953. Deputy Commissioner in city police department was a "public officer" within statute providing for vacatur of public office upon conviction of a felony or a crime involving violation of oath of office. Public Officers Law, § 30, subd. 5.—Pauley v. Noeppel, 120 N.Y.S.2d 472, 1 Misc.2d 928.—Mun Corp 181.

N.Y.Sup. 1953. Captain in city police department was a "public officer" within statute providing for vacature of public office upon conviction of a felony or a crime involving violation of oath of office. Public Officers Law, § 30, subd. 5.—Smith v. Noeppel, 120 N.Y.S.2d 466, 204 Misc. 49.—Mun Corp 184(3).

N.Y.Sup. 1950. Nature of duties is an important element in distinguishing a public officer from a public employee, and if duties involve exercise of sovereign powers the incumbent is a "public officer," whereas if duties are routine, subordinate, advisory or directed, he is a "public employee".—Application of Barber, 100 N.Y.S.2d 668, 198 Misc. 135, affirmed 101 N.Y.S.2d 924, 278 A.D. 600, appeal denied 103 N.Y.S.2d 661, 278 A.D. 727.—Offic 1.

N.Y.Sup. 1950. Where chief engineer of fire department of fire district was by statute clearly under jurisdiction, direction and control of board of fire commissioners, chief engineer was merely a "public employee" and not a "public officer" entitled to restrictions with respect to removal contained in public officers' law, but was subject to removal by the board of commissioners. Public

Officers Law §§ 2, 36; Town Law, §§ 174, 176, subd. 11–a, 176–a.—Application of Barber, 100 N.Y.S.2d 668, 198 Misc. 135, affirmed 101 N.Y.S.2d 924, 278 A.D. 600, appeal denied 103 N.Y.S.2d 661, 278 A.D. 727.—Towns 28.

N.Y.Sup. 1942. The City Marshall of the City of New York is a "public officer" and has no status as a civil service employee.—Hirsch v. Marsh, 34 N.Y.S.2d 570, 178 Misc. 556, affirmed 35 N.Y.S.2d 753, 264 A.D. 836, appeal denied 36 N.Y.S.2d 179, 264 A.D. 853.—Mun Corp 125.

N.Y.Sup. 1941. An underwriting supervisor of the State Insurance Fund appointed by the executive director of the fund pursuant to powers given by Workmen's Compensation Law and who took the oath of office provided for in the Civil Service Law, and was thereafter bonded, was a "public officer" as defined by the Civil Service Law and also a "state officer" as defined by the Public Officers Law. Workmen's Compensation Law, § 82, subd. 2; Civil Service Law, §§ 27, 30; Public Officers Law, §§ 2, 30, 31.—Hazelton v. Connelly, 25 N.Y.S.2d 74, 175 Misc. 765.—States 44.

N.Y.Sup. 1939. Even if there was no evidence before grand jury that commissioner of jurors was absent or unable to act or that there was a vacancy in his office upon date of administration of oath by deputy commissioner of jurors, such absence of evidence would not be sufficient ground upon which to grant motion to dismiss indictment, since deputy commissioner when he administered oath was a "public officer" acting in an official capacity so that presumption existed that any conditions or circumstances prerequisite to his right to act were present. Public Officers Law, § 9.—People v. Beerman, 12 N.Y.S.2d 888.—Crim Law 322; Ind & Inf 144.1(2).

N.Y.Sup. 1939. It is difficult to define the term "public officer" so as to have a definition that will apply and point out the distinction in every given case. In general, whether either the people or the Legislature create an office or designate a person to perform some function of government, the head of such an office would be a "public officer," whereas, if the head of such an office delegates part of his work to a number of persons employed to carry out the details of the work, we think the persons so appointed would, generally speaking, be holders of positions.—Canteline v. McClellan, 12 N.Y.S.2d 642, 171 Misc. 327, reversed 16 N.Y.S.2d 792, 258 A.D. 314, affirmed 25 N.E.2d 972, 282 N.Y. 166.

N.Y.Sup. 1936. Applicant for order compelling defendant to turn over to applicant books and papers appertaining to office of town supervisor held not to have established that his title to office was free from reasonable doubt, so as to constitute him a "public officer" and entitled to have recourse to statute, although applicant had procured certificate of election, had taken oath, and had executed and filed official bond. Public Officers Law, § 80.—Becraft v. Strobel, 287 N.Y.S. 22, 158 Misc. 844, affirmed 290 N.Y.S. 556, 248 A.D. 810, affirmed 10 N.E.2d 560, 274 N.Y. 577.—Offic 85.

N.Y.Sup. 1935. "Public office" is the right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public. It is also defined as a charge or trust conferred by public authority for a public purpose, the duties of which involve in their performance the exercise of some portion of sovereign power, whether great or small. Term "office" implies a delegation of a portion of the sovereign power to, and the possession of it by, the person filling the office. The power thus delegated and possessed may be a portion belonging sometimes to one of the three great departments and sometimes to another, but it is a legal power which may be rightfully exercised, and in its effects will bind the rights of others, and be subject to revision and correction only according to standing laws of state; an "employment" merely has none of these distinguishing features; in the most general and comprehensive sense a "public office" is an agency for the state and a person whose duty it is to perform this agency is a "public officer."—Kingston Associates v. La Guardia, 281 N.Y.S. 390, 156 Misc. 116, affirmed 285 N.Y.S. 19, 246 A.D. 803.

N.Y.Sup. 1917. Superintendent of borough of Manhattan, city of New York, is not a "public officer," and if illegally removed could not maintain action to recover amount of salary paid to another, who occupied office from which he had been ousted.—Collins v. Scannell, 168 N.Y.S. 720, 101 Misc. 601.—Mun Corp 162.4.

N.Y.Sup. 1908. Under Const. art. 3, § 28, prohibiting the granting of any extra compensation to any public officer, and Code Civ.Proc. § 3280, providing that each public officer on whom a duty is expressly imposed by law, must execute the same without fee, except where a fee is expressly allowed, an agreement to pay a county clerk, a "public officer" under Public Officers Law (Laws 1892, p. 1656, c. 681) § 2, for services imposed by law, is invalid on the ground of public policy.—Wadsworth v. Board of Sup'rs of Livingston County, 115 N.Y.S. 8, reversed 124 N.Y.S. 334, 139 A.D. 832.—Contracts 125.

N.Y.Sup. 1895. Every man is a public officer who has any duty concerning the public, and it is held that a notary public is a "public officer" within Const. art. 13, § 5, providing that any public officer who shall travel on a free pass shall forfeit his office.—People v. Rathbone, 65 N.Y.St.Rep. 164, 32 N.Y.S. 108, 11 Misc. 98, affirmed 65 N.Y.St.Rep. 881, 33 N.Y.S. 132, affirmed 40 N.E. 395, 65 N.Y.St.Rep. 404, 145 N.Y. 434, 22 L.R.A. 384.

N.Y.Sup.App.Term 1940. A receiver had no "term" and was not a "public officer" as defined by the Public Officers Law, and question of form and sufficiency of bond of receiver was not governed by such law, but by the Civil Practice Act. Public Officers Law, §§ 2, 20–28, 30; Civil Practice Act, § 126.—Mechanics Lumber Co. v. Cohen, 18 N.Y.S.2d 547, 173 Misc. 605, affirmed 23 N.Y.S.2d 557, 260 A.D. 863.—Receivers 51.

N.Y.Co.Ct. 1937. Movant held entitled to have grand jury presentment which stated that evidence was insufficient to warrant indictment, but that grand jury believed that movant, "vice chairman of the Queens County Committee," attempted to inaugurate a vicious scheme whereby all noncivil service appointees would be required to sign resignations prior to appointments, stricken from the record insofar as it referred to movant since presentment could only be justified by statute requiring grand jury to inquire into misconduct in office of "public officers," and since movant was not "public officer," even if committee referred to was the Democratic committee. Code Cr.Proc. §§ 252, 257, 258, 260, 269, 273, 274, 389; Penal Law, § 775.—In re Healy, 293 N.Y.S. 584, 161 Misc. 582.—Gr Jury 42.

N.Y.Mun.Ct. 1914. A inspector of foods in the department of health of the city of New York, appointed by such board pursuant to Greater New York Charter, Laws 1901, c. 466, § 1181, and who worked under a person who acted under the chief of the division of food inspection, was not a "public officer," though he took an oath of office before the assistant chief clerk, which was filed with the board of health, especially as such oath did not satisfy the requirements of section 1548, requiring persons elected or appointed to a city office to take an oath before the mayor or any judge of a court of record, which oath must be filed with the city clerk.—Devlin v. City of New York, 149 N.Y.S. 1061.

N.Y.Sp.Sess. 1961. District leader of political party was not "public officer" within statute prohibiting printing or reproduction of handbill concerning candidate in election of public officers without printing thereon name and address of printer or person and committee at whose instance handbill was printed. Penal Law, § 781-b.—People on Complaint of McMahon v. Clampitt, 222 N.Y.S.2d 23, 34 Misc.2d 766.—Elections 311.1.

N.Y.Sp.Sess. 1961. "Public officer" is one who may be elected by all of electors entitled to vote regardless of political affiliation and "electors" means any person qualified to vote. Public Officers Law, § 2.—People on Complaint of McMahon v. Clampitt, 222 N.Y.S.2d 23, 34 Misc.2d 766.—Elections 59; Offic 1.

N.C. 1997. "Public officer," who has immunity from suit for mere negligence in performance of public duty, is someone whose position is created by the Constitution or statutes of the sovereign.—Meyer v. Walls, 489 S.E.2d 880, 347 N.C. 97.—Offic 116.

N.C. 1966. A juror is not a "public officer", "independent contractor", nor "employee" within Workmen's Compensation Act. G.S. § 97–2.—Hicks v. Guilford County, 148 S.E.2d 240, 267 N.C. 364.—Work Comp 378.

N.C. 1944. Since a municipality may act only through its officers and agents, an action against a municipality is an action against a "public officer" within statute providing that actions against a public officer must be tried in county where cause arose, and, if an action against a municipality be instituted in any other county, municipality may, upon motion, have action removed. G.S. § 1–77(2).—Godfrey v. Tidewater Power Co., 32 S.E.2d 27, 224 N.C. 657.—Venue 11, 46.

N.C. 1944. A deputy sheriff is a deputy of the sheriff, one appointed to act ordinarily for the sheriff, and not in his own name, person, or right, and, although ordinarily appointed by the sheriff, is considered a "public officer".—Towe v. Yancey County, 31 S.E.2d 754, 224 N.C. 579.—Sheriffs 17.

N.C. 1939. The "deputy" is an officer coeval in point of antiquity with the sheriff and is one appointed to act ordinarily for the sheriff and not in his own name, person, or right and, although ordinarily appointed by sheriff, is considered a "public officer."—Gowens v. Alamance County, 3 S.E.2d 339, 216 N.C. 107.—Sheriffs 17.

N.C. 1917. Where city charter created office of sinking fund commissioner and authorized aldermen to fix the compensation, the incumbent is a "public officer," as distinguished from employé, and cannot recover compensation upon a quantum meruit.—Borden v. City of Goldsboro, 92 S.E. 694, 173 N.C. 661.

N.C.App. 2002. Private non-profit hospital was a "public officer," within meaning of venue provision for actions against public officers, under which venue is proper in the county in which the cause of action arose, though the hospital operated satellite facilities in nearby counties; hospital was a non-profit corporation organized as a municipal hospital and it was governed by board of trustees who were appointed by county board of commissioners. West's N.C.G.S.A. §§ 1–77(2), 131E–6(5), 131E–9, 131E–12, 131E–20.—Wells v. Cumberland County Hosp. System, Inc., 564 S.E.2d 74, 150 N.C.App. 584.—Venue 11.

N.C.App. 1999. A "public officer," who has immunity from suit for mere negligence in performance of governmental duties, is someone whose position is created by the constitution or statutes of the sovereign.—Hobbs ex rel. Winner v. North Carolina Dept. of Human Resources, 520 S.E.2d 595, 135 N.C.App. 412.—Offic 116.

N.C.App. 1996. Several basic distinctions exist for purposes of categorizing worker as either public officer or public employee; "public officer" is someone whose position is created by Constitution or statutes of sovereign, and essential difference between public office and mere employment is fact that duties of incumbent of office shall involve exercise of some portion of sovereign power, as officers exercise certain amount of discretion, while "public employee" is one who performs ministerial duties.—Meyer v. Walls, 471 S.E.2d 422, 122 N.C.App. 507, review allowed 476 S.E.2d 119, 344 N.C. 438, affirmed in part, reversed in part 489 S.E.2d 880, 347 N.C. 97.—Offic 1.

N.C.App. 1996. Director of county department of social services was "public officer" and was potentially entitled to immunity from action brought against him in his individual capacity by

survivor of estate of mental patient who committed suicide after being committed to custody of county; director's position was created by statute, many of his duties were imposed by law, and he clearly exercised substantial discretionary authority.—Meyer v. Walls, 471 S.E.2d 422, 122 N.C.App. 507, review allowed 476 S.E.2d 119, 344 N.C. 438, affirmed in part, reversed in part 489 S.E.2d 880, 347 N.C. 97.—Counties 88.

N.C.App. 1996. Supervisor of adult protective services unit of county department of social services and social worker for department were each considered to be "public employee" and not "public officer", and both could be held personally liable in their individual capacities, for purposes of action brought against them by administrator of estate of mental patient who committed suicide after being committed to custody of county; positions were neither expressly created by statute nor ones involving exercise of sovereign power.—Meyer v. Walls, 471 S.E.2d 422, 122 N.C.App. 507, review allowed 476 S.E.2d 119, 344 N.C. 438, affirmed in part, reversed in part 489 S.E.2d 880, 347 N.C. 97.—Counties 93.

N.C.App. 1994. City attorney is "public officer"; his position is creation of statute, and his job, the rendering of legal opinions, involves exercise of personal deliberation, decision and judgment. G.S. § 160A–173.—City of Winston-Salem v. Yarbrough, 451 S.E.2d 358, 117 N.C.App. 340, review denied 456 S.E.2d 311, 340 N.C. 110, review denied 456 S.E.2d 519, 340 N.C. 260.—Mun Corp 123.

N.C.App. 1994. Medical examiner is "public officer" and is entitled to governmental immunity if sued in his or her official capacity. G.S. § 130A–382.—Epps v. Duke University, Inc., 447 S.E.2d 444, 116 N.C.App. 305, appeal after remand 468 S.E.2d 846, 122 N.C.App. 198, review denied 476 S.E.2d 115, 344 N.C. 436.—Coroners 6.

N.C.App. 1993. State Department of Transportation's (DOT) district engineer was "public officer" immune from liability for mere negligence, where he was responsible for insuring safety of motoring public at intersections, devising and enforcing system for response to reports of obstructed signs, and for overall supervision of and control over placement, operation and maintenance of traffic control devices.—Reid v. Roberts, 435 S.E.2d 116, 112 N.C.App. 222, review denied 439 S.E.2d 151, 335 N.C. 559.—High 96(1); States 79.

N.C.App. 1993. State Department of Transportation (DOT) employee who served as assistant district maintenance engineer and later as district maintenance engineer was "public officer" immune from liability for mere negligence, where he was responsible for devising and enforcing system for response to reports of obstructed signs, and for overall supervision of and control over placement, operation and maintenance of traffic control devices.—Reid v. Roberts, 435 S.E.2d 116, 112 N.C.App. 222, review denied 439 S.E.2d 151, 335 N.C. 559.—High 96(1); States 79.

N.C.App. 1993. "Public officer" is one whose position is created by either State Constitution or statutes.—Messick v. Catawba County, N.C., 431 S.E.2d 489, 110 N.C.App. 707, review denied 435 S.E.2d 336, 334 N.C. 621.—Offic 1.

N.C.App. 1993. "Public officer" is usually required to take oath of office and is vested with discretionary power, while "public employee" is responsible for executing only ministerial duties; while "discretionary" duties entail exercising some portion of sovereign power and involve personal deliberation, decision, and judgment, "ministerial" duties are those which are absolute, certain, and imperative, involving merely execution of specific duty arising from fixed and designated facts.—Messick v. Catawba County, N.C., 431 S.E.2d 489, 110 N.C.App. 707, review denied 435 S.E.2d 336, 334 N.C. 621.—Offic 1, 110.

N.C.App. 1990. Director of county department of social services, position created by statute, was "public officer", and thus, director was absolutely immune from liability to father, who was falsely accused of sexually abusing his son, for any negligence on director's part in failing to properly train and supervise department employees who conducted investigation resulting in criminal charges.—Hare v. Butler, 394 S.E.2d 231, 99 N.C.App. 693, review denied 399 S.E.2d 121, 327 N.C. 634.—Infants 17; Social S 5.

N.C.App. 1979. Chief jailer of county is a "public officer" within meaning of statute proscribing assault on an officer. G.S. § 14–33(b)(4).—State v. Jones, 254 S.E.2d 234, 41 N.C.App. 189.—Assault 48.

N.D. 1927. A "public officer" is an agency for the state, the duties of which involve in their performance the exercise of some portion of the sovereign power, either great or small.—Kittler v. Kelsch, 216 N.W. 898, 56 N.D. 227, 56 A.L.R. 1217.

Ohio 1950. A "public officer," as distinguished from an "employee", is one who is invested by law with a portion of the sovereignty of the state and who is authorized to exercise functions either of an executive, legislative or judicial character.—State ex rel. Milburn v. Pethtel, 90 N.E.2d 686, 153 Ohio St. 1, 41 O.O. 103.—Offic 1.

Ohio 1943. A "public office" is the right, authority, and duty, created and conferred by law, by which for a given period, either fixed by law or enduring at pleasure of creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for benefit of the public, and an individual so invested is a "public officer".—Scofield v. Strain, 51 N.E.2d 1012, 142 Ohio St. 290, 27 O.O. 236.—Offic 1.

Ohio 1941. A prosecuting attorney is a "public officer" acting as a representative of the people, and in argument to the jury he should be careful to observe the rules and proprieties of argument.—State v. Markowitz, 33 N.E.2d 1, 138 Ohio St. 106, 20 O.O. 63.—Crim Law 713.

Ohio 1935. A "public office" is the right, authority and duty, created and conferred by law, by which for a given period, either fixed by law or

enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public. The individual so invested is a "public officer."—State ex rel. Bricker v. Gessner, 195 N.E. 63, 129 Ohio St. 290, 2 O.O. 198.

Ohio 1931. Office of assistant clerk of county board of election held not a "public office" against incumbent of which quo warranto would lie, since clerk of county board of elections was not a "public officer," but was an employee of the board and subject to dismissal by the board at its discretion, in view of Gen.Code §§ 4785-13, 4785-15, 12303.—State ex rel. Reardon v. McDonald, 178 N.E. 266, 124 Ohio St. 315, 11 Ohio Law Abs. 32.

Ohio 1931. Official stenographer of common pleas court *held* not "public officer," and therefore not entitled to try right to office by quo warranto. Gen.Code, §§ 1546 to 1554, 12303.—State ex rel. Appleman v. Conley, 178 N.E. 207, 124 Ohio St. 265, 11 Ohio Law Abs. 31.—Courts 57(1); Quo W 11.

Ohio 1912. A policeman, who is appointed and commissioned by the .Governor, under sections 3427 and 3428, Revised Statutes, General Code, §§ 9150 and 9151, although his appointment was upon the application of a railroad company, and his salary is paid by such company, is a "public officer," deriving his authority directly from the state.—New York, C. & St. Louis Ry. Co. v. Fieback, 100 N.E. 889, 10 Ohio Law Rep. 536, 87 Ohio St. 254, 43 L.R.A.N.S. 1164.

Ohio 1898. A person employed by the city council to trim lights in its electrical light department is not a "public officer." There is no more reason for calling him such than there would be to call a person employed in the public streets to shovel dirt a "public officer."—State ex rel. Atty. Gen. v. Anderson, 49 N.E. 406, 57 Ohio St. 429, 39 W.L.B. 150.

Ohio App. 1 Dist. 1945. A constable serving a writ of execution under statute relating to enforcement of fine is "public officer" and hence is presumed to act in accordance with law and duty. Gen.Code, § 13454-2.—In re Weber, 61 N.E.2d 502, 75 Ohio App. 206, 30 O.O. 521, 43 Ohio Law Abs. 377.—Evid 83(7).

Ohio App. 2 Dist. 1933. Clerk in department of public service is not "public officer."—State ex rel. Myers v. Halencamp, 189 N.E. 258, 46 Ohio App. 494, 40 Ohio Law Rep. 26, 14 Ohio Law Abs. 635.—Mun Corp 123.

Ohio App. 3 Dist. 1943. The duties imposed on county superintendent of schools pursuant to statute are subject to general control of county board of education, so that superintendent does not independently exercise any sovereign functions, and hence is not a "public officer" exempt from operation of Workmen's Compensation Act, but merely an "employee" of board, so that his death from injuries sustained in course of employment is compensable under such act. Gen.Code, § 1465-61; §§ 4728, 4744-1 (repealed 1943. See § 4832), and § 7702, as amended by 118 Ohio Laws, p. 668 (repealed 1943. See § 4842); Const. art. 2, § 20.—Anderson v. Industrial Commission, 57 N.E.2d 620, 74 Ohio App. 77, 29 O.O. 265, 41 Ohio Law Abs. 237.—Work Comp 382.

Ohio App. 3 Dist. 1934. Assistant sanitary engineer whose employment was limited to engineering work to be performed in connection with county sanitary sewerage district *held* not "public officer" within statute excluding current pay rolls of regular employees and officers, from requirement of certificate that appropriation has been made for payment of contract, so as to entitle such assistant engineer to recover on contract notwithstanding auditor's certificate was not obtained. Gen.Code, 1910, § 5661 (repealed 1927. See § 5625-37) and § 5660 (repealed 1927. See §§ 5625-33, 5625-36), 101 Ohio Laws, p. 37; Gen.Code, § 2793; § 5625-33, 112 Ohio Laws, p. 406; § 6602-1, 110 Ohio Laws p. 392; § 6602-4, 110 Ohio Laws, p. 340; §§ 6602-8, 6602-8a, 107 Ohio Laws, p. 445.—Allen v. Sheipline, 197 N.E. 138, 49 Ohio App. 249, 3 O.O. 193, 17 Ohio Law Abs. 670.—Counties 113(6).

Ohio App. 9 Dist. 1965. Police officer of municipal corporation is "public officer" and as such occupies "public office" within statute authorizing civil action in quo warranto against person unlawfully holding public office. R.C. §§ 2733.01, 2733.02, 2733.04, 2733.05.—State ex rel. Mikus v. Hirbe, 215 N.E.2d 430, 5 Ohio App.2d 307, 34 O.O.2d 490, affirmed 218 N.E.2d 438, 7 Ohio St.2d 104, 36 O.O.2d 85.—Quo W 10.

Ohio App. 9 Dist. 1942. A police officer of municipal corporation is "public officer," whose salary is incident of office itself.—Wright v. City of Lorain, 46 N.E.2d 325, 70 Ohio App. 337, 25 O.O. 89.—Mun Corp 186(1).

Ohio App. 9 Dist. 1927. Attorney employed by municipality under Gen.Code, § 6212--37, is not a "public officer" of any kind either of state or municipality.—State v. Bloz, 155 N.E. 412, 23 Ohio App. 307, 5 Ohio Law Abs. 104.

Ohio App. 10 Dist. 1963. Manager of state liquor store is not a "public officer."—Weiner v. Crouch, 201 N.E.2d 84, 120 Ohio App. 49, 28 O.O.2d 226.—Int Liq 129.5.

Ohio Com.Pl. 2002. A "public officer," in contrast to a public employee, is invested by law with a portion of the sovereignty of the state and is authorized to exercise functions of an executive, legislative, or judicial character for the benefit of the public.—Monarch Constr. Co. v. Ohio School Facilities Comm., 771 N.E.2d 902, 118 Ohio Misc.2d 248, 2002-Ohio-2955, stay granted 771 N.E.2d 941, 118 Ohio Misc.2d 296, 2002-Ohio-2957, reversed 779 N.E.2d 844, 150 Ohio App.3d 134, 2002-Ohio-6281, appeal not allowed 786 N.E.2d 62, 98 Ohio St.3d 1511, 2003-Ohio-1572.—Offic 1.

Ohio Com.Pl. 1955. A prosecuting attorney is a "public officer".—State v. Kearns, 129 N.E.2d 547, 70 Ohio Law Abs. 534.—Dist & Pros Attys 1.

Ohio Com.Pl. 1955. Where a person is legally clothed with independent power to control property of public and with public functions to be exercised in supposed interest of people, for yearly stated salary, and has a designation of title, he is a "public officer".—State v. Kearns, 129 N.E.2d 547, 70 Ohio Law Abs. 534.—Offic 1.

Ohio Com.Pl. 1949. For one to be a "public officer", within constitutional provisions denying right to any change in compensation during term of office, a person must be clothed with independent capacity equal to the act of the sovereign state. Const. art. 2, § 20.—Wilkins v. Trimbur, 86 N.E.2d 503, 39 O.O. 178, 54 Ohio Law Abs. 378.—Offic 100(2).

Okla. 1980. Oklahoma Ordnance Works Authority is a "public officer" within contemplation of venue statute. 12 O.S.1971, § 133.—Oklahoma Ordnance Works Authority v. District Court of Wagoner County, 613 P.2d 746, 1980 OK 100.—States 200.

Okla. 1955. Under statute providing that action against "public officer" for act done by him in virtue, or under color, of his office or for neglect of his official duties must be brought in county where cause, or some part thereof, arose, State Board of Education and members thereof were each public officers within such statute. 12 O.S.1951 § 133 (Okl.St.Ann.).—State ex rel. State Bd. of Ed. v. District Court of Bryan County, 290 P.2d 413, 1955 OK 346.—Venue 11.

Okla. 1941. The statute authorizing an action on the bond of an officer authorizes the maintenance of an action against the surety on the official bond of a bank commissioner by those who sustain damage by willful misconduct in office of a bank commissioner in violation of his statutory duties, though the only obligee named in the bond is the state, since a bank commissioner is a "state officer" and a "public officer". 12 Okl.St.Ann. § 76.—Crews v. American Sur. Co. of New York, 110 P.2d 1108, 188 Okla. 486, 1941 OK 73.—Banks 63.5.

Okla. 1935. Policeman, under charter of city of Tulsa, is "public officer," within rule that where office is created by statute, city charter, or ordinance, and appointment is made to fill such office in compliance with terms of law creating office, person so appointed is "public officer," whose title to office ordinarily cannot be questioned by other claimants except by action in nature of quo warranto.—City of Tulsa v. District Court of Tulsa County, 51 P.2d 511, 174 Okla. 470, 1935 OK 850.—Quo W 11.

Okla. 1926. A guardian or administrator is not a "public officer," and therefore not subject to removal by grand jury accusation in the manner provided by 22 Okl.St.Ann. §§ 1181-1192.—King v. Hepburn, 249 P. 924, 121 Okla. 275, 1926 OK 799.

Okla. 1917. A "public officer" is one whose duties are fixed by law and does not include one employed by contract, and the duration of whose employment depends upon the contract.—Farley v. Board of Ed. of City of Perry, 162 P. 797, 62 Okla. 181, 1917 OK 83.—Offic 1.

Okla.Crim.App. 1946. A legal assistant to a judge of Supreme Court is not a "public officer" or "deputy officer" within statute prohibiting a public officer or deputy officer from holding any other office. 51 Okl.St.Ann. § 6.—Lizar v. State, 166 P.2d 119, 82 Okla.Crim. 56.—Offic 30.5.

Okla.Crim.App. 1941. A "public officer" is one whose duties are fixed by law and who in the discharge of the same knows no guide but established laws.—Ray v. Stevenson, 111 P.2d 824, 71 Okla.Crim. 339.

Okla.Crim.App. 1940. A "public office" is a right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public, and the individual so invested is a "public officer".—Spivey v. State, 104 P.2d 263, 69 Okla.Crim. 397.

Okla.Crim.App. 1938. District maintenance superintendent of the State Highway Commission is a "public officer" within contemplation of statute making it a misdemeanor for an executive officer to take unauthorized emolument for doing an official act, since the authority of such officer is derived from statute, and the duties are exercised for the benefit of the public. 69 Okl.St.Ann. § 21 et seq.; Okl.St.Ann.Const. art. 16, § 1; 21 Okl.St.Ann. §§ 269, 279.—State v. Sowards, 82 P.2d 324, 64 Okla.Crim. 430.—Brib 1(2).

Okla.Crim.App. 1938. A "public office" is a right, authority and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public, and the individual so invested is a "public officer."—State v. Sowards, 82 P.2d 324, 64 Okla.Crim. 430.—Offic 1.

Okla.Crim.App. 1930. A deputy in the office of the county treasurer is a "public officer" within meaning of embezzlement statute. 19 Okl.St.Ann. § 641.—State v. Harris, 288 P. 385, 47 Okla.Crim. 344.—Embez 11(2).

Or. 1934. Police officer or peace officer is "public officer" whose employment may be terminated at authority of appointing power in absence of constitutional or statutory restrictions.—Morris v. Parks, 28 P.2d 215, 145 Or. 481.—Offic 7.

Or. 1928. Captain of ferryboat operated by county, who was required to take oath under federal statute, held "public officer" within meaning of law.—Kaminsky v. Good, 265 P. 786, 124 Or. 618.—Assign 15.

Or. 1922. Under Or.Laws, §§ 1076, 1077, 1080, 1082, ORS 9.010, 9.220, 9.250, 9.460, an attorney is a "public officer."—State ex rel. Young v. Edmunson, 204 P. 619, 103 Or. 243.—Atty & C 14.

Or.App. 2000. Private attorney, even though he was officer of court, was not "public officer" whose income was exempt from city business license tax, as he was engaged in private profession pursued primarily for pecuniary profit.—City of Portland v. Cook, 12 P.3d 70, 170 Or.App. 245, review denied 26 P.3d 150, 332 Or. 56.—Atty & C 9.

Pa. 1970. A person who is a "public officer" under tenure provisions of public school code is not necessarily the holder of a "public office" in the sense used in statute defining appellate jurisdiction in cases involving the right to public office. Act July 31, 1970, Act 223, § 202(2).—Appeal of Bowers, 269 A.2d 712, 440 Pa. 310, on remand 280 A.2d 632, 219 Pa.Super. 269.—Courts 242(1).

Pa. 1960. Member of Delaware River Joint Toll Bridge Commission was a "public officer" who in absence of express agreement or statute was not entitled to compensation for services performed. 36 P.S. § 3401.—Delaware River Joint Toll Bridge Commission v. Carver, 160 A.2d 425, 399 Pa. 545.—Bridges 7.

Pa. 1959. A treasurer or collector of public moneys, including treasurer of a school district, is a "public officer" as distinguished from an "employee."—Buell v. Union Tp. School Dist., 150 A.2d 852, 395 Pa. 567.—Schools 63(0.5).

Pa. 1959. The secretary of a municipality or school district is a "public officer".—Buell v. Union Tp. School Dist., 150 A.2d 852, 395 Pa. 567.—Schools 63(0.5).

Pa. 1958. If the duties of an office are to be exercised for public's benefit and for stipulated compensation paid by public, if term is definite and tenure certain, and if powers, duties, and emoluments become vested in a successor when office becomes vacant, occupant of such office is a "public officer".—Vega v. Borough of Burgettstown, 147 A.2d 620, 394 Pa. 406.—Offic 1.

Pa. 1958. One who has some public duties to perform, but whose work is, in the main, of a ministerial nature, is not to be considered a "public officer".—Vega v. Borough of Burgettstown, 147 A.2d 620, 394 Pa. 406.—Offic 1.

Pa. 1958. One who had been initially appointed as a policeman and subsequently appointed as chief of police was a "public employee", not a "public officer", and, therefore, any sums earned by him in a private capacity during his period of improper dismissal from his position as chief of police was properly deducted from salary due him as chief of police during his suspension due to the purported dismissal.—Vega v. Borough of Burgettstown, 147 A.2d 620, 394 Pa. 406.—Mun Corp 182.

Pa. 1958. A "public officer" is one who is chosen by the electorate, or appointed, for a definite and certain tenure in a manner provided by law to an office whose duties are of a grave and important character, involving some of the functions of government, and are to be exercised for the benefit of the public for a fixed compensation paid out of the public treasury.—Com. ex rel. Foreman v. Hampson, 143 A.2d 369, 393 Pa. 467.—Offic 1.

Pa. 1957. Because of the predominate quasi-judicial functions of the State Labor Relations Board which are performed for the public at large, and not merely for the Legislature as an agent, a member of board was a "public officer" within intent of constitutional prohibition against granting salary increases to public officers after his election or appointment. P.S.Const. art. 2, § 8; art. 3, § 13; art. 5, § 18.—Smiley v. Heyburn, 133 A.2d 806, 389 Pa. 594.—Offic 100(2).

Pa. 1954. A member of the Milk Control Commission is not a "public officer" within constitutional provision stating that no law shall increase or diminish the salary of the public officer after his appointment or election, and therefore member of Milk Control Commission was entitled to legislative salary increases of members of Milk Control Commission which were made during the period he served as a member. P.S.Const. art. 3, § 13; 31 P.S. § 700j–202; 71 P.S. § 70(a).—Snyder v. Barber, 106 A.2d 410, 378 Pa. 377.—States 63.

Pa. 1948. Act limiting to $10,000 a year commissions on inheritance taxes retainable by any register of wills, does not violate constitutional provision prohibiting increase or diminution of salary or emoluments of a public officer after his election or appointment, since register of wills while acting for the commonwealth in the collection of its revenues, does not act in his capacity as a "public officer" but as an agent of the commonwealth. 72 P.S. § 2381; P.S.Const. art. 3, § 13.—Com. ex rel. Duff v. Huston, 61 A.2d 831, 361 Pa. 1.—Offic 100(2).

Pa. 1941. Member of Board of Municipal Authority, formed under Municipal Authorities Act, was a "public officer", and court of common pleas, on suggestion of district attorney, had jurisdiction of quo warranto proceeding to determine right of member of board to office, the authority being an agency of the commonwealth, and the members of the Board of Authority performing essential governmental functions. 53 P.S. §§ 2900f et seq., 2900t.—Com. ex rel. McCreary v. Major, 22 A.2d 686, 343 Pa. 355.—Quo W 11.

Pa. 1940. Philadelphia ordinances decreasing salaries of city and county department employees were not binding on county coroner, who was a "public officer" whose compensation was fixed by legislature, since city council did not have power to diminish his salary. 16 P.S. § 1561.—Schwarz v. City of Philadelphia, 12 A.2d 294, 337 Pa. 500.—Offic 100(2).

Pa. 1940. A county real estate assessor was "public officer" within constitutional provision prohibiting increase or diminution of salary of public officer after his election or appointment. P.S.Const. art. 3, § 13.—Schwarz v. City of Philadelphia, 12 A.2d 294, 337 Pa. 500.—Offic 100(2).

Pa. 1938. "School teachers" are not "public officers" within meaning of constitutional provisions prohibiting the creation of any office the appointment to which shall be for a longer term than during good behavior and forbidding the extension of the term of any "public officer" after his election

or appointment, since the duties of school teachers are not created by statute, but rise directly from their contracts of employment. Const. art. 1, § 24; art. 3, § 13.—Malone v. Hayden, 197 A. 344, 329 Pa. 213.—Schools 133.5.

Pa. 1935. That traction conference board established by agreement of traction company and city for supervisory management of traction company took surplus funds of traction company existing at end of year for distribution to city did not make chairman of traction conference board, who was appointed by mayor, "public officer," so as to be removable by mayor, because such surplus funds were not "public moneys" but were moneys due public. 53 P.S. § 8389; 67 P.S. § 1256; Const. art. 6, § 4.—Finley v. McNair, 176 A. 10, 317 Pa. 278.—Mun Corp 155.

Pa. 1934. Medical inspector appointed under contract with third class school district held not "public officer," subject to removal at pleasure of school board. 24 P.S. § 1501; P.S. Const. art. 6, § 4.—Kosek v. Wilkes-Barre Tp. School Dist., 170 A. 279, 314 Pa. 18.—Schools 63(1).

Pa. 1913. "Public officer," within P.S. Const. art. 3, § 13, prohibiting increase of salary pending term, is one chosen for a definite tenure, as provided by law, whose duties are for the benefit of the public for a stipulated consideration.—Commonwealth ex rel. Wolfe v. Moffitt, 86 A. 75, 238 Pa. 255, Am.Ann.Cas. 211.—Offic 100(2).

Pa. 1909. An officer who exercises important public duties and has delegated to him some of the functions of government, and whose office is for a fixed term, and whose powers and duties and emoluments become vested in a successor when the office becomes vacant, is a "public officer."—Richie v. City of Philadelphia, 74 A. 430, 225 Pa. 511.—Offic 1.

Pa.Super. 1996. A "public officer" is chosen by electorate or appointed for definite and certain tenure in a manner provided by law office whose duties are of grave and important character, involving some function of government, and to be exercised for benefit of public for a fixed compensation paid out of public treasury.—Com. v. Spano, 679 A.2d 240, 451 Pa.Super. 226, reversed 701 A.2d 566, 549 Pa. 501.—Offic 1.

Pa.Super. 1964. A "public officer" is chosen by electorate or appointed for a definite and certain tenure in manner provided by law to an office whose duties are of grave and important character, involving some of the functions of government, and to be exercised for benefit of public for a fixed compensation paid out of public treasury. P.S.Const. art. 12, § 2.—In re Stanley, 201 A.2d 287, 204 Pa.Super. 29.—Offic 1.

Pa.Super. 1949. One whose duties are of grave and important character, and involve some of the functions of government is a "public officer".—Com. v. Gallagher, 69 A.2d 432, 165 Pa.Super. 553.—Offic 1.

Pa.Super. 1949. Fire marshal of the City of Philadelphia is a "public officer" within statute defining offense of extortion by a "public officer". 18 P.S. § 4318; 53 P.S. §§ 3542, 3591 et seq.—Com. v. Gallagher, 69 A.2d 432, 165 Pa.Super. 553.—Extort 1.

Pa.Super. 1949. Chief assistant fire marshal of the City of Philadelphia was a "public officer" within statute defining offense of extortion by a "public officer". 18 P.S. § 4318.—Com. v. Hopkins, 69 A.2d 428, 165 Pa.Super. 561.—Extort 1.

Pa.Super. 1945. An officer of the commonwealth is generally regarded as a "public officer".—Com. v. Bausewine, 40 A.2d 919, 156 Pa.Super. 535, reversed 46 A.2d 491, 354 Pa. 35.—Offic 1.

Pa.Super. 1941. In larceny prosecution of private detective, trial court properly refused his requested instruction that an officer making an arrest pursuant to a legal warrant is presumed to be acting lawfully, in view of the fact that the act under which private detective was licensed does not make him a "public officer". 22 P.S. § 1 et seq.—Com. v. Quinn, 19 A.2d 526, 144 Pa.Super. 400.—Crim Law 778(1).

Pa.Super. 1940. In determining whether a position is an "office" or an "employment", it is generally a question of the nature of the service to be performed by the incumbent, and of the duties imposed upon him, and whenever it appears that those duties are of a grave and important character involving in the proper performance of them some of the functions of government, the officer charged with them is to be regarded as "public officer". P.S.Const. art. 6, § 4.—Hetkowski v. School Dist. of Borough of Dickson City, 15 A.2d 470, 141 Pa.Super. 526.—Offic 1.

Pa.Super. 1939. The superintendent of bureau of police, department of public safety of city of Philadelphia, was a "public officer" and was subject to indictment for misbehavior in office.—Com. v. Hubbs, 8 A.2d 618, 137 Pa.Super. 244.—Mun Corp 190.

Pa.Super. 1939. Ordinances of city of Philadelphia diminishing salaries of employees of city, county or other departments who were paid by city in absence of evidence showing unequivocal voluntary donations out of salary to city would not effect diminution of salary of real estate assessor of county of Philadelphia, since assessor was "public officer" whose compensation was fixed by statute and could not be diminished by city. 72 P.S. § 4984.—Schwarz v. City of Philadelphia, 4 A.2d 573, 134 Pa.Super. 544, reversed 12 A.2d 294, 337 Pa. 500.—Tax 2438.

Pa.Super. 1939. Under ordinances of city of Philadelphia diminishing salaries of employees of city, county or other departments who were paid by city, tipstaff in municipal court, whose salary was not fixed by act of assembly but by action of the court, which could dismiss or discharge him at will, and could increase or decrease his salary, was not a "public officer" and salary was subject to diminution.—Schwarz v. City of Philadelphia, 4 A.2d 573, 134 Pa.Super. 544, reversed 12 A.2d 294, 337 Pa. 500.—Courts 58.

Pa.Super. 1939. Ordinances of city of Philadelphia diminishing salaries of "employees" of city, county or other departments who are paid by city did not effect diminution of salary of coroner of county of Philadelphia, since coroner was "public officer" whose compensation was fixed by statute and could not be diminished by city. 16 P.S. § 1561.—Schwarz v. City of Philadelphia, 4 A.2d 573, 134 Pa.Super. 544, reversed 12 A.2d 294, 337 Pa. 500.—Offic 100(2).

Pa.Super. 1937. A "court crier" is not a "public officer," but is a mere "employee" or "attaché" of court whom court may appoint and remove at will.—Werkman v. Westmoreland County, 194 A. 344, 128 Pa.Super. 297.—Courts 58.

Pa.Super. 1937. Ordinances of city of Philadelphia diminishing salaries of "employees" of city, county, or other departments who were paid by city held not to effect diminution of salary of magistrate of city and county of Philadelphia, since magistrate was "public officer" whose compensation was fixed by Legislature and could not be diminished by city. 42 P.S. §§ 1067, 1075; Const. art. 5, § 12, as amended in 1909; § 13.—Patton v. City of Philadelphia, 190 A. 670, 126 Pa.Super. 212.—Judges 22(7).

Pa.Super. 1934. Indictment charging accused with bribing inspector for state alcohol permit board as state public officer to influence him in discharge of his duties was good under common law, even if inspector was mere subordinate ministerial agent or employee and not "public officer" within statutes. 18 P.S. §§ 1, 3.—Com. v. Benedict, 173 A. 850, 114 Pa.Super. 183.—Brib 6(1).

Pa.Super. 1934. Township commissioners are within constitutional provision forbidding increase in salary of "public officer" during term for which elected. P.S. Const. art. 3, § 13.—In re Bowman, 170 A. 717, 111 Pa.Super. 383.—Offic 100(2).

Pa.Super. 1934. Constitutional prohibition of extension of term or increase or diminution of salary of "public officer" after his election or appointment is not limited to constitutional officers.—In re Bowman, 170 A. 717, 111 Pa.Super. 383.—Offic 100(2).

Pa.Super. 1933. Medical inspector appointed under contract with school district was "employee," not "public officer," and therefore was not removable at pleasure. P.S. Const. art. 6, § 4; 24 P.S. §§ 1501, 1505, 1506.—Kosek v. Wilkes-Barre Tp. School Dist., 168 A. 518, 110 Pa.Super. 295.—Schools 63(1).

R.I. 1969. Arbitrator appointed pursuant to provisions of Firefighters' Arbitration Act is a "public officer" and collectively the three arbitrators constitute a "public agency" and delegation of powers to arbitrators was not unconstitutional on theory that delegation was to private persons. Gen.Laws 1956, §§ 28-9.1-9, 28-9.1-10; Const. art. 4, § 2.—City of Warwick v. Warwick Regular Firemen's Ass'n, 256 A.2d 206, 106 R.I. 109.—Const Law 64; Labor & Emp 1510.

S.C. 1948. Under the statute creating the office of chief highway commissioner with four-year term, subject to commissioner's right of removal or discharge, the office constitutes a "public office", and the incumbent is a "public officer." Code 1942, § 5868.—State ex rel. Williamson v. Wannamaker, 48 S.E.2d 601, 213 S.C. 1.—States 44.

S.C. 1943. Where the right, authority, and duty of a deputy sheriff are created by statute, and he is invested with some portion of the sovereign functions of the government to be exercised in behalf of the public, he is a "public officer", and it can make no difference that the appointment is made by the sheriff.—Willis v. Aiken County, 26 S.E.2d 313, 203 S.C. 96.—Sheriffs 79.

S.C. 1938. A municipal corporation being part of state's sovereign power, its police chief, charged with preservation of peace and order of municipality and enforcement of its laws, in which public is concerned, is "public officer."—Edge v. Town of Cayce, 197 S.E. 216, 187 S.C. 171.—Mun Corp 182.

S.C. 1908. A grand juror is not a "public officer" to be commissioned by the Governor, within the statute construing the term "public officers" to mean all officers of the state that have heretofore been commissioned by the Governor, etc.—State v. Graham, 60 S.E. 431, 79 S.C. 116.

S.C. 1907. Civ.Code 1902, § 785 (See Code 1942, § 3848), provides that the county board of commissioners shall have general supervision of the county poorhouse; and section 786 (See Code 1942, § 3849), declares that the board shall be empowered to appoint a superintendent, with such assistance as may be needed to provide means for the employment of the inmates. Act 1901, 23 St. at Large, p. 754, declares that the term "public officer" shall include all officers of the state previously commissioned, the trustees of the various colleges of the state, members of the various state boards, dispensary constables, and other persons whose duties are defined by law. Held, that a poorhouse superintendent appointed by a county board of commissioners was a public officer.—Sanders v. Belue, 58 S.E. 762, 78 S.C. 171.—Paupers 4.

S.D. 1988. Instructor, farm supervisor and department head at postsecondary vocational technical school was not "public officer," for purposes of statute providing that every public officer, being authorized to sell or lease any property or make any contract in his official capacity, who voluntarily becomes interested individually in such sale, lease or contract, directly or indirectly, is guilty of class 2 misdemeanor; instructor's position and duties were created by contract, instructor was not elected or appointed to his position and instructor did not exercise any sovereign function of government. SDCL 3-16-7, 13-39-1.2 et seq., 13-43-15.—Seymour v. Western Dakota Vocational Technical Institute, 419 N.W.2d 206.—Colleges 8(1).

S.D. 1942. Whether county highway superintendent is "public officer" excluded from operation of Workmen's Compensation Law, must be determined by consideration of nature of services to be performed and duties imposed on him. SDC 64.0102.—Griggs v. Harding County, 3 N.W.2d 485, 68 S.D. 429.—Work Comp 381.

S.D. 1942. A county highway superintendent was a "public officer" and not an "employee", so that his death was not compensable, where powers bestowed by law were permanent, were performed independently and without county board's control, with appeal to state highway commission on disagreement with board. SDC 28.0304, 64.0102.—Griggs v. Harding County, 3 N.W.2d 485, 68 S.D. 429.—Work Comp 381.

S.D. 1936. Constitutional county officer is "public officer" within constitutional prohibition against increasing or diminishing compensation of public officer during his term of office. Const. art. 12, § 3.—Clark v. Board of Com'rs of Clark County, 267 N.W. 138, 64 S.D. 417.—Offic 100(2).

S.D. 1934. Constitutional provisions prohibiting Legislature from increasing or diminishing compensation of any "public officer" during his term of office, or enacting private or special laws increasing or decreasing fees, percentages, or allowances of public officer during his term, held to include all constitutional officers, county as well as state, so that salary of register of deeds could not be changed by statute during term for which she was elected. Laws 1933, c. 71; Const. art. 3, § 23; art. 12, § 3.—State ex rel. Lamm v. Spartz, 255 N.W. 797, 62 S.D. 593.—Offic 100(2).

Tenn. 1949. Veterans Service Officer appointed under statute authorizing County Courts of several counties, in state and governing bodies of each municipal corporation of state, jointly, or severally, to employ county service officer for purpose of advising and assisting United States veterans and dependents is not a "public officer" but an employee by contract and may be discharged as an employee. Williams' Code, §§ 1012.18–1012.20.—State ex rel. Lawson v. Farmer, 225 S.W.2d 60, 189 Tenn. 276.—Counties 67.

Tenn. 1906. Members of a building committee appointed by a county court to contract for the erection of a courthouse are "public officers," within Acts 1899, p. 358, c. 182, making it a misdemeanor for any "public officer" to award a contract for any public work without requiring the bond provided for in the act.—W. T. Hardison & Co. v. Yeaman, 91 S.W. 1111, 115 Tenn. 639.

Tenn.Ct.App. 1991. Chief of police is a "public officer" for purpose of determining his entitlement to protection of city charter provisions dealing with city employees.—Dingman v. Harvell, 814 S.W.2d 362, appeal denied.—Mun Corp 182.

Tenn.Ct.App. 1978. The director of law is a "public officer" or "official" of the metropolitan government.—Sitton v. Fulton, 566 S.W.2d 887.—Mun Corp 123.

Tex. 1955. An assessor-collector of taxes, appointed by school district board of trustees, is not a "public officer" within constitutional provisions that named county officers may be removed by district court judges for certain causes and that duration of offices not fixed by Constitution shall never exceed two years, so that he is not entitled to hold office for two years unless removed by district judge, but is subject to removal by board, in absence of any statutory provision for his removal. Vernon's Ann. Civ.St. arts. 27528, 2763a, § 1, 2792; Vernon's Ann.St.Const. art. 5, § 24; art. 16, § 30.—Aldine Independent School Dist. v. Standley, 280 S.W.2d 578, 154 Tex. 547.—Schools 103(0.5), 106.4(1).

Tex.Com.App. 1930. Assessor and collector of city taxes was "public officer," and Legislature could impose additional duty to collect taxes of school district. Loc. & Sp.Laws 1925, c. 230.—First Baptist Church v. City of Fort Worth, 26 S.W.2d 196.—Schools 106.4(1).

Tex.Crim.App. 1994. Determining factor which distinguishes "public officer" from employee is whether any sovereign function of government is conferred upon individual to be exercised by him for benefit of public largely independent of control of others.—Powell v. State, 898 S.W.2d 821, rehearing denied, certiorari denied 116 S.Ct. 524, 516 U.S. 991, 133 L.Ed.2d 431.—Offic 1.

Tex.Crim.App. 1937. A school district collector and assessor of taxes is a "public officer."—Dupuy v. State, 106 S.W.2d 287, 132 Tex.Crim. 539.—Schools 106.4(1).

Tex.Crim.App. 1933. Deputy sheriff is "public officer."—Murray v. State, 67 S.W.2d 274, 125 Tex. Crim. 252.—Sheriffs 17.

Tex.Civ.App.–Fort Worth 1931. Deputy county clerk *held* "public officer" within constitutional provision limiting duration of offices not fixed by Constitution to two years; hence could not sue for wrongful discharge after having served four years after appointment. Vernon's Ann.St. Const. art. 16, § 30.—Donges v. Beall, 41 S.W.2d 531, writ refused.—Offic 49.

Tex.Civ.App.–Austin 1946. An official court reporter or stenographer is not a "public officer" within meaning of constitutional prohibition against local laws creating offices, or prescribing powers and duties of officers, in counties, but is simply an employe of the state. Vernon's Ann.St.Const. art. 3, § 56.—Tom Green County v. Proffitt, 195 S.W.2d 845.—Statut 100(2), 103.

Tex.Civ.App.–Texarkana 1964. Determining factor which distinguishes "public officer" from employee is whether any sovereign function of government is conferred on individual to be exercised by him for public largely independent of control of others.—Northwestern Nat. Life Ins. Co. v. Black, 383 S.W.2d 806, ref. n.r.e.—Offic 1.

Tex.Civ.App.–Amarillo 1925. The word "emolument," in Vernon's Ann.St.Const. art. 16, § 40, forbidding any person to hold more than one civil office of emolument means pecuniary profit, gain, or advantage, and school trustee, who receives no pay, though a "public officer" does not hold "civil office of emolument," and hence does not vacate office by accepting position of alderman.—Thomas v. Abernathy County Line Independent School Dist., 278 S.W. 312, reversed 290 S.W. 152.

Tex.Civ.App.–Beaumont 1957. Determining factor which distinguishes a "public officer" from an

"employee" is whether any sovereign function of the government is conferred upon the individual to be exercised by him for the benefit of the public largely independent of the control of others.—City of Groves v. Ponder, 303 S.W.2d 485, ref. n.r.e.—Offic 1.

Tex.Civ.App.–Tyler 1967. A notary public is a "public officer" and is required to take official oath of office and execute a bond for faithful performance of duties of his office. Vernon's Ann.Civ.St. art. 5949, subd. 7.—Lawyers Sur. Corp. v. Gulf Coast Inv. Corp., 410 S.W.2d 654, ref. n.r.e. 416 S.W.2d 779.—Notaries 2.

Tex.Civ.App.–Galveston 1949. A "public office" is the right to exercise a public function or employment and take the fees and emoluments belonging to it and an individual invested with such an office is a "public officer" who is a person who exercises some function of the government or is commissioned or authorized to perform any public duty.—Dunbar v. Brazoria County, 224 S.W.2d 738, writ refused.—Offic 1.

Tex.Civ.App.–Galveston 1949. The determining factor which distinguishes a "public officer" from an "employee" is whether any sovereign function of the government is conferred upon the individual to be exercised by him for the benefit of the public largely independent of the control of others.—Dunbar v. Brazoria County, 224 S.W.2d 738, writ refused.—Offic 1.

Tex.Civ.App.–Galveston 1949. The incumbent of the office of County Road Engineer provided for by the statute is not a "public officer" within the meaning of the Constitution and the incumbent thereof who is a member of the administrative personnel of the County Road Department is subject to removal by the Commissioner's Court by a majority vote of the Commissioner's Court. Vernon's Ann.Civ.St. art. 6716–1 et seq.; Vernon's Ann.St.Const. art. 5, §§ 8, 24; art. 16, § 30.—Dunbar v. Brazoria County, 224 S.W.2d 738, writ refused.—Counties 67; High 93.

Utah 1905. One appointed court stenographer, though for a single case only, by the judge, under Sess.Laws 1899, pp. 111, 112, c. 72, is in the discharge of his duties a "public officer," so that the contract of the parties to pay him more than provided by the statute for transcribing the testimony is void, as against public policy.—Dull v. Mammoth Min. Co., 79 P. 1050, 28 Utah 467.

Vt. 1979. Where a party assumes to give to an officer special instructions different from his legal duty in regard to execution of process in his hands, officer ceases to be a "public officer" in regard to business so entrusted to him and becomes a "private agent." 12 V.S.A. §§ 693, 2731; 24 V.S.A. § 293.—Dowlings, Inc. v. Mayo, 409 A.2d 588, 137 Vt. 548.—Execution 121.

Vt. 1942. The function of relieving the poor is properly "governmental" in its character and the overseer of the poor is not a general agent of the town or city but is rather a "public officer", since his authority is not delegated to him by the municipality but is conferred by law.—Nadeau v. Marchessault, 24 A.2d 352, 112 Vt. 309.—Paupers 7.

Vt. 1937. A deputy sheriff is recognized by statutes as a "public officer," and to him as such is intrusted a portion of the state's sovereign authority, and his duties are performed in exeuction of law and in exercise of power and authority bestoved by law. P.L. 3403, 3405.—Gross v. Gates, 194 A. 465, 109 Vt. 156.—Sheriffs 77.

Vt. 1937. Where a party assumes to give to an officer special instructions different from his legal duty in regard to execution of process in his hands, officer ceases to be a "public officer" in regard to business so intrusted to him and becomes a "private agent."—Gross v. Gates, 194 A. 465, 109 Vt. 156.—Sheriffs 87.

Va. 1915. A deputy county treasurer is a "public officer."—Powers v. Hamilton, 86 S.E. 98, 117 Va. 810.

Wash. 1972. City police officer is "public officer" within statute proscribing bribery of public officer. RCWA 9.18.010.—State v. White, 500 P.2d 1242, 81 Wash.2d 223.—Brib 1(2).

Wash. 1965. A regularly appointed, constituted and sworn police officer is a "public officer" within meaning of bribery statute. RCWA 9.18.010.—State v. Austin, 400 P.2d 603, 65 Wash.2d 916.—Brib 1(2).

Wash. 1958. Defendant, who was manager of division of general administration of state and in that capacity was manager of state's surplus property warehouse and in charge of federally owned surplus property allocated for use within state, was a "public officer" within statute providing that every person who having any property in his possession as public officer, shall appropriate same to his own use shall be guilty of larceny. RCW 9.54.010(3), 39.32.010 et seq.; Federal Property and Administrative Service Act of 1949, § 203(j) as amended 40 U.S.C.A. § 484(j).—State v. Holt, 324 P.2d 793, 52 Wash.2d 195.—Embez 21.

Wash. 1950. A justice of peace who was also police judge and whose duties as police judge were performed in his capacity as justice of peace was "public officer" whose compensation as police judge could not be increased during term for which he was elected. Rem.Rev.Stat. §§ 7564, 7571; Rem.Supp.1941, § 8992; Const. art. 2, § 25; art. 3, § 25; art. 4, §§ 10, 13; art. 11, § 8.—City of Everett v. Johnson, 224 P.2d 617, 37 Wash.2d 505.—Judges 22(7).

Wash. 1944. The distinguishing characteristic of a "public officer" is that in an independent capacity he is clothed with some part of sovereignty of state to be exercised in the interest of the public as required by law.—State ex rel. Brown v. Blew, 145 P.2d 554, 20 Wash.2d 47.—Offic 1.

Wash. 1944. Superior court reporter, though designated by statute as an officer of the court, being vested with no sovereign power of government is not a "public officer" within constitutional prohibition against increasing or diminishing com-

pensation of any public officer during his term of office. Laws 1913, c. 126, § 2 and §§ 3, 5, as amended by Laws 1943, c. 69, §§ 2, 4; Const. art. 2, § 25.—State ex rel. Brown v. Blew, 145 P.2d 554, 20 Wash.2d 47.—Offic 100(2).

Wash. 1937. A "public office" is an agency for the state, and the person whose duty it is to perform the agency is a "public officer." Every office is considered "public," the duties of which concern the public. The true test of a "public office" seems to be that it is a parcel of the administration of government. "Public office" has respect to a permanent trust to be exercised in behalf of the government, or of all citizens who may need the intervention of a public functionary or officer, and in all matters within the range of the duties pertaining to the character of the trust. Whoever has a public charge or employment affecting the public is said to hold or to be in "office." Where by virtue of law, a person is clothed not as an incidental or transient authority, but for such time as denotes duration and continuance, with independent power to control the property of the public, or with public functions to be exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is a "public office."—State ex rel. Hand v. Superior Court of Grays Harbor County, 71 P.2d 24, 191 Wash. 98.

Wash. 1929. Policeman is "public officer," within statute against grafting. Rem.Comp.Stat. § 2333.—State v. Worsham, 283 P. 167, 154 Wash. 575.—Brib 1(2).

Wash. 1929. In prosecution for grafting, instructions that police officer was "public officer," that state need not show defendant attempted to influence officer, and that it was immaterial whether third person was guilty of offense for which he had been arrested, held proper. Rem.Comp.Stat. § 2333.—State v. Worsham, 283 P. 167, 154 Wash. 575.—Brib 14.

Wash. 1929. City fireman is "public officer" engaged in governmental duty.—Benefiel v. Eagle Brass Foundry, 282 P. 213, 154 Wash. 330.—Mun Corp 194.

Wash. 1919. Commissioner of port district is a public officer within Const. art. 2, § 25, prohibiting increase or decrease in compensation of "public officer" during his term of office.—State v. Wardall, 183 P. 67, 107 Wash. 606.—Offic 100(2).

Wash.App. Div. 1 1992. Defendant convicted of bribery was not denied equal protection because prosecutor did not charge him with being public officer who had accepted compensation for performance of official duties, which was lesser offense; defendant's essentially clerical responsibility of collecting and alphabetizing traffic citations did not make him a "public officer" for purposes of that statute. West's RCWA 9A.04.110(13), 9A.68.010(1)(b), 42.20.010; U.S.C.A. Const. Amend. 14.—State v. Liewer, 829 P.2d 236, 65 Wash.App. 641, opinion corrected.—Brib 1(2); Const Law 250.1(3); Crim Law 29(5.5).

Wash.App. Div. 1 1971. Term "public officer" within ordinance providing that every person who, after due notice, shall refuse or neglect to make or furnish a statement, report or information lawfully required of him by any public officer shall be guilty of a misdemeanor is broad enough to include a police officer.—City of Mountlake Terrace v. Stone, 492 P.2d 226, 6 Wash.App. 161.—Mun Corp 631(1).

Wash.App. Div. 2 1992. "Public officer," for purposes of offenses of misappropriation of or injury to record by public officer, includes assistants, deputies, clerks, and employees of any public officer, rather than more restrictive common-law definition of public officer. West's RCWA 9A.04.110(13), 40.16.020.—State v. Korba, 832 P.2d 1346, 66 Wash.App. 666.—Records 22.

Wash.App. Div. 3 1970. Fireman is "public officer."—State ex rel. Beck v. Carter, 471 P.2d 127, 2 Wash.App. 974.—Mun Corp 194.

W.Va. 1996. Assistant prosecuting attorney is not "public officer" for purposes of State Constitution's citizenship requirement; although assistant prosecuting attorney may perform same duties as his principal, any authority remains subject to ultimate authority and control of prosecutor. Const. Art. 4, § 4; Code, 7–7–8.—State v. Macri, 487 S.E.2d 891, 199 W.Va. 696, rehearing refused.—Dist & Pros Attys 3(4).

W.Va. 1996. Assistant prosecuting attorney is "public officer" and is ineligible to serve as member of any county board of education. Code, 18–5–1a.—State v. Macri, 487 S.E.2d 891, 199 W.Va. 696, rehearing refused.—Offic 30.1.

W.Va. 1995. Conservation officer employed by Department of Natural Resources is "public officer" and official entitled to benefit of doctrine of qualified or official immunity.—Clark v. Dunn, 465 S.E.2d 374, 195 W.Va. 272.—Game 6.

W.Va. 1985. Public school teacher was not "public officer" subject to removal under statute providing for removal of public officers for official misconduct [Code, 6–6–7].—Mullins v. Kiser, 331 S.E.2d 494, 175 W.Va. 56.—Schools 147.14.

W.Va. 1965. State treasurer is "public officer".—State ex rel. Charleston Mail Ass'n v. Kelly, 143 S.E.2d 136, 149 W.Va. 766.—States 68.

W.Va. 1953. A justice of the peace is a "public officer".—State ex rel. Ralich v. Millsop, 76 S.E.2d 737, 138 W.Va. 599.—J P 1.

W.Va. 1953. A city council member, who is elected for a term of years, and who receives remuneration for his services as a member of the council, is a "public officer" of the municipal corporation.—State ex rel. Ralich v. Millsop, 76 S.E.2d 737, 138 W.Va. 599.—Mun Corp 123.

W.Va. 1951. A county health officer, appointed pursuant to statute by state board of health on recommendation of county court, is a "public officer" within constitutional provision prohibiting increasing or decreasing of salary of "public officer" during his term of office. Code, 6–6–7, 16–2–1;

Const. art. 6, § 38.—Schwartz v. County Court of Hancock County, 68 S.E.2d 64, 136 W.Va. 626.—Health 365.

W.Va. 1946. The judge of criminal court of Harrison county is vested with governmental power and, in the performance of his official duties, he exercises, to the extent necessary to discharge them, the sovereign power of the state, and hence he is a "public officer" within constitutional provision that salary of a public officer shall not be increased or diminished during his term of office. Acts 1909, c. 27; Const. art. 6, § 38.—Harbert v. Harrison County Court, 39 S.E.2d 177, 129 W.Va. 54.—Judges 22(7).

W.Va. 1945. A county superintendent of schools is a "public officer" within meaning of constitutional provision prohibiting either the increasing or decreasing of salary of any public officer during his term of office. Code, 18–4–1, 18–4–2, 18–4–4; Const. art. 6, § 38.—Jackson v. Board of Ed. of Kanawha County, 35 S.E.2d 852, 128 W.Va. 154.—Offic 100(2).

W.Va. 1943. County superintendent of schools armed by statute with governmental power to nominate teachers and principals, and to assign, transfer, suspend, promote or dismiss other school employees, was a "public officer" to whom the doctrine of de facto officials applied. Acts 1941, c. 33.—Rowan v. Board of Education of Logan County, 24 S.E.2d 583, 125 W.Va. 406.—Schools 133.1(3), 147.4.

W.Va. 1932. Supervisor of schools of independent school district *held* "teacher" and not "public officer" within statute relating to removal of appointive officers (Acts 1917, c. 78; Code 1931, 6–6–8, 18–1–1).—State v. Martin, 163 S.E. 850, 112 W.Va. 174.—Schools 147.4.

W.Va. 1923. To constitute one a "public officer," his office must be created by law.—State ex rel. Key v. Bond, 118 S.E. 276, 94 W.Va. 255.—Offic 1.

W.Va. 1923. The chief distinction between a "public officer" and a "public agent" is that the duties of the former are generally continuing in their nature, while those of the latter are special and occasional or intermittent.—State ex rel. Key v. Bond, 118 S.E. 276, 94 W.Va. 255.—Offic 1.

W.Va. 1923. Under section 8, art. 4, of the Constitution, the term "public agent" means one engaged temporarily and specially in the performance of public duties, prescribed by law, and, as such, vested for the time being with some portion of sovereign authority to represent the state in contractual relations with third persons; the chief distinction between a "public officer" and a "public agent," as the terms are there used, is that the duties of the former are generally continuing in their nature, while those of the latter are special and occasional or intermittent.—State ex rel. Key v. Bond, 118 S.E. 276, 94 W.Va. 255.—Offic 2.

W.Va. 1923. One employed by the Secretary of State, and designated by him as his "chief clerk," but whose position as such is not created by law, and who takes no oath, executes no bond, has no fixed tenure, and performs no duties except such as may be required by the Secretary of State, is not a "public officer," or "public agent," within the meaning of section 8, art. 4, of the Constitution, but a mere employee.—State ex rel. Key v. Bond, 118 S.E. 276, 94 W.Va. 255.—States 74.

Wis. 1964. Term "public officer" in constitutional provision providing that compensation of public officer shall not be increased or diminished during his term of office includes justices of the Supreme Court and judges of the circuit courts. W.S.A.Const. art. 4, § 26.—State ex rel. Sachtjen v. Festge, 130 N.W.2d 457, 25 Wis.2d 128.—Judges 22(7).

Wis. 1964. Circuit judge was "public officer" within constitutional prohibition against increase or diminution of compensation of public officer during his term of office. W.S.A. Const. art. 4, § 26.—State ex rel. Sullivan v. Boos, 126 N.W.2d 579, 23 Wis.2d 98.—Judges 22(7).

Wis. 1953. A city police patrolman is not a "public officer" in sense of having a salary attached to his position which would be due to him if he were wrongfully suspended or ousted from such position irrespective of whether he had sustained any actual damage thereby.—Matczak v. Mathews, 60 N.W.2d 352, 265 Wis. 1.—Mun Corp 186(4).

Wis. 1953. City police patrolman was a "public officer" within statutory provision that where defendant in any action, writ or special proceeding, except in actions for false arrest, is a public officer and is proceeded against in his official capacity, and jury or court finds that he acted in good faith, the judgment as to damages and costs entered against officer shall be paid by state or political subdivision of which he is an officer, so that a person who was allegedly shot by city police patrolman was entitled to maintain action against city as well as patrolman for injuries. St.1951, § 270.58.—Matczak v. Mathews, 60 N.W.2d 352, 265 Wis. 1.—Mun Corp 189(1), 747(3).

Wis. 1950. Village attorney was a "public officer" who could be appointed or elected. St.1949, §§ 61.19, 61.34.—Thompson v. Village of Whitefish Bay, 42 N.W.2d 462, 257 Wis. 151.—Mun Corp 129; Offic 5.

Wis. 1946. A police patrolman was not a "public officer" but was a city "employee", so that where he had earned and received a greater amount during period of his improper suspension than salary he would have received had he worked in police department, he was not entitled to recover salary he would have earned had he not been suspended. St.1941, §§ 62.09(1)(a), 62.09(13).—Heffernan v. City of Janesville, 21 N.W.2d 651, 248 Wis. 299.—Mun Corp 186(4).

Wis. 1942. Wrongfully dismissed pipeman in city's fire department was not a "public officer" within meaning of rule that a de jure officer cannot recover from a municipality money paid to a de facto officer, and hence payment by city of salary which pipeman was entitled to receive, to another

pipeman, was no defense to pipeman's action against city to recover damages for unlawful dismissal and failure to rehire. St.1937, § 62.13(5m)(a)(b)(c).—Olson v. City of Superior, 2 N.W.2d 718, 240 Wis. 108.—Mun Corp 198(1); Offic 101.

Wis. 1941. Fact that president of state university was by virtue of his position an ex officio member of board of regents for state university, did not make him a "public officer", even though a person appointed as such might be. St.1937, § 36.02.—Martin v. Smith, 1 N.W.2d 163, 239 Wis. 314, 140 A.L.R. 1063.—Colleges 7; Offic 1.

Wis. 1941. A person employed cannot be a "public officer", however chosen, unless there is devolved upon him by law the exercise of some portion of the sovereign power of the state in the exercise of which the public has a concern.—Martin v. Smith, 1 N.W.2d 163, 239 Wis. 314, 140 A.L.R. 1063.—Offic 1.

Wis. 1941. Whether a person occupying a position of public employment is a "public officer" is not determined by salary paid to him or by importance of duties which he performs, or by manner in which he is chosen, but rather by the nature of the duties he performs.—Martin v. Smith, 1 N.W.2d 163, 239 Wis. 314, 140 A.L.R. 1063.—Offic 1.

Wis. 1915. Under Const. art. 4, § 26 (W.S.A.), declaring that the compensation of a public officer shall not be increased or diminished during his term, a circuit judge is a "public officer."—State ex rel. Wickham v. Nygaard, 150 N.W. 513, 159 Wis. 396, Am.Ann.Cas. 1917A,1065.—Judges 22(7).

### PUBLIC OFFICER OR EMPLOYEE

N.Y.Sup. 1977. An attorney, a member of indigent defendants legal panel designed to provide counsel to indigent offenders, assigned to represent a defendant in a criminal case was not exercising functions of any "public officer or employee" and was not specially retained to perform some government service and hence was not guilty of attempted grand larceny in first degree by extortion or attempted coercion in the second degree because he allegedly requested and accepted a certain sum from such defendant as condition of representing him. Penal Law §§ 10.00, subd. 15, 10.00 comment; County Law § 722–b.—People v. Matalon, 400 N.Y.S.2d 303, 92 Misc.2d 254.—Atty & C 33.

Pa.Cmwlth. 1990. Wastewater treatment expert serving as consultant to joint sewer authority under consulting agreement was not a "public officer or employee" within meaning of provision of the Sunshine Act providing that agency may hold a closed, executive session to discuss a personnel matter involving a public officer or employee employed or appointed by the agency; consultant's contract clearly limited authority's ability to remove him from his position, suggesting that he was not an employee, who could be terminated at will of employer. 65 P.S. § 278(a)(1).—Easton Area Joint Sewer Authority v. The Morning Call, Inc., 581 A.2d 684, 135 Pa.Cmwlth. 363.—Admin Law 124; Mun Corp 204.

### PUBLIC OFFICER OR OFFICIAL

N.D.Ga. 1964. Even if director of athletics at state university was a professor or instructor, and not an agent of separate governmental corporation carrying on business comparable in all essentials to those usually conducted by private owners, he would not be a "public officer or official" under rule that prohibits a public official from recovering damages for defamatory falsehood relating to his official conduct unless he proves that statement was made with actual malice.—Butts v. Curtis Pub. Co., 242 F.Supp. 390.—Libel 48(2).

Tenn.Ct.App. 1990. Town recorder who was appointed by board of aldermen was a "public officer or official," not an employee and, thus, he was not entitled to benefit of town's employee personnel policies established by ordinance.—Gamblin v. Town of Bruceton, 803 S.W.2d 690.—Mun Corp 125.

### PUBLIC OFFICER OR PUBLIC EMPLOYEE

Va.App. 1999. Registered and licensed security guard was acting as "public officer or public employee" when he issued summons to defendant, thus supporting conviction for forgery of public record, arising from defendant giving security guard false name; in issuing summons, security guard was engaged in duty specifically granted by statute. Code 1950, §§ 9–183.8, 18.2–168, 19.2–74.—Coston v. Com., 512 S.E.2d 158, 29 Va.App. 350.—Forg 44(0.5).

### PUBLIC OFFICERS

U.S. 1947. Special policemen are "public officers" when performing their public duties.—N.L.R.B. v. Jones & Laughlin Steel Corp., 67 S.Ct. 1274, 331 U.S. 416, 91 L.Ed. 1575, rehearing denied National Labor Relations Board v. Jones & Laughlin Steel Corporation., 67 S.Ct. 1725, 331 U.S. 868, 91 L.Ed. 1872, motion denied 68 S.Ct. 158, 332 U.S. 823, 92 L.Ed. 398.—Offic 1.

U.S.N.Y. 1936. Trustees in bankruptcy are "public officers" and "officers of court" who must show clear warrant of law before compensation will be owing to them for performance of their duties. Bankr.Act §§ 40, 48a, 48e, 77B(i), 11 U.S.C.A. §§ 68, 76(a, e), 207(i).—Callaghan v. Reconstruction Finance Corporation, 56 S.Ct. 519, 297 U.S. 464, 80 L.Ed. 804.—Bankr 3152.

U.S.N.Y. 1888. "Public officers," as used in Rev.St. § 3639, 31 U.S.C.A. § 521, requiring the Treasurer of the United States, assistant treasurer, and those performing the duties of assistant treasurer, collector of customs, surveyor of customs, acting also as collectors, receivers of public moneys at the several land offices, postmasters, and all "public officers" of whatsoever character, to keep safely all public money collected by them, or otherwise at any time placed in their possession and custody until the same is ordered by the proper department to be transferred or paid out, means officers of the United States, and does not include a clerk of a collector of customs, for he is not an officer of the United States. An officer of the

United States can only be appointed by the President, by and with the advise and consent of the Senate, or by a court of law or the head of a department. A person in the service of the government who does not derive his position from one of these sources is not an "officer" of the United States in the sense of the Constitution.—U.S. v. Smith, 8 S.Ct. 595, 124 U.S. 525, 31 L.Ed. 534.

C.C.A.1 1934. Public trustees of Boston Elevated Railway Company *held* "public officers," as respected right of federal government to impose tax on official salaries. Sp.Acts Mass.1918, c. 159.—Powers v. Commissioner of Internal Revenue, 68 F.2d 634, certiorari granted Helvering v. Powers, 54 S.Ct. 777, 292 U.S. 620, 78 L.Ed. 1476, reversed 55 S.Ct. 171, 293 U.S. 214, 79 L.Ed. 291.—Int Rev 3564.

C.C.A.6 1946. Usually, special policemen are "public officers" performing public duties.—N.L.R.B. v. Jones & Laughlin Steel Corp., 154 F.2d 932, 33 O.O. 346, certiorari granted National Labor Relations Board v. Jones & Laughlin Steel Corporation., 67 S.Ct. 479, 329 U.S. 710, 91 L.Ed. 617, reversed 67 S.Ct. 1274, 331 U.S. 416, 91 L.Ed. 1575, rehearing denied 67 S.Ct. 1725, 331 U.S. 868, 91 L.Ed. 1872, motion denied 68 S.Ct. 158, 332 U.S. 823, 92 L.Ed. 398.—Mun Corp 180(1).

C.C.A.5 (Ga.) 1937. Higher education, as conducted by the state of Georgia through corporation headed by state board of regents, is a legitimate "governmental function," as respects whether admissions to intercollegiate football games conducted under supervision of board could be taxed by federal government, the board and its instrumentalities, including athletic associations, being "governmental agencies" of education, the board members being "public officers," and the corporation being a "public corporation." Acts Ga.1931, pp. 20–25, 31, §§ 45, 48, 50, 51, 55, 59, 65, 77; Acts Ga.1935, p. 171; Revenue Act 1926, § 500, as amended by Revenue Act 1932, § 711, 26 U.S.C.A. (I.R.C.1939) § 1700.—Page v. Regents of University System of Ga., 93 F.2d 887, certiorari granted Allen v. Regents of University System of Georgia, 58 S.Ct. 831, 303 U.S. 634, 82 L.Ed. 1094, reversed 58 S.Ct. 980, 304 U.S. 439, 82 L.Ed. 1448, rehearing denied 58 S.Ct. 1053, 304 U.S. 590, 82 L.Ed. 1550.—Pub Amuse 54.

C.C.A.3 (Pa.) 1940. Trustees in bankruptcy as well as referees are "public officers" and "officers of the court", and compensation is owing to them only on clear warrant of law.—In re Prindible, 115 F.2d 21.—Bankr 3152.

S.D.Ill. 1934. "Public officers," as used in statute relating to issuance of injunctions in labor disputes, and requiring notice to chief "public officials" of county and city within which unlawful acts were threatened or committed, and finding that "public officers" charged with duty of protecting plaintiff's property are unable or unwilling to do so as condition of injunction, held to include only such county and city officials to whom notice must be given, and not the Governor of the state. Norris-La Guardia Act, § 7, 29 U.S.C.A. § 107.—Laclede Steel Co. v. Newton, 6 F.Supp. 625, affirmed 80 F.2d 636.—Inj 143(1).

E.D.Ky. 1937. A statute providing that salaries or sums due state, county, school boards, and municipal employees shall be subject to attachment or garnishment does not embrace "public officers" within its terms, nor alter the established public policy which gives immunity from attachment or garnishment to the salaries or fees due public officers.—Varden v. Ridings, 20 F.Supp. 495.

D.Minn. 1942. The officers of a Federal Reserve Bank are not "public officers" or "officers of the government" when they assume to perform duties with respect to granting or refusing loans to persons other than banking institutions so as to authorize mandamus to compel grant of such loans. Federal Reserve Act § 13b(d), 12 U.S.C.A. § 352a.—Billings Utility Co. v. Federal Reserve Bank of Minneapolis, 46 F.Supp. 691, affirmed 135 F.2d 108.—Mand 64.

E.D.Mo. 1937. The term "public officers," as used in statute prohibiting federal court from issuing injunction in case involving labor dispute unless public officers charged with duty of protecting complainant's property are unable or unwilling to furnish adequate protection, means local law enforcing officers; that is, state, county, or city. Norris-LaGuardia Act § 7, 29 U.S.C.A. § 107.—Cupples Co. v. American Federation of Labor, 20 F.Supp. 894.—Labor & Emp 2067.

M.D.N.C. 1996. Sheriffs and sheriffs' deputies were "public officers" under North Carolina law, and thus entitled to public officers' immunity when they briefly confined eighth-grade student in holding cell for misbehaving during class tour of detention center, as they acted within the scope of their official authority and lawfully exercised official discretion, and there were no facts showing that they acted corruptly or maliciously.—Harris by Tucker v. County of Forsyth, 921 F.Supp. 325.—Sheriffs 99.

M.D.N.C. 1995. Architect and consulting engineer on construction project at state university in North Carolina did not have status of "public officers" such that they could be held liable to prime contractor only if they acted outside the scope of their duties, where they were neither full-time employees of the state nor public officials, but were independent contractors.—RPR & Associates v. O'Brien/Atkins Associates, P.A., 921 F.Supp. 1457, affirmed 103 F.3d 120.—States 79.

Ala. 1994. For purposes of statute of limitations, secretary of senate, comptroller, and director of Finance Department were "public officers," and action against them for payment of allegedly past due monthly expense allowances was action for "nonfeasance, misfeasance, or malfeasance in office" governed by ten-year statute of limitations. Code 1975, § 6–2–33(3).—McMillan v. Lee, 655 So.2d 906, rehearing denied.—States 64(2), 79.

Ala. 1986. Commissioner of Revenue is only person within Department of Revenue who is "invested" with portion of sovereign functions of state and, therefore, employees of Department were not

"public officers" against whom quo warranto action could be brought. Code 1975, § 40–2–40.—State ex rel. Burdette v. Coats, 500 So.2d 1.—Quo W 10.

Ala. 1938. Servants of a corporation who wrongfully caused the imprisonment of a woman without intervention of a magistrate, on corporation's behalf and in corporation's interest, were not "public officers" within statute authorizing public officers to imprison without bringing prisoner before magistrate, or within rule precluding recovery of punitive damages. Code 1923, §§ 3261, 3269.—Caudle v. Sears, Roebuck & Co., 182 So. 461, 236 Ala. 37.—False Imp 7(4), 35.

Ariz. 1975. Elected directors of multicounty water conservation district were not "public officers" within meaning of statute requiring public officers to make financial disclosure. A.R.S. §§ 38–541, 38–542, 45–2601, 45–2608.—Armer v. Superior Court of Arizona, In and For Pima County, 543 P.2d 1107, 112 Ariz. 478.—Waters 183.5.

Ariz. 1954. Members of an incorporated city police force are "public officers" within meaning of statute providing that every person who willfully resists, delays or obstructs any "public officer" in discharge or attempt to discharge any duty of his office, when no other punishment is prescribed, is punishable by fine and imprisonment. A.C.A.1939, § 43–3910 (A.R.S. § 13–541).—State v. Kurtz, 278 P.2d 406, 78 Ariz. 215.—Obst Just 7.

Ariz. 1954. Where three police officers of city, with permission of chief of police, were employed and paid by ballroom operator to preserve order while dances were in progress at ballroom in city during off-duty hours of police officers, and one of the police officers, who was dressed in regulation uniform placed first defendant under arrest for using obscene language in presence of women, and second defendant attempted to liberate first defendant, and fight ensued between defendants and police officers, police officers were "public officers" within meaning of statute providing that every person who willfully resists, delays or obstructs any "public officer" in discharge or attempt to discharge any duty of his office, when no other punishment is prescribed, is punishable by fine and imprisonment. A.C.A.1939, § 43–3910 (A.R.S. § 13–541).—State v. Kurtz, 278 P.2d 406, 78 Ariz. 215.—Obst Just 7.

Ariz. 1945. Policemen are "public officers".—Russell v. Glascow, 162 P.2d 129, 63 Ariz. 310.—Mun Corp 188.

Ariz. 1939. The term "public officers," as used in statute punishing bribery, was not limited to executive officers, but was intended to include all public officials not included in the judicial and legislative branches of the government; and hence the quoted term included county attorneys. Rev. Code 1928, §§ 4515, 4524 et seq., 4531 et seq. (A.R.S. §§ 13–281, 13–282, 13–285 et seq., 41–1221 et seq.)—Hoy v. State, 90 P.2d 623, 53 Ariz. 440.—Brib 1(2).

Ariz. 1935. Members of state tax commission held "public officers" within constitutional provision forbidding compensation of public officers to be increased or diminished during their terms of office (Rev.Code 1928, § 3056 (A.R.S. §§ 42–101, 42–102); Const. art. 4, § 17 as amended [see Laws 1931, p. 491] (A.R.S.) ).—Moore v. Frohmiller, 46 P.2d 652, 46 Ariz. 36.—Offic 100(2).

Ark. 1933. County board of education and county superintendent of schools are "public officers," and are presumed to have performed duties imposed by law as regards certification to county court of results of election on school tax levy. Crawford & Moses' Dig. § 8878; Acts 1921, p. 534, § 4.—Board of Conference Claimants v. Phillips, 63 S.W.2d 988, 187 Ark. 1113.—Evid 83(4).

Ark. 1916. The board of school directors are "public officers" within Acts 1911, p. 464, § 2, providing for contractor's bond for those entering into contracts with public officers for the erection or improvement of public buildings.—Reiff v. Redfield School Board, 191 S.W. 16, 126 Ark. 474.

Ark. 1910. Powers in the directors of a school district will be implied when the exercise thereof is necessary to enable them to perform the duties imposed upon them; school directors being "public officers," and subject to the same rules as other public officers in respect to their implied powers.—A.H. Andrews Co. v. Delight Special School Dist., 128 S.W. 361, 95 Ark. 26.—Schools 55.

Cal. 1960. State Bar is a public corporation invested with extremely broad powers in connection with investigation of complaints and conduct of formal and informal disciplinary proceedings and is managed by members of profession who are "public officers". West's Ann.Code Civ.Proc. § 1881; West's Ann.Bus. & Prof.Code, § 6001.—Chronicle Pub. Co. v. Superior Court In and For City and County of San Francisco, 354 P.2d 637, 7 Cal.Rptr. 109, 54 Cal.2d 548.—Atty & C 31, 54.

Cal.App. 1 Dist. 1966. Members of Berkeley police department in arresting sit-in demonstrators at University of California in Berkeley were acting as "public officers" within statute imposing punishment on every person who willfully resists any "public officer" in discharge or attempt to discharge any duty of his office. Wests Ann.Pen. Code, § 148.—In re Bacon, 49 Cal.Rptr. 322, 240 Cal.App.2d 34.—Obst Just 3.

Cal.App. 2 Dist. 1991. Venue in Los Angeles County was proper in action brought by architectural coating manufacturers and sellers challenging regulations promulgated by state and district air pollution control agencies because agencies were "public officers" within meaning of venue statute, manufacturers' principal place of business was in Los Angeles County, removal statute designed to avoid local prejudice by authorizing transfer to neutral county did not compel venue change, statute normally entitling defendant to have transitory action tried in county of his residence did not apply because not all defendants resided in Los Angeles County, and dividing manufacturers' individual actions against each separate district agency would impose unnecessary burden on state judicial system. West's Ann.Cal.C.C.P. §§ 393, subd. 1(b), 394,

395.—Colusa Air Pollution Control Dist. v. Superior Court, 277 Cal.Rptr. 110, 226 Cal.App.3d 880, review denied.—Decl Judgm 271.

Cal.App. 2 Dist. 1942. The constitutional provision giving the attorney general direct supervision over every district attorney and sheriff, and over such other law enforcement officers as may be designated by law, does not contemplate absolute control and direction of such officials, especially as to sheriffs and district attorneys, since such officials are "public officers", as distinguished frome mere "employees" with public duties delegated and entrusted to them. West's Ann.Const. art. 5, § 21.—People v. Brophy, 120 P.2d 946, 49 Cal.App.2d 15.—Atty Gen 6.

Cal.App. 2 Dist. 1927. As regards fixing of compensation, city superintendents of schools are employees, not "public officers". Pol.Code, §§ 1609, 1793, subsec. 2 (repealed. See Education Code, §§ 1301–1303, 13002 et seq.)—Stewart v. Eaves, 257 P. 917, 84 Cal.App. 312.—Schools 63(5).

Cal.App. 3 Dist. 1940. Members of the State Board of Medical Examiners were "public officers" and special officer of the board, employed to investigate unlawful practice of medicine, was a "public peace officer". Gen.Laws Act 4807, § 5 (repealed. See Business and Professions Code, §§ 2116, 2117); Pen.Code, § 817.—Reed v. Molony, 101 P.2d 175, 38 Cal.App.2d 405.—States 45.

Conn. 1991. Fire fighters are "public officers," for purposes of quo warranto statute. C.G.S.A. § 52–491.—New Haven Firebird Soc. v. Board of Fire Com'rs of City of New Haven, 593 A.2d 1383, 219 Conn. 432, on remand 1992 WL 134440, affirmed 630 A.2d 131, 32 Conn.App. 585, certification denied 634 A.2d 295, 228 Conn. 902.—Quo W 10.

Conn. 1925. Members of town school committee are "public officers," in view of Gen.St.1918, §§ 267, 920, 941.—Keegan v. Town of Thompson, 130 A. 707, 103 Conn. 418.

Del.Super. 1967. Members of boards or commissions have historically been regarded as "public officers" and not "public employees".—Wharton v. Everett, 229 A.2d 492, affirmed 238 A.2d 839.—Offic 1.

Del.Super. 1954. Members of the Department of Elections of Sussex County were "public officers". 15 Del.C. § 109.—Martin v. Trivitts, 103 A.2d 779, 48 Del. 368, 9 Terry 368.—Elections 49.

Fla. 1931. All persons by authority of law intrusted with receipt of public money, or through whose hands money may pass to treasury, are "public officers."—Thursby v. Stewart, 138 So. 742, 103 Fla. 990.—Offic 1.

Fla. 1920. All persons by authority of law intrusted with the receipt of public money, or through whose hands such money may pass to the treasury, are "public officers," whether the service be general or special, transient, or permanent.—State v. Jones, 84 So. 84, 79 Fla. 56.

Ga. 1942. Attorneys and counselors of a court, though not properly "public officers", are "quasi state officers" whose justice is administered by the court.—Claxton v. Johnson County, 20 S.E.2d 606, 194 Ga. 43.—Atty & C 14.

Ga. 1939. "Public officers" in the United States are but the agents of the body politic, constituted to discharge services for the benefit of the people under laws which the people have prescribed.—Walton v. Davis, 2 S.E.2d 603, 188 Ga. 56.—Offic 1.

Ga. 1933. Grand jurors held not "public officers" within statute authorizing test of right to any "public office" by writ of quo warranto. Civ.Code 1910, §§ 269 et seq., 5451, 5454, 6546; Pen.Code 1910, § 829.—McDuffie v. Perkerson, 173 S.E. 151, 178 Ga. 230, 91 A.L.R. 1002.—Quo W 11.

Ga. 1922. Bond commissioners appointed under Sparta charter, § 19, are "public officers" charged with the safe-keeping and investment of the city's sinking fund, and with the custody and safe-keeping of the bonds in which the fund is invested.—Wiley v. City of Sparta, 114 S.E. 45, 154 Ga. 1, 25 A.L.R. 1342.—Mun Corp 951.

Idaho 1935. Prosecution of police officer under statute relating to asking or receiving bribe by "executive officer" *held* proper, though he might have been prosecuted under statute relating to bribery of "public officers," and conviction of defendant under either statute would be a bar to subsequent prosecution for same offense under the other statute (Code 1932, §§ 17-502, 17-1019).—State v. Emory, 46 P.2d 67, 55 Idaho 649.—Brib 6(1).

Ill. 1951. Policemen and park attendants, who brought action against park district for salaries during period of wrongful exclusion from employment, were not "public officers" where no statute or ordinance creating office was proved, and especially where plaintiffs' pleadings described their employment as being a position.—Kelly v. Chicago Park Dist., 98 N.E.2d 738, 409 Ill. 91.—Mun Corp 180(1), 217.1.

Ill. 1923. Soldiers' Compensation Act is not violative of S.H.A. Ill.Const. art. 4, § 19, providing that the General Assembly shall not grant extra compensation to "public officers," agents, servants, or contractors after the service has been rendered or the contract has been made, since the recipients do not stand in the relation of officer, agent, servant or contractor of or with the state.—Hagler v. Small, 138 N.E. 849, 307 Ill. 460.

Ill. 1922. The Primary Act of 1910, Laws 1919, p. 475, which, by sections 1, 4, and 9, provides for the election of party committeemen who shall perform the duties previously performed by such committeemen and certain other prescribed duties, among which was the holding of a convention to nominate candidates for certain offices, did not make those committeemen "public officers."—People v. Brady, 135 N.E. 87, 302 Ill. 576.

Ill. 1909. Priv.Laws 1851, p. 5, provided for the election of trustees to administer the Kaskaskia commons, and provided for the division and lease

of the lands and for the use of the same for school purposes. Section 7 also authorized trustees to appropriate a portion of the proceeds to religious purposes, when asked for by a majority of the voters of the town of Kaskaskia, etc. *Held,* that the trustees were not "public officers," but trustees of an educational and religious trust, the administration of which was within the jurisdiction of the court of chancery.—Stead v. President, etc., of Commons of Kaskaskia, 90 N.E. 654, 243 Ill. 239.—Equity 21.

Ill.App. 1 Dist. 1962. A "board of education" is an executive administrative "agency" of state government and its members are "public officers" of the state government, within the State Records Act. S.H.A. ch. 116, § 43.7.—People ex rel. Gibson v. Peller, 181 N.E.2d 376, 34 Ill.App.2d 372.—Records 2; Schools 52.

Ind. 1942. It has been consistently held by the Supreme Court that firemen and policemen are "employees" and not "public officers".—City of Huntington v. Fisher, 40 N.E.2d 699, 220 Ind. 83.

Ind. 1938. Members of primary election boards are "public officers" of the state.—Finerty v. Bryan, 16 N.E.2d 882, 214 Ind. 570.—Elections 126(3).

Ind. 1937. Persons whom common council of fifth-class city appointed as trustees to manage department of waterworks created under statute relating to waterworks of all classes of cities were "public officers" and not merely "employees," as respects whether taxpayer could maintain suit in equity questioning right of such persons to act as trustees. Burns' Ann.St. §§ 48–5301—48–5327.—Long v. Stemm, 7 N.E.2d 188, 212 Ind. 204.—Mun Corp 993(1).

Ind. 1935. Generally, in removing "employees," such as teachers, as distinguished from "public officers," employing board acts ministerially rather than judicially, even where employees are removable for cause and after hearing, as regards appeal to courts. Burns' Ann.St. § 26–515.—Hyde v. Board of Com'rs of Wells County, 198 N.E. 333, 209 Ind. 245.—Mun Corp 185(12), 198(4); Schools 147.31.

Ind. 1935. Generally, in removing "employees," such as policemen, as distinguished from "public officers," employing board acts ministerially rather than judicially, even where employees are removable for cause and after hearing, as regards appeal to courts. Burns' Ann.St. § 26–901.—Hyde v. Board of Com'rs of Wells County, 198 N.E. 333, 209 Ind. 245.—Mun Corp 185(12).

Ind. 1935. Generally, in removing "employees," such as firemen, as distinguished from "public officers," employing board acts ministerially rather than judicially, even where employees are removable for cause and after hearing, as regards appeal to courts. Burns' Ann.St. § 26–901.—Hyde v. Board of Com'rs of Wells County, 198 N.E. 333, 209 Ind. 245.—Mun Corp 198(4).

Ind. 1933. Deputy county officers are "public officers," and not mere clerks or employees.—Applegate v. State ex rel. Pettijohn, 185 N.E. 911, 205 Ind. 122.—Offic 47.

Ind. 1911. Persons who are appointed deputies under a statute are "public officers.".—Wells v. State ex rel. Peden, 94 N.E. 321, 175 Ind. 380, Am.Ann.Cas. 1913C,86.—Offic 1.

Ind.App. 1 Dist. 1995. Gifts from private donors to state university received and held by foundation are not "public funds," even though such gifts are impressed with public interest in a general sense, as directors of foundation are not "public officers." West's A.I.C. 5–13–4–21.—State Bd. of Accounts v. Indiana University Foundation, 647 N.E.2d 342, transfer denied.—Colleges 6(2).

Ind.App. 2 Dist. 1982. Members of city utilities service board were "public officers" and not "employees," for purpose of determining whether interviews with applicants for vacancy on city utilities service board fell within Open Door Law exception for "interviews with prospective employees," where utilities board was creature of statute and municipal ordinance, and was endowed with powers, duties, and privileges involving portion of sovereign power exercised for benefit of public for specified term, compensation of members of board was fixed by law, members received their position by appointment after which they had to execute oath, and they could be removed or impeached under law applicable to municipal officers. IC 5–14–1.5–1 et seq., 5–14–1.5–5(c, f), 5–14–1.5–6(a)(iv) (1982 Ed.); IC 8–1–2–100 )1976 Ed.)—Common Council of City of Peru v. Peru Daily Tribune, Inc., 440 N.E.2d 726.—Mun Corp 92.

Iowa 1935. All persons intrusted by law with receipt of public moneys, passing through their hands to public treasury, are "public officers," regardless of name or title given them by law and whether their services are special or general, transient or permanent.—State v. Conway, 260 N.W. 88, 219 Iowa 1155.—Offic 1.

Ky. 1948. Principals and supervisors employed by board of education of Louisville are "employees" and not "public officers" within constitutional prohibition against paying public officers except the Governor, more than $5,000 per annum, and principals and supervisors were not precluded from benefits of statute providing a retroactive salary increase for school year of 1948 under which some principals and supervisors would receive in excess of $5,000 per year. Laws 1948, c. 132, § 5; Const. § 246.—Schranz v. Board of Ed. of City of Louisville, 211 S.W.2d 861, 307 Ky. 590.—Schools 144(4).

Ky. 1940. Though a municipality in maintaining a plant for the distribution of electricity to its inhabitants for domestic use acts in a "quasi-private capacity" and not a "governmental capacity" and the officials are regarded in that relationship as "administrative agents" rather than "public officers", nevertheless they are entrusted with responsibilities and duties which cannot be surrendered or delegated wholly or partly except as may be expressly or impliedly authorized by the law governing the performance of those duties. Ky.St. § 3480d–1 et seq.—City of Middlesboro v. Kentucky Utilities Co., 146 S.W.2d 48, 284 Ky. 833.—Mun Corp 284(1).

Ky. 1935. City deputy assessors held entitled to recover amount of salary reduction in view of constitutional provision forbidding compensation of municipal officers to be changed during their terms of office, since deputy assessors are "public officers" within such provision. Ky.St. §§ 2756, 2906; Const. §§ 160, 161.—City of Louisville v. Fisher, 79 S.W.2d 345, 258 Ky. 84.—Mun Corp 164.

La. 1959. Parish police jurors were "state officers" and "public officers" within meaning of section of the Constitution providing that all "officers" before entering on the duties of their offices shall take specified oath or affirmation, and they had a mandatory duty to conform to standards of conduct required by their oath of office, and, if they did not conform to such standards of conduct, they were guilty of malfeasance in office. LSA–R.S. 14:2, 14:134, 33:1233, 33:1236(2); LSA–Const. art. 19, § 1.—State v. Melerine, 109 So.2d 454, 236 La. 881.—Counties 42, 60.

La. 1935. Under constitutional provision that electors of New Orleans shall have right to choose their "public officers," but that such provision shall not be construed as restricting police power of state, statute providing for appointment of deputy sheriffs by sheriff of each parish held valid, since constitutional provision related only to "municipal officers" and not to "deputy sheriffs" who are "state officers," and such statute was an exercise of police power. Act No. 27 of 1934, 3d Ex.Sess., LSA-R.S. 33:1433; Const.1921, art. 14, § 22.—Williams v. Guerre, 162 So. 609, 182 La. 745.—Sheriffs 18.

La. 1925. Policemen are "public officers." Mann v. City of Lynchburg, 106 S.E. 371, 372, 129 Va. 453. For their acts in performance of duty municipality is not liable. Adams v. Selectmen of Town of Northbridge, 149 N.E. 152, 153, 253 Mass. 408. Their title to office may be tried by quo warranto. State v. Shores, 157 P. 225, 48 Utah, 76. And they hold, not under a contract between themselves and municipality, but as a trust from the state.—Hall v. City of Shreveport, 102 So. 680, 157 La. 589.

Me. 1932. Tax assessors are "public officers," and when acting as assessors they are not agents of town of which they are inhabitants.—McKay Radio & Tel. Co. v. Inhabitants of Town of Cushing, 162 A. 783, 131 Me. 333.—Tax 2445.

Me. 1930. Deputy sheriffs are "public officers." They owe to the aggregate public, and not alone to a single member of the body of the people, the impartial performance of official duties.—State v. Brown, 151 A. 9, 129 Me. 169.

Mass. 1964. Legislative appropriation of public funds to political parties to defray part of cost of political campaigns would be improper since political committees or officers thereof are not public bodies or "public officers".—Opinion of the Justices, 197 N.E.2d 691, 347 Mass. 797.—States 119.

Mass. 1948. Members of municipal light commission of city of Taunton were "public officers" under legislative mandate of statute creating the commission, and were not agents of the city. Sp.St. 1919, c. 150.—Hodgman v. City of Taunton, 80 N.E.2d 31, 323 Mass. 79.—Mun Corp 206.

Mass. 1942. Members of school committee are "public officers" charged with important duties and deriving their power in first instance from electorate but are subject to any reasonable and proper check upon exercise of their statutory powers imposed by Legislature.—Gorman v. City of Peabody, 45 N.E.2d 939, 312 Mass. 560.—Schools 55.

Mass. 1942. The members of board of trustees of the Boston Elevated Railway Company who took possession of the properties of the company pursuant to contract between the commonwealth and the company are "public officers". Sp.St.1918, c. 159, § 1 et seq.; St.1931, c. 333.—Auditor of Commonwealth v. Trustees of Boston Elevated Ry. Co., 43 N.E.2d 124, 312 Mass. 74.—Urb R R 21.

Mass. 1942. Under the Public Control Act, the board of trustees of the Boston Elevated Railway Company, though "public officers", manage and operate the railway system of the company through the medium of the company as a corporate entity, though they are not required to act in the manner of either directors or stockholders, and they may bind the company in divers important matters. Sp. St.1918, c. 159, §§ 2-4.—Auditor of Commonwealth v. Trustees of Boston Elevated Ry. Co., 43 N.E.2d 124, 312 Mass. 74.—Urb R R 21.

Mass. 1942. The Public Control Act in respect to the matter of the authority of the Boston Elevated Railway Company's public trustees to order discontinuance of passenger service on location which had been granted for the transportation of passengers constituted a "contract" between the company and the commonwealth for public operation on stipulated terms, and the management and operation of company's railways by the public trustees under that act were for a "public purpose" and the trustees bore the responsibility of management and operation as "public officers". St.1894, c. 548, § 6, as amended by St.1897, c. 500, §§ 2, 3; Sp.St. 1918, c. 159, §§ 1, 2, 3, 5, 6, 8, 9, 12, 13, 15, 16, 18, as amended by St.1931, c. 333, §§ 1, 2, and § 11, as amended by St.1935, c. 99, § 1; St.1931, c. 333, § 19.—Boston Elevated Ry. Co. v. Com., 39 N.E.2d 87, 310 Mass. 528.—Urb R R 21.

Mass. 1942. The provision of the Public Control Act stating that in the management and operation of the Boston Elevated Railway Company, the public trustees and their agents, servants, and employees shall be deemed to be acting as agents of the company and not of the commonwealth, that the company shall be liable for their acts and negligence in such management and operation to the same extent as if they were in the immediate employ of the company, and that the trustees shall not be personally liable, does not prevent the trustees from being "public officers". Sp.St.1918, c. 159, § 2, as amended by St.1931, c. 333.—Boston Elevated Ry. Co. v. Com., 39 N.E.2d 87, 310 Mass. 528.—Urb R R 21.

Mass. 1941. The right of sole control and the duty of management, including maintenance, of the

Haverhill High School stadium, having been conferred upon the school committee of City of Haverhill by Legislature, members of the committee act as "public officers," in the exercise and performance of such duty. Sp.St.1918, c. 56; St.1939, c. 168.—Reitano v. City of Haverhill, 34 N.E.2d 665, 309 Mass. 118.—Schools 72, 73.

Mass. 1941. The fact that under charter of the city of Quincy the city's school committee is a department or board within meaning of statute did not, under the circumstances, make the committee's members "agents" of city, as distinguished from "public officers", as regards liability of city for injuries sustained by plaintiff by reason of defect in walk on grounds of a school building which committee had authorized to be let to a third party for presenting an entertainment. G.L.(Ter.Ed.) c. 43, §§ 33, 46–55; c. 71, § 68, as amended by St.1934, c. 97, and § 71, as amended by St.1935, c. 193.—Warburton v. City of Quincy, 34 N.E.2d 661, 309 Mass. 111.—Mun Corp 747(4).

Mass. 1941. In the execution of their duties as members of the school committee of the city of Boston, such members act, not as agents of the city, but as "public officers" in the performance of public duties. St.1912, c. 195, § 1, as amended by Sp.St.1916, c. 86; St.1929, c. 351.—Sweeney v. City of Boston, 34 N.E.2d 658, 309 Mass. 106.—Mun Corp 211.

Mass. 1941. In exercising their statutory authority to permit extended use of school buildings, whether for profit or otherwise, members of the school committee of the city of Boston act as "public officers" for whose torts liability cannot be imposed upon the city. St.1912, c. 195, § 1, as amended by Sp.St.1916, c. 86.—Sweeney v. City of Boston, 34 N.E.2d 658, 309 Mass. 106.—Mun Corp 747(4).

Mass. 1941. If proposed state insurance fund constituted a governmental instrumentality, trustees, including director, being "public officers" appointed by Governor with advice and consent of council, could under statute be removed in like manner. G.L.(Ter.Ed.) c. 30, § 9 (M.G.L.A.).—In re Opinion of the Justices, 34 N.E.2d 527, 309 Mass. 571.—Work Comp 1049.

Mass. 1941. A municipality which voluntarily avails itself of its power to construct and operate a sewage system for benefit of abutting landowners who paid the municipality through assessments becomes liable for the negligence of those whom it employs to carry on the enterprise, who are for this purpose treated as the municipality's "agents" even though the same persons may be "public officers" and not agents with respect to other municipal functions.—Galluzzi v. City of Beverly, 34 N.E.2d 492, 309 Mass. 135.—Mun Corp 747(2).

Mass. 1941. Members of town's board of public welfare were acting as "public officers" and not as "agents" of town in operation of town farm for infirm poor, and in conducting wood cutting project on land on which it had purchased right to cut and remove standing timber as part of operation of town farm, so that town could not be held liable for damages to plaintiffs' properties caused by fire originating on land on which wood cutting project was being carried on. G.L. (Ter.Ed.) c. 47, §§ 1, 2; c. 117, §§ 1, 14, 17.—Chaffee v. Inhabitants of Town of Oxford, 33 N.E.2d 298, 308 Mass. 520, 134 A.L.R. 756.

Mass. 1941. Members of town's board of public welfare were acting as "public officers" and not as "agents" of town in operation of town farm for infirm poor, and in conducting wood cutting project on land on which it had purchased right to cut and remove standing timber as part of operation of town farm, so that town could not be held liable for damages to plaintiffs' properties caused by fire originating on land on which wood cutting project was being carried on.—Chaffee v. Inhabitants of Town of Oxford, 33 N.E.2d 298, 308 Mass. 520, 134 A.L.R. 756.

Mass. 1940. Firemen engaged in extinguishing fire in cellar were not agents or servants of owners of building, but were "public officers," and hence owners were not responsible for act of firemen in opening doors of bulkhead partly on sidewalk without warning to pedestrian who was crossing over doors.—Turturro v. Calder, 29 N.E.2d 744, 307 Mass. 159.—Labor & Emp 3030.

Mass. 1940. It has been held generally that highway surveyors and road commissioners are "public officers," and in the performance of their statutory duties, do not act as "agents" of a municipality. It has also been held that a superintendent of streets was likewise a "public officer."—Ryder v. City of Taunton, 27 N.E.2d 742, 306 Mass. 154.

Mass. 1939. Members of a town or city board of public welfare are "public officers."—Cook v. Overseers of Public Welfare in City of Boston, 22 N.E.2d 189, 303 Mass. 544.

Mass. 1939. Where town board of health employed plaintiff as its full-time agent as authorized by statute and later dispensed with his services in accordance with terms of employment contract, attempts of town by action at town meeting to ratify the contract and direct board of health to employ plaintiff were ineffective, since members of board were exercising exclusive statutory powers as "public officers" and not as agents of the town. G.L.(Ter.Ed.) c. 111, § 27.—Breault v. Town of Auburn, 22 N.E.2d 46, 303 Mass. 424.—Mun Corp 191.

Mass. 1939. The statute imposing liability on a municipality owning or operating a gas or electric plant for injury to persons or property to same extent as private corporations, did not make gas and electric commissioners of Holyoke who were in charge of operation of plant "agents" of city, but they remained "public officers" acting under legislative mandate. St.1922, c. 173; G.L.(Ter.Ed.) c. 164, § 64.—Adie v. Mayor of Holyoke, 21 N.E.2d 377, 303 Mass. 295.—Mun Corp 206.

Mass. 1938. The municipal authorities who act in accordance with independent statutory provisions are "public officers" for whose tortious acts the municipality is not legally responsible, even though

the public officer is paid by the municipality for his services, since municipality can exercise no direction or control over those whose duties have been defined by the Legislature.—Daddario v. City of Pittsfield, 17 N.E.2d 894, 301 Mass. 552.—Mun Corp 123.

Mass. 1936. City of Boston would not be liable for alleged false representations of agents of city transit department that contract for construction of tunnel was one required by statute to be let only after newspaper advertisement for competitive bids, and that contract, through such procedure, would be awarded to company to which representations were made because plans of company for construction of tunnel were unique and it would be only qualified bidder, resulting in publication and nonpayment for use of plans, whether such statements were of law or of fact, since agents of department are "public officers," for tortious acts of whom municipalities are not liable. St.1929, c. 297, §§ 1, 7.—Galassi Mosaic & Tile Co. v. City of Boston, 4 N.E.2d 291, 295 Mass. 544.—Fraud 30.

Mass. 1927. Surveyors of public highways are "public officers" wholly independent of towns, and cannot be considered servants or agents of town.—Sherman v. Town of Swansea, 158 N.E. 800, 261 Mass. 407.—High 95(1).

Mass. 1925. Members of fire department "public officers."—Gregoire v. City of Lowell, 148 N.E. 376, 253 Mass. 119.—Mun Corp 747(3).

Mass. 1925. Collectors of taxes of towns are "public officers," and not agents of town.—Hodsdon v. Weinstein, 146 N.E. 675, 251 Mass. 440.

Mass. 1906. Under Rev.Laws, c. 42, § 27, providing that the school committee of a town "shall have the general charge and superintendence of all the public schools," the school committee act, not as "agents" of the town, but as "public officers," intrusted with powers and charged with duties concerning the maintenance of the schools.—Morse v. Ashley, 79 N.E. 481, 193 Mass. 294.

Mass.App.Ct. 1986. Under common law prior to Massachusetts Tort Claims Act, M.G.L.A. c. 258, § 1 et seq., staff psychiatrists of state hospital and their unit supervisor were "public officers" who, for nonministerial acts, were not liable for negligence or other error in making of their decisions if made in good faith, and, for ministerial matters, were liable only for misfeasance and not for nonfeasance.—O'Neill v. Mencher, 488 N.E.2d 1187, 21 Mass.App.Ct. 610, review denied 490 N.E.2d 803, 397 Mass. 1102.—States 112.2(4).

Mass.App.Ct. 1974. Employees of city engaged in training functions are "public officers" for purposes of rule that city may not be held liable for negligent acts of its officers under doctrine of respondeat superior.—Oeschger v. Fitzgerald, 314 N.E.2d 444, 2 Mass.App.Ct. 472.—Mun Corp 747(4).

Mich. 1960. Under statute which does not refer to "office of stenographer" but provides that, on appointment, probate court stenographers shall take and subscribe constitutional oath of office which shall be filed with county clerk and that county board of supervisors shall fix reasonable salary, probate court stenographers are "employees", not "public officers". Comp.Laws 1948, §§ 701.6, 701.14, 701.15.—Meiland v. Cody, 101 N.W.2d 336, 359 Mich. 78.—Courts 57(1).

Mich. 1923. That part of Const. art. 16, § 3, providing that salaries of "public officers" shall not be increased after election or appointment, has no application to a teacher, as a teacher is not an officer, or agent, but is an employee.—Wiley v. Board of Ed. of City of Detroit, 196 N.W. 417, 225 Mich. 237.

Miss. 1930. Members of state hospital removal improvement and land sale commission held not "public officers" within constitutional provision and statute relating to term of office (Laws 1926, c. 115; Hemingway's Code 1927, § 2988; Const. 1890, § 20).—State v. McLaurin, 131 So. 89, 159 Miss. 188.—Health 232.

Mo. 1948. The term "public officers" used in statute providing that all ballots cast in elections for public officers shall be printed and distributed at public expense, has no reference to school directors. V.A.M.S. § 111.400.—Bernhardt v. Long, 209 S.W.2d 112, 357 Mo. 427.—Elections 163.

Mo. 1940. A sheriff's deputies are "public officers" who perform the duties of the sheriff, and who are subject to the liabilities imposed on the sheriff himself by law.—Maxwell v. Andrew County, 146 S.W.2d 621, 347 Mo. 156.—Sheriffs 17, 97.

Mo. 1912. Rev.St.1909, § 1226 (V.A.M.S. § 107.110), under the heading "official bonds," providing that no official bond shall be approved until after the sureties swear to a statement, duly attested, stating names, residences, worth, etc., does not require the sureties for county depositaries to file an affidavit of their realty holding; county depositaries not being "public officers," but debtors of the county.—Barrett v. Stoddard County, 152 S.W. 43, 246 Mo. 501.

Mo. 1905. The judges and clerks of election, appointed under the authority of Act March 28, 1903, Laws 1903, p. 170, creating a board of election commissioners in cities having a population of over 300,000, requiring the board to appoint, 90 days prior to the first election after the adoption of the act and each two years thereafter, judges and clerks of election for each precinct in the city, providing for the removal of the judges and clerks from "office" for grounds specified, prescribing their duties, and fixing their emoluments, are "public officers" holding office for a fixed period.—State ex rel. Mosconi v. Maroney, 90 S.W. 141, 191 Mo. 531.

Mo. 1900. "Public officers," as used in Rev.St. 1889, § 8589, providing that the fiscal year of the state shall commence on January 1st and terminate on the 31st day of December of each year and the books, accounts, and reports of the public officers shall be made to conform thereto, includes county as well as state officers.—State ex rel. Exchange Bank v. Allison, 56 S.W. 467, 155 Mo. 325.

Mont. 1948. Deputies and assistant county officials are not "public officers" within Constitution providing that no law shall extend the term of any officer or increase or diminish his salary after his election or appointment. Const. art. 5, § 31.—State ex rel. Rusch v. Board of Com'rs of Yellowstone County, 191 P.2d 670, 121 Mont. 162.—Offic 51, 100(2).

Mont. 1948. "Deputies" are not "public officers" who may receive the compensation prescribed for their services merely by virtue of their appointment without regard to whether they render service in the position or not. Rev.Codes 1935, §§ 421, 422; Const. art. 5, § 31.—State ex rel. Rusch v. Board of Com'rs of Yellowstone County, 191 P.2d 670, 121 Mont. 162.—Offic 96.

Mont. 1943. The statute increasing salaries of certain deputy or assistant county officers from 80 per cent. to 90 per cent. of their superior officers' salaries is not unconstitutional as increasing salaries of public officers after their election or appointment, but valid and operative even as to officials appointed before its passage and approval, as such deputies are not "public officers". Code 1935, § 4873; § 4874, as amended by Laws 1943, c. 87, § 1; Const. art. 5, § 31.—Adami v. Lewis and Clark County, 138 P.2d 969, 114 Mont. 557.—Offic 100(2).

Neb. 1941. Under statute, the boards of supervisors of drainage districts are "public officers" vested with power of carrying on business of the districts as prescribed by statute and charged with responsibility of providing for and securing the lawful exercise of the powers of the districts. Comp.St.1929, § 31–401 et seq.—Drainage Dist. No. 1 of Lincoln County v. Suburban Irr. Dist., 297 N.W. 645, 139 Neb. 333.—Drains 17.

Neb. 1924. Whether deputies appointed by "public officers" are to be regarded as "public officers" themselves depends upon the circumstances and method of their appointment. Where such appointment is provided for by law, and a fortiori where it is required by law, which fixed the powers and duties of such deputies, and where such deputies are required to take the oath of office and to give bonds for the performance of their duties, the deputies are usually regarded as public officers. * * * But where the deputy is appointed merely at the will and pleasure of his principal to serve some purpose of the latter, he is not a "public officer" but a mere servant or agent. So a special deputy employed only in a particular case is not a "public officer."—Baker v. State, 200 N.W. 876, 112 Neb. 654.

N.H. 1936. Highway construction is governmental function for benefit of general public and those in charge are "public officers."—Grimes v. Keenan, 187 A. 100, 88 N.H. 230.—High 99.

N.H. 1936. Highway maintenance is governmental function for benefit of general public and those in charge are "public officers."—Grimes v. Keenan, 187 A. 100, 88 N.H. 230.—High 105(1).

N.H. 1907. The local executive committee of a political party, though required to perform certain duties by Laws 1905, p. 510, c. 93, and required to conduct political campaigns, are not "public officers."—Attorney General v. Barry, 68 A. 192, 74 N.H. 353.

N.H. 1905. Under Laws 1893, p. 25, c. 29, § 3, as amended by Laws 1897, p. 59, c. 67, § 1, giving the highway agent of a town, under direction of the selectmen, charge of the construction and repair of highways within the town, and empowering him to employ men and teams, the highway agent and selectmen are "public officers" of the state, and not private agents of the town, so far as their duties in connection with the construction and repair of highways are concerned. O'Brien v. Town of Derry, 60 A. 843, 73 N.H. 198. So a town is not liable for injury to property through the negligence of its highway agent in blowing up ice in a river, under the direction of a selectman, for the purpose of draining water from a highway; his act being that of a public officer in the performance of his duty.—Wheeler v. Town of Gilsum, 62 A. 597, 73 N.H. 429, 3 L.R.A.N.S. 135.

N.J. 1952. Members of board of chosen freeholders and of county bridge commission are "public officers" holding positions of public trust and stand in fiduciary relationship to people whom they have been elected or appointed to serve.—Driscoll v. Burlington-Bristol Bridge Co., 86 A.2d 201, 8 N.J. 433, certiorari denied Burlington County Bridge Commission v. Driscoll, 73 S.Ct. 25, 344 U.S. 838, 97 L.Ed. 652, rehearing denied 73 S.Ct. 181, 344 U.S. 888, 97 L.Ed. 687, certiorari denied Nongard v. Driscoll, 73 S.Ct. 33, 344 U.S. 838, 97 L.Ed. 652, rehearing denied 73 S.Ct. 181, 344 U.S. 888, 97 L.Ed. 687, certiorari denied Bell v. Driscoll, 73 S.Ct. 34, 344 U.S. 838, 97 L.Ed. 652, rehearing denied 73 S.Ct. 182, 344 U.S. 888, 97 L.E—Counties 61; Offic 3.

N.J.Super.A.D. 1964. Essex County Park police were "public officers" within rule that, absent express legislative provision to contrary, "public officer" cannot recover salary for period of his wrongful suspension or removal, when he was not actually rendering service, notwithstanding later restoration to his duties.—Mastrobattista v. Essex County Park Commission, 204 A.2d 601, 85 N.J.Super. 283, certification granted 210 A.2d 626, 44 N.J. 581, reversed 215 A.2d 345, 46 N.J. 138.—Counties 74(1).

N.J.Super.Ch. 1950. Members of a County Bridge Commission are "public officers." R.S. 27:19–26 et seq.; R.S. 27:19–26 et seq., N.J.S.A.—Driscoll v. Burlington-Bristol Bridge Co., 77 A.2d 255, 10 N.J.Super. 545, modified 86 A.2d 201, 8 N.J. 433, certiorari denied Burlington County Bridge Commission v. Driscoll, 73 S.Ct. 25, 344 U.S. 838, 97 L.Ed. 652, rehearing denied 73 S.Ct. 181, 344 U.S. 888, 97 L.Ed. 687, certiorari denied Nongard v. Driscoll, 73 S.Ct. 33, 344 U.S. 838, 97 L.Ed. 652, rehearing denied 73 S.Ct. 181, 344 U.S. 888, 97 L.Ed. 687, certiorari denied Bell v. Driscoll, 73 S.Ct. 34, 344 U.S. 838, 97 L.Ed. 652, rehearing—Counties 61.

N.M. 1998. Elected county officers were "public officers," within meaning of state constitutional provision generally prohibiting increases or decreases in compensation of public officers during their terms of office. Const. Art. 4, § 27.—State ex rel. Haragan v. Harris, 968 P.2d 1173, 126 N.M. 310, 1998-NMSC-043.—Offic 100(2).

N.M. 1966. Elected junior college district officers are not "public officers" contemplated by constitutional provision that every citizen who is legal resident of state and is qualified elector shall be qualified to hold elective public office. Const. art. 7, § 2.—Daniels v. Watson, 410 P.2d 193, 75 N.M. 661.—Offic 19.

N.M. 1925. Section 5 of chapter 41 of the Sess. Laws of 1919, providing for certain qualifications for electors in irrigation districts, is not repugnant to section 1, article 7, of the Constitution of New Mexico, as officers of such irrigation districts are not "public officers" as contemplated by said provision of the Constitution of New Mexico. Irrigation districts organized under chapter 41 of the New Mexico Session Laws of 1919, are not "municipal corporations" in the sense used in section 13 of article 4, or in section 3 of article 8 of the state Constitution.—Davy v. McNeill, 240 P. 482, 31 N.M. 7.—Waters 216.

N.Y. 1940. City police officers are "public officers" within constitutional provision for removal of any public officer refusing to sign waiver of immunity against subsequent criminal prosecution on being called before grand jury to testify concerning conduct of his office. Const. art. 1, § 6.—Canteline v. McClellan, 25 N.E.2d 972, 282 N.Y. 166.—Mun Corp 185(1).

N.Y. 1900. "Public officers," within the rule that statutes directing the mode of proceedings by public officers are directory, and are not regarded as essential to the validity of the proceedings themselves unless it be so declared in the statutes, includes a judge of a court.—In re Hennessey, 58 N.E. 446, 164 N.Y. 393.

N.Y.A.D. 1 Dept. 1980. Police officers are "public officers" for purposes of provision of Public Officers Law providing for automatic forfeiture of office upon public officer's conviction of felony or of crime involving violation of his oath of office. Public Officers Law § 30, subd. 1, par. e.—Hodgson v. McGuire, 427 N.Y.S.2d 820, 75 A.D.2d 763.—Mun Corp 185(1).

N.Y.A.D. 1 Dept. 1980. Housing authority police officers are "public officers" within Public Officers Law requiring officers to be residents of New York State. (Per Ross, J., with two Judges concurring and one Judge concurring in separate opinion.) Public Officers Law § 30.—Brennan v. New York City Housing Authority, 424 N.Y.S.2d 687, 72 A.D.2d 410.—Mun Corp 192.

N.Y.A.D. 1 Dept. 1915. Official examiners of titles are "public officers," and, as great importance is attached by the registration law to their certificates, they should state only those facts which are clearly established.—Meighan v. Rohe, 151 N.Y.S. 785, 166 A.D. 175, modified 110 N.E. 165, 216 N.Y. 677.

N.Y.A.D. 3 Dept. 1984. Members of state university tribunal which suspended student for cheating were not "public officers" within meaning of statute defining functions of public officers or persons charged with public duty where the tribunal members' duties did not involve exercise of state's sovereign power and where their actions did not affect public at large. McKinney's General Construction Law § 41.—Mary M. v. Clark, 473 N.Y.S.2d 843, 100 A.D.2d 41.—Colleges 9.30(7).

N.Y.Sup. 1981. Where trustees' sole function and basis for existence was to carry out testamentary wishes of testator as enunciated in his will, the trustees, although appointed by supervisors of two towns, did not compose "public body" nor were the trustees "public officers" under open meetings law. Public Officers Law §§ 95 et seq., 97.—Burgher v. Purcell, 440 N.Y.S.2d 480, 109 Misc.2d 531, affirmed 449 N.Y.S.2d 527, 87 A.D.2d 888.—Admin Law 124.

N.Y.Sup. 1978. "Public officers" are those who have a right, authority and duty conferred by law by which they exercise some portion of the sovereign functions of the government for the benefit of the public.—Gallagher v. Griffin, 402 N.Y.S.2d 516, 93 Misc.2d 174.—Offic 1.

N.Y.Sup. 1975. School board members are "public officers," bound to those standards regulating their conduct while in office required of other public officers.—Wong v. New York State Board of Elections, 371 N.Y.S.2d 227, 82 Misc.2d 521.—Schools 62.

N.Y.Sup. 1973. Individuals which comprised school board were "public officers" within Public Officers Law. Public Officers Law § 2.—Komyathy v. Board of Ed. of Wappinger Central School Dist. No. 1, 348 N.Y.S.2d 28, 75 Misc.2d 859.—Schools 51.1.

N.Y.Sup. 1972. Police officers are "public officers" within Public Officer's Law. Public Officers Law § 3.—Spencer v. Board of Ed. of City of Schenectady, 333 N.Y.S.2d 308, 69 Misc.2d 1091.—Offic 1.

N.Y.Sup. 1970. Village trustees are "public officers". Public Officers Law § 2.—Ballin v. Larkin, 310 N.Y.S.2d 402, 62 Misc.2d 949, modified 318 N.Y.S.2d 568, 36 A.D.2d 530, appeal dismissed 321 N.Y.S.2d 906, 28 N.Y.2d 800, 270 N.E.2d 725.—Mun Corp 123.

N.Y.Sup. 1956. Members of a town planning board were "employees" and "public officers" of the town within the statute requiring the town board to fix the salaries of all officers and employees of the town. Town Law, §§ 27 et seq., 271.—In re Schulz' Petition, 149 N.Y.S.2d 646, 1 Misc.2d 1063.—Towns 29.

N.Y.Sup. 1939. Though the Board of Education of New York City is a corporate body created under the Education Law and may sue and be sued in its corporate name, its members are "public

officers" charged with a public duty to be performed or exercised by them jointly or as a board or similar body within section of General Construction Law defining a quorum and majority of such a board or body. Education Law, § 868; General Construction Law, § 41.—Talbot v. Board of Ed. of City of New York, 14 N.Y.S.2d 340, 171 Misc. 974.—Mun Corp 211.

N.Y.Sup. 1939. Policemen of city were "public officers" within constitutional provision that any public officer refusing to sign a waiver of immunity upon being called before grand jury should be removed from office. Penal Law, §§ 372, 1826; Const. art. 1, § 6, as amended, in effect Jan. 1, 1939.—Canteline v. McClellan, 12 N.Y.S.2d 642, 171 Misc. 327, reversed 16 N.Y.S.2d 792, 258 A.D. 314, affirmed 25 N.E.2d 972, 282 N.Y. 166.—Mun Corp 176(3.1).

N.Y.Sup. 1939. The requirements of filing an oath and giving of bond marked position held by appointee to office of municipal court clerk as one belonging to the class of "public officers" within Public Officers Law. Public Officers Law, § 5.—In re Weppler, 10 N.Y.S.2d 1003, 170 Misc. 933, affirmed Application of Weppler., 13 N.Y.S.2d 280, 257 A.D. 940.—Clerks of C 1.

N.Y.Sup. 1939. The members of the State Liquor Authority are "public officers," and therefore presumption exists that they reached their determination regarding number of liquor licenses to be issued only after due consideration of relevant facts which made its action in such regard a requisite one. Alcoholic Beverage Control Law, § 17, subd. 2; §§ 63, 79.—Marks v. Bruckman, 9 N.Y.S.2d 947, 170 Misc. 709.—Evid 83(1).

N.Y.Sup. 1913. City employés who were granted pensions are not "public officers" within Const. art. 3, § 18, prohibiting the increasing of allowances of public officers by local statute, and a local statute providing for the pensioning of city employés does not fall within the inhibitions of the Constitution.—Hammitt v. Gaynor, 144 N.Y.S. 123.—Mun Corp 215.

N.Y.Co.Ct. 1937. Movant held entitled to have grand jury presentment which stated that evidence was insufficient to warrant indictment, but that grand jury believed that movant, "vice chairman of the Queens County Committee," attempted to inaugurate a vicious scheme whereby all noncivil service appointees would be required to sign resignations prior to appointments, stricken from the record insofar as it referred to movant since presentment could only be justified by statute requiring grand jury to inquire into misconduct in office of "public officers," and since movant was not "public officer," even if committee referred to was the Democratic committee. Code Cr.Proc. §§ 252, 257, 258, 260, 269, 273, 274, 389; Penal Law, § 775.—In re Healy, 293 N.Y.S. 584, 161 Misc. 582.—Gr Jury 42.

N.Y.Fam.Ct. 1977. Attendance teachers were not "public officers" within "public officer" exception to rule against hearsay. CPLR 4518(a), 4520.—In Matter of George C., 398 N.Y.S.2d 936, 91 Misc.2d 875.—Evid 333(6).

N.C. 1945. Employees of State Highway and Public Works Commission who were sweeping public highway with truck or sweeper, with blower attached, were not "public officers" and hence could not escape liability for injury to merchandise in adjacent store whereto dirt and filth were swept up.—Miller v. Jones, 32 S.E.2d 594, 224 N.C. 783.—Autos 187(6).

N.C.App. 1992. For purpose of sovereign immunity, governmental workers are "public officers" if they take an oath of office and are vested with measure of discretion.—EEE-ZZZ Lay Drain Co. v. North Carolina Dept. of Human Resources, 422 S.E.2d 338, 108 N.C.App. 24.—Offic 114.

Ohio 1924. Members of county building commission *held* not "public officers."—State ex rel. Stanton v. Callow, 143 N.E. 717, 22 Ohio Law Rep. 143, 110 Ohio St. 367, 2 Ohio Law Abs. 357.—Counties 105(1); Offic 1.

Ohio Com.Pl. 1949. Members of county board of elections, whose functions are, in large measure, clerical and ministerial, and who are subject to directions of Secretary of State, as chief election officer, are merely "state employees", and are not "public officers", within constitutional provision denying right to any change in compensation for officers during their term of office, and, hence, they are entitled to receive increase provided for in statute enacted after commencement of their terms. Gen.Code, § 4785–18; Const. art. 2, § 20.—Wilkins v. Trimbur, 86 N.E.2d 503, 39 O.O. 178, 54 Ohio Law Abs. 378.—Offic 100(2).

Okla. 1957. Statutory trustees appointed to administer gifts made to governmental units are "public officers" for purposes set forth in act with respect to such gifts. 60 O.S.Supp. § 381 et seq.—State ex rel. Williamson v. Evans, 319 P.2d 1112, 1957 OK 304.—Offic 1.

Pa. 1957. Policemen do not have status of "public officers" within constitutional provision that no law shall increase or diminish public officer's salary or emoluments after his election or appointment. P.S.Const. art. 3, § 13.—Jordan v. Kane, 131 A.2d 364, 389 Pa. 1.—Mun Corp 186(5).

Pa. 1948. Employees of borough fire department are not "public officers", but borough employees.—Burgess and Town Council of Borough of Warren v. Willey, 58 A.2d 454, 359 Pa. 144.—Mun Corp 194.

Pa. 1947. Members of governing body of Mahanoy Township Authority, which was formed pursuant to Municipal Authorities Act, are "public officers", and title to their offices must be determined by quo warranto proceedings and not by use of preliminary injunction. 53 P.S. § 2900z–1 et seq.—Mahanoy Tp. Authority v. Draper, 52 A.2d 653, 356 Pa. 573.—Quo W 11.

Pa. 1938. "School teachers" are not "public officers" within meaning of constitutional provisions prohibiting the creation of any office the appoint-

ment to which shall be for a longer term than during good behavior and forbidding the extension of the term of any "public officer" after his election or appointment, since the duties of school teachers are not created by statute, but rise directly from their contracts of employment. Const. art. 1, § 24; art. 3, § 13.—Malone v. Hayden, 197 A. 344, 329 Pa. 213.—Schools 133.5.

Pa. 1935. "All officers," "appointed officers," "all officers elected by people," and "public officers," as used in constitutional provisions concerning compensation of officers include officers of state, county, or municipality. P.S. Const. art. 3, § 13, and art. 6, § 4.—Finley v. McNair, 176 A. 10, 317 Pa. 278.—Offic 49, 61, 94.

Pa. 1921. County commissioners in a county in which the commissioners also act as overseers or directors of the poor, in their capacity as overseers or directors of the poor are "public officers," within P.S. Const. art. 3, § 13, prohibiting increases in salary during the term of office.—Appeal of Tucker, 114 A. 626, 271 Pa. 462.—Offic 100(2).

Pa. 1920. The registration commissioners appointed under Act July 24, 1913, P.L. 977, 25 P.S. § 641, who are appointed by the Governor for a fixed term to appoint and supervise election registrars, pass on the qualification of electors, keep a record of the proceedings, and make annual report to the Governor, and are "public officers," so that the increase of salary granted by Act July 19, 1917, P.L. 1108, 25 P.S. § 661, cannot apply to commissioners then in office under P.S.Const. art. 3, § 13.—Commonwealth ex rel. Goshorn v. Moore, 109 A. 611, 266 Pa. 100.

Pa. 1920. Within P.S. Const. art. 3, § 13, prohibiting increase of salaries of public officers during their terms, "public officers" are not restricted to those who exercise important public duties, but include all whose duties are for public benefit for a stipulated compensation paid by the public, and who have a definite term and certain tenure, and the provision applies to officers created by the Legislature since the adoption of the Constitution.—Commonwealth ex rel. Goshorn v. Moore, 109 A. 611, 266 Pa. 100.

Pa. 1917. Township supervisors are "public officers."—Vernon Tp. v. United Natural Gas Co., 100 A. 1007, 256 Pa. 435.

Pa.Super. 1945. Those who occupy a subordinate position in a municipality, who are employed and paid by municipality, do not have definite term of office, and whose duties are discharged primarily in connection with municipal affairs, cannot properly be considered as "public officers" or "officers of commonwealth". P.S.Const. art. 6, § 4.—Com. v. Bausewine, 40 A.2d 919, 156 Pa.Super. 535, reversed 46 A.2d 491, 354 Pa. 35.—Mun Corp 123.

Pa.Super. 1939. City of Philadelphia was without authority to decrease the salary of second-grade prison guards employed by the board of inspectors of Philadelphia county prison and who were not "public officers" unless such action was concurred in by the board.—Schwarz v. City of Philadelphia, 4 A.2d 573, 134 Pa.Super. 544, reversed 12 A.2d 294, 337 Pa. 500.—Prisons 8.

R.I. 1949. Those charged with supervision, direction, and control of public education are "public officers" or officials exercising a governmental function.—Gray v. Wood, 64 A.2d 191, 75 R.I. 123.—Schools 63(1).

R.I. 1916. Members of city committee to arrange for a Fourth of July celebration *held* not "public officers" in such a sense as to exempt them from liability for injury resulting from their negligent setting off of fireworks.—Sroka v. Halliday, 97 A. 965, 39 R.I. 119, Am.Ann.Cas. 1918D,961.—Mun Corp 123.

S.C. 1931. General constitutional provision relating to extra compensation for "public officers" held inapplicable to members of Legislature. Const.art. 3, §§ 9, 19, 30.—Scroggie v. Scarborough, 160 S.E. 596, 162 S.C. 218.—States 63.

S.C. 1908. A grand juror is not a public officer to be "commissioned by the Governor," within the statute construing the term "public officers" to mean all officers of the state that have heretofore been commissioned by the Governor, etc.—State v. Graham, 60 S.E. 431, 79 S.C. 116.—Gr Jury 1.

S.C. 1908. A grand juror is not a "public officer" to be commissioned by the Governor, within the statute construing the term "public officers" to mean all officers of the state that have heretofore been commissioned by the Governor, etc.—State v. Graham, 60 S.E. 431, 79 S.C. 116.

S.D. 1904. Const. art. 12, § 3, provides that the compensation of any public officer shall not be increased or diminished during his term of office. The article is in four sections, and appears under the heading, "Public Accounts and Expenditures." The first section provides that no money shall be paid out of the treasury, except upon appropriation by law, and on warrant drawn by the proper officer; the second provides that the general appropriation bill shall embrace only appropriations for ordinary expenses of the executive, legislative, and judicial departments; the third provides that the Legislature shall never grant any extra compensation to any public officer, employee, or contractor, and contains the above provision as to increased or diminished compensation; and the fourth section provides for an itemized statement of receipts and expenditures. Const. art. 5, § 19, provides that the term of the county judge shall be for two years, until otherwise provided by law, but makes no provision for his salary, while, on the other hand, sections 8, 15, and 30 of that article, and article 21, § 2, definitely fix and provide for the terms and salaries of the supreme and circuit judges. Held that, construed by its context, the provision of article 12, § 3, includes under the term "public officers" only state officers who draw their salary from the state treasury, and does not include the county judges.—Hauser v. Seeley, 100 N.W. 437, 18 S.D. 308.—Judges 22(7).

Tenn. 1906. Members of a building committee appointed by a county court to contract for the

erection of a courthouse are "public officers," within Acts 1899, p. 358, c. 182, making it a misdemeanor for any "public officer" to award a contract for any public work without requiring the bond provided for in the act.—W. T. Hardison & Co. v. Yeaman, 91 S.W. 1111, 115 Tenn. 639.

Tenn.Ct.App. 1939. Where the statute provides for the appointment of deputies, such deputies are "public officers."—Southern Ry. Co. v. Hamilton County, 138 S.W.2d 770, 24 Tenn.App. 32.—Offic 47.

Tex. 1950. Policemen are "public officers" and general rules as to resignations of public officers are applicable to them in absence of statutory provisions.—Sawyer v. City of San Antonio, 234 S.W.2d 398, 149 Tex. 408.—Mun Corp 180(1), 184(4).

Tex. 1950. Officers of a political party, such as chairmen of county executive committees and precinct committeemen, although provided for by election laws, are not "public officers" or "governmental officers". Vernon's Ann.Civ.St. arts. 3107, 3139, 3146.—Carter v. Tomlinson, 227 S.W.2d 795, 149 Tex. 7.—Elections 121(1).

Tex.Com.App. 1935. Liability of constable for neglect of official duties on part of his deputy held same as liability of sheriff for neglect of his deputy, since relation between constable and his deputy is same as that between sheriff and his deputy so far as public is concerned as both deputy sheriff and deputy constable are "public officers". Vernon's Ann.Civ.St. art. 6870.—Rich v. Graybar Elec. Co., 84 S.W.2d 708, 125 Tex. 470, 102 A.L.R. 171.—Sheriffs 100.

Tex.Crim.App. 1933. Deputy constables are "public officers" clothed with power and authority of their principals.—Murray v. State, 67 S.W.2d 274, 125 Tex.Crim. 252.—Sheriffs 17.

Tex.App.–Austin 1998. Two municipal judges, who claimed that they were denied reappointment because of their advocacy for the disabled, were "public officers" and not "employees" protected by Texas Commission on Human Rights Act (TCHRA), given that the judges had to meet statutory qualifications to hold their positions, the judges were entrusted with independent and sovereign powers, and their office had all the indicia of a public office, including judges' oath, membership in judiciary, authority to pronounce judgment and adjudicate parties' rights, responsibility to public, and a fixed term subject to removal. V.T.C.A., Government Code § 30.324(b, c) (1996).—Thompson v. City of Austin, 979 S.W.2d 676.—Judges 12.

Tex.App.–Houston [14 Dist.] 2000. Doctor designated by Workers' Compensation Commission to evaluate worker's physical impairment and provider of support services were not "public officers" under Workers' Compensation Act, as would entitle them to immunity as state officers and permit interlocutory appeal from denial of their motion for summary judgment. V.T.C.A., Labor Code § 413.054; V.T.C.A., Civil Practice & Remedies Code § 51.014(a)(5).—Xeller v. Locke, 37 S.W.3d 95, review denied.—Work Comp 1076, 1834.

Tex.Civ.App.–Fort Worth 1949. A Political Party's officers, such as members of party executive committee, are not "public officers" or "governmental officers" even when provided for by statutory law.—Carter v. Tomlinson, 220 S.W.2d 351, reversed 227 S.W.2d 795, 149 Tex. 7.—Elections 121(1).

Tex.Civ.App.–San Antonio 1937. Members of city commission charged with passing city ordinance directing payment of public funds to attorneys for private services are "public officers" charged with an "act which by law works a forfeiture of his office," within statute authorizing proceeding in nature of quo warranto for ouster of such officers. Const. art. 1, § 3; art. 3, §§ 52, 53; Vernon's Ann.Civ.St. arts. 988, 6253 et seq.; Vernon's Ann. P.C. art. 373; Charter City of Del Rio, §§ 59, 65, 66.—State ex rel. La Crosse v. Averill, 110 S.W.2d 1173, writ refused.—Quo W 14.

Vt. 1938. Legally elected listers are "public officers" of the state exercising such governmental functions as the state has intrusted to them, and serving the town, in that their product affords the foundation for securing the money with which the town is able to discharge its governmental duties.—Smith & Son v. MacAulay, 196 A. 281, 109 Vt. 326.—Towns 58.

Vt. 1893. The term "public officers" includes grand jurors and listers.—State v. Rollins, 27 A. 498, 65 Vt. 608.

Va.App. 1991. Postal Service clerks are "public officers" for purposes of presumption that, in absence of clear evidence to the contrary, public officers properly discharge their official duties.—Robertson v. Com., 406 S.E.2d 417, 12 Va.App. 854.—Crim Law 322.

Wash. 1945. Members of organized police force are "public officers" within statute declaring public officer, asking or receiving compensation, gratuity, or reward to neglect or violate official duty, guilty of asking or receiving bribe. Rem.Rev.Stat. § 2321.—State v. Cooney, 161 P.2d 442, 23 Wash.2d 539.—Brib 1(2).

Wash. 1941. Members of the legislature are "public officers" within constitutional provision that compensation of public officers shall not be increased or diminished during their terms of office. Const. art. 2, § 25.—State ex rel. Todd v. Yelle, 110 P.2d 162, 7 Wash.2d 443.—Offic 100(2).

Wash. 1937. A complaint alleging that plaintiff was seized and set upon without legal right and contrary to law by defendants who were in uniform and armed and equipped as public officers, and who were acting and assuming to act in concert and as public officers of state and pursuant to a previous understanding between themselves, stated a "transitory action" which could be tried under statutes in county in which defendants resided, and was not a "local action" against "public officers" which could be tried under statute in county in which cause arose. Rem.Rev.Stat. §§ 205, 208, 209.—

State ex rel. Hand v. Superior Court of Grays Harbor County, 71 P.2d 24, 191 Wash. 98.—Venue 8.2.

Wis. 1978. Statute providing that regardless of results of litigation governmental unit, when it does not provide legal counsel to defendant "public officer," shall pay reasonable attorney fees and costs of defending action, unless it is found by court or jury that defendant officer did not act within scope of his employment, is limited to attorney fees for "public officers" other than sheriffs and deputy sheriffs serving at will of sheriff arising from civil damages actions, and thus county sheriff could not recover from county attorney fees and costs incurred in defending a criminal prosecution under such statute. St.1973, § 270.58(1).—Bablitch and Bablitch v. Lincoln County, 263 N.W.2d 218, 82 Wis.2d 574.—Sheriffs 64.

Wis. 1941. "Officers" are of two kinds, "public officers" and those who are not.—Martin v. Smith, 1 N.W.2d 163, 239 Wis. 314, 140 A.L.R. 1063.—Offic 1.

Wis. 1941. Professors at state university elected by the board of regents are not "public officers". St.1937, § 36.06(1).—Martin v. Smith, 1 N.W.2d 163, 239 Wis. 314, 140 A.L.R. 1063.—Colleges 8(1); Offic 1.

Wis. 1930. Members of Legislature held "public officers," and as such not entitled to receive increased salaries during term of office at which salary increase was voted. W.S.A. Const. art. 4, § 26; Laws 1929, c. 427.—State v. Dammann, 228 N.W. 593, 201 Wis. 84.—States 63.

## PUBLIC OFFICERS ACTING UNDER AUTHORITY OF CONGRESS

U.S.Fla. 1906. Judges of the superior court of West Florida were "Public officers acting under authority of Congress" within the meaning of the proviso in Act June 22, 1860, c. 188, § 3, 12 Stat. 85, prohibiting commissioners from embracing among the Florida land claims which ought to be confirmed "any claim which has been heretofore presented for confirmation before any board of commissioners or other public officers acting under authority of Congress, and rejected as being fraudulent, or procured or maintained by fraudulent or improper means."—U.S. v. Dalcour, 27 S.Ct. 58, 203 U.S. 408, 51 L.Ed. 248.—Pub Lands 216.

## PUBLIC OFFICERS AND SERVANTS

Ala. 2004. Employees of city water works and sewer board were "public officers and servants" of city for purposes of the Open Records Act, and, thus, records necessary for board employees to carry out their activities were public records subject to disclosure, even though board was a public corporation, where board was established by city, board operated out of city hall, city council appointed the board members, and board performed municipal function of supplying water and sewer services. Code 1975, §§ 11-50-310 et seq., 36-12-1, 36-12-40.—Water Works and Sewer Bd. of City of Talladega v. Consolidated Pub., Inc., 892 So.2d 859, rehearing denied.—Records 54.

## PUBLIC OFFICERS' IMMUNITY DOCTRINE

N.C.App. 2001. Under the "public officers' immunity doctrine," a public official is immune from personal or individual liability for mere negligence in the performance of his duties, but he is not shielded from liability if his alleged actions were corrupt or malicious or if he acted outside and beyond the scope of his duties.—Willis v. Town of Beaufort, 544 S.E.2d 600, 143 N.C.App. 106, review denied 555 S.E.2d 280, 354 N.C. 371.—Offic 116.

## PUBLIC OFFICER THROUGH WHOM PAYMENT IS TO BE MADE

Iowa 1927. Under Code 1924, §§ 10305, 10308 (I.C.A. §§ 573.7, 573.10), providing that subcontractor's claim should be filed with "public officer through whom payment is to be made," claim for materials furnished in construction of primary road project should be filed with county auditor, since contract for improvement is between county and contractor, and since under Acts 38th Gen.Assem. c. 237, §§ 5, 6, 13 (I.C.A. § 313.6 et seq.), relating to county's allotment from primary road fund, warrants are issued by county auditor, and under Code 1924, § 4626 (I.C.A. § 307.5), highway commission has no power to issue warrants for county improvements.—Fuller & Hiller Hardware Co. v. Shannon & Willfong, 215 N.W. 611, 205 Iowa 104.

## PUBLIC OFFICES

S.D.Miss. 1987. State university's head football coach, team physician, and head trainer did not hold "public offices" under Mississippi law, and thus, no claim could exist against such university employees in their official capacities, and they could only be subject to suit as individuals; the positions were not created by statute, and it was reasonably assumed that the positions were held under oral or written employment contracts.—Sorey v. Kellett, 673 F.Supp. 817, reversed 849 F.2d 960, rehearing denied.—Colleges 8(1).

Colo. 1915. An action in the nature of quo warranto does not lie to test the right of defendants as commissioners appointed to call and hold an election upon the question of incorporating a town, since their positions are transient, and cease to exist upon performance of the duties delegated to them, and are not "public offices," because lacking the ideas of tenure, emoluments, and duties pertaining to public offices; an "office" being an employment on behalf of the government in any station or public trust, not merely transient, occasional, or incidental.—People v. Garfield County Court, 147 P. 329, 59 Colo. 52.

Ga. 1948. The offices of mayor and council of incorporated town are "public offices" within statute authorizing writ of quo warranto to inquire into right of person to public office duties of which he is discharging. Code, § 64–201.—Rogers v. Croft, 47 S.E.2d 739, 203 Ga. 654.—Quo W 10.

Ga. 1934. The term "public office" involves the ideas of tenure, duration, fees or emoluments, and powers as well as that of duty, and these ideas or elements cannot properly be separated and each considered abstractly, but all, taken together, constitute an "office." But it is not necessary that an "office" should have all of the above-named characteristics, although it must possess more than one of them, and the mere fact that it concerns the public will not constitute it an "office." The term "public office" embraces the idea of tenure and of duration or continuance; hence an important distinguishing characteristic of an officer is that the duties to be performed by him are of a permanent character as opposed to duties which are occasional, transient, and incidental. Public employments are "public offices," notwithstanding the instability of the tenure by which the incumbent holds.—Kurfees v. Davis, 173 S.E. 157, 178 Ga. 429.

Ill.App. 1 Dist. 1937. Positions under city or state civil service laws are not "offices" in strict sense, like office of judge, and are not "public offices". S.H.A. ch. 24½, §§ 13, 50; S.H.A.Const. art.5, § 24.—McKinley v. City of Chicago, 10 N.E.2d 689, 291 Ill.App. 571, reversed 16 N.E.2d 727, 369 Ill. 268.—Offic 11.1.

Ill.App. 1 Dist. 1937. Positions under city civil service laws are not "offices" in strict sense, like office of judge, and are not "public offices." S.H.A. ch. 24½, §§ 13, 50; S.H.A.Const. art. 5, § 24.—McKinley v. City of Chicago, 10 N.E.2d 689, 291 Ill.App. 571, reversed 16 N.E.2d 727, 369 Ill. 268.—Mun Corp 125.

N.J.Sup. 1895. "Public offices" are in general, if not always, directly created by the Legislature itself, the municipal authorities selecting the persons to perform their functions. The term cannot be applied to the general superintendent of waterworks, employed by the water commissioners of a city for a term of years, the position being the creature of the board of commissioners, and entirely unknown to the statute.—Cramer v. Water Com'rs of New Brunswick, 31 A. 384, 57 N.J.L. 478, 28 Vroom 478, reversed 39 A. 671, 61 N.J.L. 270, 32 Vroom 270, 68 Am.St.Rep. 705.

Ohio 1996. County and city holding 911 tapes constituted "public offices" for purposes of Public Records Act. R.C. § 149.43.—State ex rel. Cincinnati Enquirer v. Hamilton Cty., 662 N.E.2d 334, 75 Ohio St.3d 374, 1996-Ohio-214.—Records 51.

Ohio 1948. A prosecuting attorney, and a commissioned officer in active military service of the United States, are holders of "public offices".—State ex rel. Welty v. Outland, 77 N.E.2d 245, 149 Ohio St. 13, 36 O.O. 344.—Offic 30.4.

Ohio App. 7 Dist. 1940. The positions of registrar and professor in a state university are "public offices" within statute prohibiting persons holding public office from being members of the city council, and such persons forfeit their right to their elective offices when they retain their university positions after assumption of office in council. Gen. Code, § 4207.—State ex rel. Tilden v. Harbourt, 46 N.E.2d 435, 70 Ohio App. 417, 25 O.O. 128.—Mun Corp 142, 151.

## PUBLIC OFFICES HELD BY A PUBLIC OFFICIAL

Mich. 2001. Positions of public employment are "public offices held by a public official" and, therefore, can be incompatible offices. M.C.L.A. § 15.181(b).—Macomb County Prosecutor v. Murphy, 627 N.W.2d 247, 464 Mich. 149.—Offic 30.1.

Mich. 2001. Positions of county delinquent property tax coordinator and township trustee were "public offices held by a public official" and, therefore, could be incompatible offices, even though the coordinator position was public employment. M.C.L.A. § 15.181(b).—Macomb County Prosecutor v. Murphy, 627 N.W.2d 247, 464 Mich. 149.—Mun Corp 142; Offic 30.1.

## PUBLIC OFFICIAL

U.S.Fla. 1971. Both as mayor of city and in his status as candidate for office of county tax assessor, defamed person was "public official" within rule prohibiting public official from recovering damages for defamatory falsehood relating to his official conduct in absence of proof that statement was made with actual malice.—Ocala Star-Banner Co. v. Damron, 91 S.Ct. 628, 401 U.S. 295, 28 L.Ed.2d 57, appeal after remand 263 So.2d 291.—Libel 48(2), 48(3).

U.S.Ill. 1974. Attorney who had served briefly on housing committees appointed by mayor and had appeared at coroner's inquest into death of murder victim but had never held any remunerative governmental position was not "public official" within rule requiring "public official" suing publisher or broadcaster in libel action to establish "actual malice." U.S.C.A.Const. Amend. 1.—Gertz v. Robert Welch, Inc., 94 S.Ct. 2997, 418 U.S. 323, 41 L.Ed.2d 789, appeal after remand 680 F.2d 527, certiorari denied 103 S.Ct. 1233, 459 U.S. 1226, 75 L.Ed.2d 467.—Libel 51(5).

U.S.N.H. 1971. Candidate for elective public office was "public official" or "public figure" within rule concerning recovery of damages for libel and slander of public official or public figure.—Monitor Patriot Co. v. Roy, 91 S.Ct. 621, 401 U.S. 265, 28 L.Ed.2d 35, on remand 290 A.2d 207, 112 N.H. 80.—Libel 48(3).

U.S.N.H. 1966. For purposes of decisional law that under First and Fourteenth Amendments a state cannot award damages to public official for defamatory falsehood relating to his official conduct unless the official proves actual malice, that is, that the falsehood was published with knowledge of its falsity or with reckless disregard of whether it was true or false, the "public official" designation applies at the very least to those among the hierarchy of government employees who have, or appear to the public to have, substantial responsibility for or control over the conduct of governmental affairs. U.S.C.A.Const. Amends. 1, 14.—Rosenblatt v. Baer, 86 S.Ct. 669, 383 U.S. 75, 15 L.Ed.2d 597,

appeal after remand 237 A.2d 130, 108 N.H. 368.—Const Law 274(4).

U.S.Phil.Islands 1908. The acceptance by an army officer on the active list, detached to command a battalion of Philippine scouts, of a small sum from the civil government of the Philippine Islands, to be used by him in connection with his military command in the preparation and display of an exhibit at the Louisiana Purchase Exposition, did not make him a "public official," so as to be amenable to Pen.Code P.I. art. 300, punishing the falsification of a public document by a public official.—Carrington v. U.S., 28 S.Ct. 203, 208 U.S. 1, 52 L.Ed. 367.

C.A.9 (Cal.) 1984. Private in the United States Army was a "public official" for purposes of federal bribery statute, which defines "public official" to include any government employee. 18 U.S.C.A. § 201.—U.S. v. Kidd, 734 F.2d 409.—Brib 1(2).

C.A.9 (Cal.) 1982. Defendant, who as Federal Reserve bank employee worked for a fiscal arm of the federal government and who was in a position of responsibility which enabled him to act for or on behalf of federal government in recommending expenditure of federal funds, acted for or on behalf of the federal government and thus was correctly found to be a "public official" for purpose of federal bribery statute which applies only to a public official. 18 U.S.C.A. § 201(a), (c)(2), (g); Federal Reserve Act, §§ 7, 11(j), 15, 12 U.S.C.A. §§ 289, 290, 248(j), 391.—U.S. v. Hollingshead, 672 F.2d 751.—Brib 1(2).

C.A.11 (Fla.) 2003. Executive director of nonprofit corporation created at direction of city housing authority did not have authority for carrying out federal program or policy and therefore was not "public official" who could be convicted for receiving illegal gratuities; although corporation received substantial amount of Section 8 funds from authority for authority clients residing in corporation's properties, corporation participated in program as owner of dwelling units like any other landlord renting to eligible low income tenants. 18 U.S.C.A. § 201(a)(1).—U.S. v. Evans, 344 F.3d 1131, on subsequent appeal 124 Fed.Appx. 641.—Brib 1(1).

C.A.11 (Fla.) 2003. To be "public official," within meaning of gratuity statute, individual must possess some degree of official responsibility for carrying out federal program or policy; person need not be employee of federal government, and definition of "public official" is broad enough to cover persons working for private organizations. 18 U.S.C.A. § 201(a)(1).—U.S. v. Evans, 344 F.3d 1131, on subsequent appeal 124 Fed.Appx. 641.—Brib 1(1).

C.A.11 (Fla.) 1999. Employee of defense contractor, who assisted Air Force in procuring materials and equipment for project, was "public official," as required for prosecution of employee for solicitation of gratuity as public official; although employee did not exercise final judgment on contracting decisions, officers of Air Force relied on his advice and information he provided in making decisions pertaining to procurement of equipment, and employee acted as primary liaison between supplier and Air Force. 18 U.S.C.A. § 201(a)(1).—U.S. v. Kenney, 185 F.3d 1217, 161 A.L.R. Fed. 765.—Brib 1(2).

C.A.7 (Ill.) 1965. City deputy chief of detectives and lieutenant of police was "public official" within rule prohibiting public official from recovering damages for defamatory falsehood relating to his official conduct unless he proves that statement was made with actual malice, that is, with knowledge that it was false or with reckless disregard of whether it was false or not.—Pape v. Time, Inc., 354 F.2d 558, certiorari denied 86 S.Ct. 1339, 384 U.S. 909, 16 L.Ed.2d 361.—Libel 51(5).

C.A.4 (Md.) 1990. Executive director of city housing authority who administered federal funds in federal program was "public official" within meaning of federal bribery statute. 18 U.S.C.A. §§ 201, 201(a).—U.S. v. Strissel, 920 F.2d 1162.—Brib 1(2).

C.A.4 (Md.) 1981. Defamation plaintiff who acted as informant for inspection services division of police department, but was not an employee and received no salary and was reimbursed for some expenses, was not a "public official" since, even if plaintiff's tenuous relationship with ISD constituted participation in government enterprise, his minor role therein precluded public official characterization.—Jenoff v. Hearst Corp., 644 F.2d 1004.—Libel 48(2).

C.A.8 (Minn.) 1997. Private physician who also served as coroner for first Minnesota county, and who, at request of coroner for second county, performed autopsy on person who died in second county, was not "public official" for purposes of her defamation action arising from television news story that was critical of investigation of that death and of officials involved, including plaintiff; plaintiff acted merely as private physician in performing autopsy, and she had rather limited role, serving under control of second county's coroner.—Michaelis v. CBS, Inc., 119 F.3d 697, rehearing and suggestion for rehearing denied.—Libel 48(2).

C.A.5 (Miss.) 2002. Finding that cook employed at federal prison was "public official," within meaning of statute prohibiting such persons from accepting bribes, was not plain error; cook was federal employee with official functions. 18 U.S.C.A. § 201.—U.S. v. Baymon, 312 F.3d 725.—Crim Law 1036.8.

C.A.1 (N.H.) 1989. Clinical psychologist at Veterans' Administration hospital was not a "public official" for libel law purposes; psychologist did not routinely supervise, manage, or direct government operations, his position commanded no extraordinary media exposure, and his job duties did not concern the general public.—Kassel v. Gannett Co., Inc., 875 F.2d 935.—Libel 48(1).

C.A.2 (N.Y.) 1989. An engineer technician continued his status as employee of Environmental Protection Agency, after he agreed to plead guilty to a crime and become an undercover agent and, thus, was a "public official" under federal bribery

statute. 18 U.S.C.A. § 201(a).—U.S. v. Romano, 879 F.2d 1056.—Brib 1(2).

C.A.2 (N.Y.) 1975. Assistant administrator of model cities program who was a city employee, carrying out a task delegated to him by his superior, another city employee, and to whom rental agent allegedly offered a bribe to induce him to rent space in rental agent's building was not a "public official" for purposes of statute which makes it illegal to offer a bribe to an officer or employee or person acting for or on behalf of the United States, even though the federal government provided 100% of the cost of the model cities program and 80% of its salaries and even though United States Department of Housing and Urban Development supervised activities to some extent. 18 U.S.C.A. §§ 201, 201(a, b), (b)(1, 2), (c)(1, 2).—U.S. v. Del Toro, 513 F.2d 656, certiorari denied 96 S.Ct. 41, 423 U.S. 826, 46 L.Ed.2d 42, certiorari denied Kaufman v. U.S., 96 S.Ct. 41, 423 U.S. 826, 46 L.Ed.2d 42.—Brib 1(1).

C.A.4 (N.C.) 1988. Deputy sheriff was a "public official" within meaning of federal bribery statute, though he was a county employee receiving no federal funds and federal prisoners he supervised were not segregated from state inmates, where county jail was under contract with federal government for the housing, care and supervision of federal prisoners and was subject to inspections by federal prison authorities. 18 U.S.C.A. §§ 201, 201(a, b).—U.S. v. Velazquez, 847 F.2d 140.—Brib 1(1).

C.A.1 (Puerto Rico) 2003. The term "public official," for purposes of First Amendment constraints on libel law when the challenged statement is about a public official, includes many government employees, including police officers. U.S.C.A. Const.Amend. 1.—Mangual v. Rotger-Sabat, 317 F.3d 45, rehearing and suggestion for rehearing denied, appeal after remand de Jesus-Mangual v. Rodriguez, 383 F.3d 1.—Const Law 90.1(5).

C.A.6 (Tenn.) 2002. Under Tennessee law, post-doctoral research assistant at state university was not "public official," and thus assistant was not required to show that professor acted with actual malice in order to state defamation claim against professor.—Woodruff v. Ohman, 29 Fed.Appx. 337, appeal after remand 166 Fed.Appx. 212, 2006 Fed. App. 0107N, rehearing en banc denied.—Libel 48(1).

C.A.5 (Tex.) 2003. Jailer is a "public official" for purposes of the Hobbs Act, which preserves the common law definition of extortion. 18 U.S.C.A. § 1951.—U.S. v. Rubio, 321 F.3d 517.—Extort 4.

C.A.5 (Tex.) 2001. Guard employed by private company that operated detention facility under contract with Immigration and Naturalization Service (INS) was "public official" within meaning of federal bribery statute; guard performed same duties and had same responsibilities as federal corrections officer at federal prison, and acted on behalf of United States under authority of INS, and thus occupied position of public trust. 18 U.S.C.A. § 201(a)(1), (b)(2)(C).—U.S. v. Thomas, 240 F.3d 445, certiorari denied 121 S.Ct. 2231, 532 U.S. 1073, 150 L.Ed.2d 222.—Brib 1(1).

C.A.4 (Va.) 1980. Company engaged in historical and archaeological research was not "public figure" or "public official" for purposes of libel where it was not generally known to community, it did not press itself into public controversy, it was consultant available to business and government alike, it was employed by government to conduct archaeological research for short period of time, and it functioned as purely fact finder, exercising no judgment or discretion.—Arctic Co., Ltd. v. Loudoun Times Mirror, 624 F.2d 518, certiorari denied 101 S.Ct. 897, 449 U.S. 1102, 66 L.Ed.2d 827.—Libel 48(1).

W.D.Ark. 1985. Deputy sheriff, having substantial responsibility for or control over conduct of government affairs at least where law enforcement and public functions were concerned, was "public official" within meaning of libel law.—Karr v. Townsend, 606 F.Supp. 1121.—Libel 48(2).

D.D.C. 1993. Special agent in charge of secret service detail which protects former president was "public official" and could not recover on theories of libel and false light invasion of privacy in connection with radio broadcast of statements falsely characterizing him as homosexual, absent proof of actual malice, where evidence established that special agent's duties included supervision and training of staff assigned to protect former president, administration of reports and forms disseminated by protective operation and interviews of persons who might pose threat to former president.—Buendorf v. National Public Radio, Inc., 822 F.Supp. 6.—Libel 48(2), 51(5); Torts 358.

D.D.C. 1975. Marine corps officer, who was a member of national security seminar, and whose participation in seminar filmed by defendant television network was in his official capacity as a spokesman for the Defense Department on conflict in Southeast Asia, was a "public official" within ambit of rule prohibiting a public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with actual malice.—MacNeil v. Columbia Broadcasting System, Inc., 66 F.R.D. 22.—Libel 48(2).

D.D.C 1967. United States Senator, who was a "public official" within meaning of decision in New York Times Co. v. Sullivan, could recover in libel action only if he established by fair preponderance of evidence that defamatory statements were made by defendants with knowledge of their falsity or with reckless disregard as to whether they were true or false, which were questions of fact that precluded summary judgment for Senator.—Dodd v. Pearson, 277 F.Supp. 469.—Fed Civ Proc 2515; Libel 51(5).

M.D.Fla. 2001. Defendant was "public official," as defined in federal bribery statute, when he served as director of nonprofit corporation created at direction of local housing authority to provide and develop affordable housing opportunities for low-income persons on authority's behalf. 18

U.S.C.A. § 201(a).—U.S. v. Evans, 149 F.Supp.2d 1331, reconsideration denied 157 F.Supp.2d 1290, affirmed in part, vacated in part, remanded 344 F.3d 1131, on subsequent appeal 124 Fed.Appx. 641.—Brib 1(1).

C.D.Ill. 1992. "Public official" against whom First Amendment protection applies in defamation suit, is any government employee holding discretionary power in matters of public interest. U.S.C.A. Const.Amend. 1.—Grossman v. Smart, 807 F.Supp. 1404.—Const Law 90.1(5).

N.D.Ill. 1996. For purposes of Illinois statute immunizing public officials from punitive damages liability, "public official" is public employee who exercises discretion in performance of uniquely governmental functions, and there is no "willful and wanton" exception to definition. S.H.A. 745 ILCS 10/2-102.—Reese v. May, 955 F.Supp. 869.—Offic 116.

N.D.Ill. 1982. Illinois Commerce Commission accountant who alleged that he was defamed when derogatory letter placed in his personnel file allegedly foreclosed his freedom to take advantage of other employment opportunities upon his discharge from Commission was not "public official" and, therefore, was not required to prove actual malice.—Zurek v. Hasten, 553 F.Supp. 745.—Libel 48(2).

N.D.Ill. 1969. Police officer was a "public official" for purpose of libel action.—Pape v. Time, Inc., 294 F.Supp. 1087, reversed 419 F.2d 980, certiorari granted 90 S.Ct. 1501, 397 U.S. 1062, 25 L.Ed.2d 683, reversed 91 S.Ct. 633, 401 U.S. 279, 28 L.Ed.2d 45, rehearing denied 91 S.Ct. 1248, 401 U.S. 1015, 28 L.Ed.2d 552.—Libel 48(2).

S.D.Ind. 1975. Mere fact that president of area management broker for Department of Housing and Urban Development was employee of corporation and not of United States did not prevent him from acting as a "public official" as defined in statute proscribing bribery of public officials. 18 U.S.C.A. § 201.—U.S. v. Griffin, 401 F.Supp. 1222, affirmed U.S. v. Metro Management Corp., 541 F.2d 284.—Brib 1(1).

D.Kan. 1988. Former clerk for Kansas Attorney General was not "public official" and was not suing for publicity given to private life in bringing false light publicity tort claim against Attorney General and others arising from disclosure of terms of clerk's settlement of sexual harassments suit against Attorney General and others, and thus, clerk did not waive her right to privacy so as to preclude bringing of suit, under Kansas law.—Tomson v. Stephan, 696 F.Supp. 1407, reconsideration denied 699 F.Supp. 860.—Torts 358.

W.D.Ky. 1965. Rule enunciated by United States Supreme Court that state's power to award damages for libel in actions brought by public officials against critics of their official conduct is dependent upon showing of actual malice is applicable to "public man" as well as to "public official". U.S.C.A.Const. Amends. 1, 14.—Walker v. Courier-Journal & Louisville Times Co., 246 F.Supp. 231, reversed 368 F.2d 189.—Const Law 90.1(5).

E.D.La. 2006. Under Louisiana defamation law, a "public official" is an employee who has or appears to have substantial responsibility for or control over the conduct of governmental affairs; public official holds a governmental position that invites public scrutiny and discussion and has such apparent importance that public has independent interest in qualifications and performance of person who holds it.—Gogreve v. Downtown Development Dist., 426 F.Supp.2d 383.—Libel 48(2).

D.Md. 1983. Plaintiff, who was a state police sergeant at time newspapers allegedly made defamatory statements concerning plaintiff's role in "sting" operation, was "public official" for purposes of newspapers' claim of privilege under the First Amendment to publish matters relating to a public official's official conduct. U.S.C.A. Const.Amend. 1.—Seymour v. A.S. Abell Co., 557 F.Supp. 951.—Libel 48(2).

D.Md. 1978. For purposes of action brought by plaintiff against publisher of allegedly defamatory statements, plaintiff, who acted as undercover informant for city police department, FBI, and Drug Enforcement Administration, who was never an employee of a state or federal law enforcement agency, who was reimbursed for some of his expenses, and whose undercover duties required that he conduct his activities privately and as far removed from public or open scrutiny as possible, was not a "public official." U.S.C.A.Const. Amend. 1.—Jenoff v. Hearst Corp., 453 F.Supp. 541, affirmed 644 F.2d 1004.—Libel 48(2).

D.Md. 1972. Police captain, who brought libel action pertaining to newspaper article quoting boy's father's reference to captain's shooting of boy, after police were called to boy's home following misbehavior by boy, as "cold-blooded murder," was "public official" for purposes of such action.—Thuma v. Hearst Corp., 340 F.Supp. 867.—Libel 48(2).

D.Mass. 2004. Not every public employee is a "public official" for defamation purposes; in the context of libel law, only those employees with substantial responsibility for or control over the conduct of government affairs are deemed public officials.—Mandel v. The Boston Phoenix Inc., 322 F.Supp.2d 39.—Libel 48(2).

D.Mass. 2004. Assistant state's attorney was not "public official," or "public figure," for purposes of his defamation claim against newspaper, given that he did not serve as policymaker, administrator, or supervisor, but rather was lowest-level prosecutor in state court system and thus did not occupy position which invited public scrutiny and discussion of person holding it, that his supervisors handled any press inquiries related to his employment, such that access to the press was not practical means of self-help for assistant state's attorney, and that assistant state's attorney was not elected or given political appointment, but rather was hired for position which bore no special prospect of life in a fish-bowl.—Mandel v. The Boston Phoenix Inc., 322 F.Supp.2d 39.—Libel 48(2).

D.Minn. 2006. County social worker was "public official," required under Minnesota law to show actual malice when bringing claim of defamation; in her position as intake worker for county department providing family services, she was in position to have significant bearing on individual lives, which was criterion for public official status.—Peterson v. Dakota County, 428 F.Supp.2d 974.—Libel 48(2).

D.Minn. 1993. Public elementary school principal was "public official," required to show actual malice in order to recover damages for defamatory publications criticizing her official conduct; fact that principal appeared to have responsibility over conduct of education at school was sufficient to trigger public official standards, even if principal did not actually exercise power public perceived her procedure to possess.—Johnson v. Robbinsdale Independent School Dist. No. 281, 827 F.Supp. 1439.—Libel 48(2).

D.Minn. 1988. FBI agent involved in unusual events and volatile situations on Indian reservations was "public official" required to prove actual malice in defamation action by clear and convincing evidence; First Amendment policy concerns favored extension of concept of public official to include FBI agents acting publicly in course of duties. U.S.C.A. Const.Amend. 1.—Price v. Viking Penguin, Inc., 676 F.Supp. 1501, affirmed 881 F.2d 1426, certiorari denied 110 S.Ct. 757, 493 U.S. 1036, 107 L.Ed.2d 774, rehearing denied 110 S.Ct. 1312, 494 U.S. 1013, 108 L.Ed.2d 488.—Const Law 90.1(5); Libel 48(2), 51(5), 112(2).

E.D.Mo. 1996. Under Missouri law, "public official," for purposes of official immunity doctrine, is individual invested with some portion of sovereign functions of government, to be exercised by him for benefit of public; that portion of sovereign's power delegated to officer must be exercised independently, with some continuity and without control of superior power other than law.—Bolon v. Rolla Public Schools, 917 F.Supp. 1423.—Offic 114.

D.N.J. 1981. Transit police officer was a "public official" and therefore had to prove that publisher of sociology textbook, containing picture depicting officer prodding a black man with night stick and caption referring to social status of offender as most significant determinant of application of criminal sanctions, acted with "actual malice," i. e., reckless disregard of truth or calculated falsity.—Cibenko v. Worth Publishers, Inc., 510 F.Supp. 761.—Libel 48(2).

D.N.J. 1967. Director of municipal housing authority in instigating eviction proceeding against tenants in low income housing project owned and operated by housing authority in accordance with state statute providing for summary actions for recovery of premises was a "public official" performing necessary public function for municipal agency and his liability to tenants alleging that eviction violated their due process rights under color of state law in violation of Civil Rights Act rose no higher than liability of housing authority. N.J.S.A. 2A:18–53; 28 U.S.C.A. §§ 1331, 1343, 2202; 42 U.S.C.A. § 1983; U.S.C.A.Const. Amend. 14.—Randell v. Newark Housing Authority, 266 F.Supp. 171, affirmed and remanded 384 F.2d 151, certiorari denied Avent v. Newark Housing Authority, 89 S.Ct. 158, 393 U.S. 870, 21 L.Ed.2d 139.—Civil R 1357.

D.N.M. 1981. Employee of state government who was working under direct supervision of federal official in administration of federal grant program was "public official" within meaning of federal bribery statute. 18 U.S.C.A. § 201(a).—U.S. v. Gallegos, 510 F.Supp. 1112.—Brib 1(2).

E.D.N.Y. 1989. A former EPA inspector remained a "public official" within the meaning of a bribery statute after he was arrested for taking bribes, but agreed to cooperate with the Government by meeting with contractors who had previously given him bribes, while remaining on EPA payroll; although there was no EPA inspection matter pending before official at the time of the bribes, he was engaged in "official" government business. 18 U.S.C.A. § 201(b)(1)(A).—U.S. v. Kurzban, 703 F.Supp. 5.—Brib 1(2).

S.D.N.Y. 1997. Individual who had formerly been employed as director of operations for North and South America for airline owned by Greek government was "public official" for purposes of defamation action which was based on allegations of professional wrongdoing on his part; director had substantial responsibility in government affairs and described his job as highest overseas post offered by airline, which was most important corporation affecting lives of people in Greek-American community. U.S.C.A. Const.Amend. 1.—Coliniatis v. Dimas, 965 F.Supp. 511.—Libel 48(2).

S.D.N.Y. 1987. Director of halfway house which had contracted with Bureau of Prisons pursuant to federal statute to house and supervise federal convicts was a "public official" for purposes of federal bribery statute and thus could be convicted on basis of having received compensation from inmate of halfway house to "fix" a "dirty" urine sample. 18 U.S.C.A. § 201(a).—U.S. v. Ricketts, 651 F.Supp. 283, affirmed 838 F.2d 1204.—Brib 1(2).

S.D.N.Y. 1986. Employee of New York Bureau of Nutrition was not a "public official" within meaning of *New York Times v. Sullivan* where employee was one of eight public information officers in Bureau, she answered public and media inquiries, spoke to public groups, and reviewed written materials, she neither formulated nor supervised implementation of policy, her duties did not invite scrutiny or discussion independent of any particular controversy in which she may have been involved, and by accepting her current position, she could not have reasonably anticipated public comment on her performance and behavior in her personal and public life.—Nelson v. Globe Intern., Inc., 626 F.Supp. 969.—Libel 48(1).

S.D.N.Y. 1975. Where vice-president of employee relations of corporation held no public office, did not have general fame or notoriety in the community, had no pervasive involvement in public affairs and had not injected himself into a public controversy, he was neither a "public official" nor a

"public figure" and business news publication which published a defamatory article concerning him was not entitled to invoke the qualified privilege for publications concerning "public officials" and "public figures."—Lawlor v. Gallagher Presidents' Report, Inc., 394 F.Supp. 721, remanded 538 F.2d 311.—Libel 48(1), 48(2).

N.D.Ohio 2001. Under Ohio law, police officer was a "public official," for purposes of rule prohibiting public official from recovering damages for defamatory falsehood relating to his official conduct unless he proves that statement was made with actual malice.—Pollard v. City of Northwood, 161 F.Supp.2d 782.—Libel 48(2).

E.D.Pa. 1972. A Jewish merchant whose store had been ravished by a black riot in city was not a "public official" within ruling of the Supreme Court that before a public official could recover damages in civil libel action against a newspaper for alleged defamatory falsehood relating to his official conduct, constitutional guaranties required proof of convincing clarity that defamatory falsehood was published with knowledge that it was false or with reckless disregard of whether it was false or not.—Gordon v. Random House, Inc., 349 F.Supp. 919, vacated 486 F.2d 1356, certiorari granted, vacated 95 S.Ct. 27, 419 U.S. 812, 42 L.Ed.2d 39, on remand 511 F.2d 1393, vacated and remanded 511 F.2d 1393.—Libel 48(2).

M.D.Pa. 1978. For purposes of defamation suit brought by supervisory contract negotiator at United States Navy ships parts control center, plaintiff was a "public official," where plaintiff was involved in solicitation for contracts, requests for proposals, formal advertising, negotiating, and had buying and contract office authority and, as such, was authorized to enter into contracts in the name of and on behalf of United States government. U.S.C.A.Const. Amend. 1.—Rusack v. Harsha, 470 F.Supp. 285.—Libel 48(2).

S.D.Tex. 1995. Assistant regional administrator of branch office of Securities and Exchange Commission (SEC) was "public official" who could recover damages for alleged defamatory story published in newspapers regarding accusations that administrator was involved in sexual crimes only on showing of actual malice.—Matta v. May, 888 F.Supp. 808.—Libel 48(2), 51(5).

S.D.Tex. 1993. Director of Finance and Administration for Harbor Navigation District was "public official"; thus, any statements regarding his job performance were qualified.—West v. Brazos River Harbor Nav. Dist., 836 F.Supp. 1331.—Libel 48(2).

D.Virgin Islands 1984. Territorial detective whose role as detective in investigating crimes was subject of allegedly libelous newspaper article was a "public official" within ambit of *New York Times* rule, and he thus had burden of showing "actual malice" in libel action against the newspaper.—Zurita v. Virgin Islands Daily News, 578 F.Supp. 306.—Libel 48(2), 51(5).

D.Virgin Islands 1982. In libel actions, "public official" designation applies at very least to those among hierarchy of government employees who have, or appear to public to have, substantial responsibility for or control over conduct of governmental affairs and, if public has independent interest in qualifications and performance of person who is in governmental service, that person is "public official."—Moorhead v. Millin, 542 F.Supp. 614.—Libel 48(2).

W.D.Wash. 2004. Secretary and Chief Examiner of Public Safety Civil Service Commission for City of Seattle was "public official," for purposes of her false light claim against broadcaster under Washington law, although three commissioners functioned as her supervisors in expenditure of public funds; Secretary appeared to have substantial responsibility for, or control over, conduct of testing for police and fire department job-seekers and there was strong nexus between her position and allegedly false light statements in broadcast because she was public administrator for Commission and broadcast bore directly on her fitness for her position. Restatement (Second) of Torts § 652E.—Harris v. City of Seattle, 315 F.Supp.2d 1105, affirmed 152 Fed.Appx. 565.—Torts 358.

W.D.Wash. 2004. In the context of a false light tort claim under Washington law, the "public official" designation applies to those among the hierarchy of government employees who have, or appear to the public to have, substantial responsibility for, or control over, the conduct of governmental affairs. Restatement (Second) of Torts § 652E.—Harris v. City of Seattle, 315 F.Supp.2d 1105, affirmed 152 Fed.Appx. 565.—Torts 358.

E.D.Wis. 1997. Under Mississippi law, state's commissioner of corrections is "public official" for purposes of determining immunity from tort claims. Miss.Code 1972, § 47-5-20.—Hodgson v. Mississippi Dept. of Corrections, 963 F.Supp. 776.—Prisons 10.

E.D.Wis. 1980. County court judge was "public official," for purposes of determining whether he was defamed by newspaper wire service account of his statements made in course of sentencing juvenile for rape, notwithstanding contention that lack of transcript and secrecy attending juvenile court proceedings prevented judge from obtaining media access usually afforded public officials, particularly in view of judge's extensive access to virtually all major local and national media within a few days after the sentencing.—Simonson v. United Press Intern., Inc., 500 F.Supp. 1261, affirmed 654 F.2d 478.—Libel 48(2).

Alaska 1982. Physician who contracted with state to provide medical services to five jails in Anchorage area was a "public official" and therefore "actual malice" standard applied to his defamation action against publisher, even though he was a policymaker or member of governmental "hierarchy" and was not highly visible in community, because as person directing provision of medical services to all Anchorage area state inmates he held position of sufficient importance that public had independent interest in qualifications and performance beyond general public interest in qualifications

and performance of all government employees.—Green v. Northern Pub. Co., Inc., 655 P.2d 736, 38 A.L.R.4th 817, certiorari denied 103 S.Ct. 3539, 463 U.S. 1208, 77 L.Ed.2d 1389.—Libel 48(2).

Ariz. 1969. "County treasurer" within statute requiring person seeking to test validity of tax law to first pay tax to county treasurer does not mean "public official" and statute did not provide remedy to taxpayers who were required to pay property taxes on airplanes and tank cars to tax commission rather than county treasurer. A.R.S. §§ 42–204, 42–701 et seq., 42–705, 42–741 et seq., 42–747.—State Tax Commission v. Superior Court In and For Maricopa County, 450 P.2d 103, 104 Ariz. 166.—Tax 2880.

Ariz.App. Div. 1 1993. Federal Aviation Administration inspector was "public official" for purposes of defamation action brought by inspector against president of airline; inspector's job had direct effect on air transportation, general public had intense and justified interest in air transportation, and whether inspector's performance was affected by improper motives is of general import.—Lewis v. Oliver, 873 P.2d 668, 178 Ariz. 330, review denied, certiorari denied 115 S.Ct. 319, 513 U.S. 929, 130 L.Ed.2d 280.—Libel 48(2).

Ariz.App. Div. 1 1985. Individual was not a "public official" required to prove actual malice on part of newspaper and reporter with respect to publication of alleged defamatory material respecting individual's position as agent of record for life and health insurance programs of county employees where it was board of supervisors and not individual who possessed control of, and responsibility for, expenditure of public funds for those programs.—Dombey v. Phoenix Newspapers, Inc., 708 P.2d 742, 147 Ariz. 61, approved in part, vacated in part 724 P.2d 562, 150 Ariz. 476.—Libel 48(1).

Ariz.App. Div. 2 1979. Police officer was a "public official" under the law governing libel and slander, and thus it was necessary for him to show that police chief and mayor, who informed newspaper of incident leading to officer's termination, knew that the accusations were false and that they were defamatory or that police chief and mayor acted in reckless disregard of these matters.—Rosales v. City of Eloy, 593 P.2d 688, 122 Ariz. 134.—Libel 48(2), 51(5).

Ark. 1973. Assistant dean and professor in university law school was a "public official" within purview of rule prohibiting a public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves the statement was made with actual malice.—Gallman v. Carnes, 497 S.W.2d 47, 254 Ark. 987.—Libel 48(2).

Cal. 1985. City attorney is a "public official," and thus, Code of Professional Responsibility's special considerations applicable to lawyer who is also public official apply to city attorney. ABA Code of Prof.Resp., EC8–8.—People ex rel. Clancy v. Superior Court, 705 P.2d 347, 218 Cal.Rptr. 24, 39 Cal.3d 740, rehearing denied, certiorari denied City of Corona v. Superior Court of California for Riverside County, 106 S.Ct. 1638, 475 U.S. 1121, 90 L.Ed.2d 184, certiorari denied 107 S.Ct. 170, 479 U.S. 848, 93 L.Ed.2d 108.—Atty & C 32(4).

Cal.App. 1 Dist. 2005. Libel suit which was brought by former superintendent of system of public charter schools pertained to plaintiff's role as a "public official," and thus plaintiff was required to show actual malice in order to prevail; plaintiff, who sued organization and its officers for libel, arising from statements made to former state Superintendent of Public Instruction urging investigation of plaintiff's alleged ties to terrorist group and posting of such statements on organization's website, was superintendent of, and primary spokesperson for, fasting growing charter school system in state, and thus there was manifestly strong public interest in open discussion of her job performance and fitness.—Ghafur v. Bernstein, 32 Cal.Rptr.3d 626, 131 Cal.App.4th 1230.—Libel 51(5).

Cal.App. 1 Dist. 2005. For purposes of libel claim, "public official"s are held to a different rule than private individuals because they assume a greater risk of public scrutiny by seeking public office, and generally have greater access to channels of effective communication to rebut false charges.—Ghafur v. Bernstein, 32 Cal.Rptr.3d 626, 131 Cal.App.4th 1230.—Libel 48(2).

Cal.App. 1 Dist. 2005. Whether someone is a "public official" for purposes of libel claim is determined according to federal standards, according to which the public official designation applies at the very least to those among the hierarchy of government employees who have, or appear to the public to have, substantial responsibility for or control over the conduct of governmental affairs.—Ghafur v. Bernstein, 32 Cal.Rptr.3d 626, 131 Cal.App.4th 1230.—Libel 48(2).

Cal.App. 1 Dist. 1991. Social worker exercising power to physically remove children from their environment and place them in foster care was "public official" who could maintain defamation action against private counselor in counseling company with whom she worked only upon showing that accusation of incompetence was knowingly or recklessly false. U.S.C.A. Const.Amend. 1.—Kahn v. Bower, 284 Cal.Rptr. 244, 232 Cal.App.3d 1599, rehearing denied, modified, and review denied.—Libel 51(5).

Cal.App. 1 Dist. 1979. Social sciences teacher at public high school was not a "public official" under *New York Times* for purposes of libel action brought by teacher, in view of fact that governance or control which public classroom teacher might be said to exercise over conduct of government is at most remote and philosophical. U.S.C.A.Const. Amends. 1, 14.—Franklin v. Benevolent etc. Order of Elks, 159 Cal.Rptr. 131, 97 Cal.App.3d 915.—Libel 48(2).

Cal.App. 2 Dist. 1952. Auditor in charge of district audit office of department of employment, whose position was created by director of department under general power delegated to him by legislature and was subordinate to four other positions in department and whose duties were limited

to routine investigations, audits and clerical matters, except as to filing criminal complaints against employers, which must first be approved by central office, was not required or authorized to exercise a part of sovereign power of the state and he was an "employee" and not a "public official" within meaning of probation statute. St.1935, p. 1226, §§ 75–77, 83. West's Ann.Unempl.Ins.Code, §§ 301–304, 311, 313, 314, 351, 401; West's Ann. Gov. Code, § 1480; West's Ann.Pen.Code, § 1203.—Schaefer v. Superior Court in and for Santa Barbara County, 248 P.2d 450, 113 Cal. App.2d 428.—Sent & Pun 1856.

Cal.App. 2 Dist. 1952. In absence of controlling statutory or other adequate definition of the term "public official" as used in statute providing that probation should not be granted to any such official who embezzles public money, an interpretation should be adopted in doubtful cases which will accord defendant the right to apply for probation. West's Ann.Pen.Code, § 1203.—Schaefer v. Superior Court in and for Santa Barbara County, 248 P.2d 450, 113 Cal.App.2d 428.—Sent & Pun 1827.

Cal.App. 3 Dist. 1955. Clerk of the Roseville Judicial District Court was a "public official" within meaning of Penal Code section prohibiting grant of probation to public official who has embezzled public money. West's Ann.Pen.Code, §§ 424, subd. 3, 1203.—Bennett v. Superior Court of Placer County, 281 P.2d 285, 131 Cal.App.2d 841.—Sent & Pun 1856.

Cal.App. 5 Dist. 1988. Distinction between public figure for all purposes and limited purpose public figure under libel law does not apply to "public official," and there is no such legal concept as public official for all purposes.—Mosesian v. McClatchy Newspapers, 252 Cal.Rptr. 586, 205 Cal. App.3d 597, review denied, certiorari denied 109 S.Ct. 2065, 490 U.S. 1066, 104 L.Ed.2d 630, appeal after remand 285 Cal.Rptr. 430, 233 Cal.App.3d 1685, review denied, certiorari denied 112 S.Ct. 1946, 504 U.S. 912, 118 L.Ed.2d 551.—Libel 48(2).

Cal.App. 6 Dist. 1993. Deputy public defender who was named in newspaper article discussing asserted violations of law by defense attorneys in criminal cases was not a "public official," and thus was not required to prove that statements in article were made with actual malice.—James v. San Jose Mercury News, Inc., 20 Cal.Rptr.2d 890, 17 Cal. App.4th 1.—Libel 48(2).

Colo. 1980. "Public official" or "public figure" must prove actual malice by "convincing clarity" in order to recover damages arising from defamatory statement; "clear and convincing evidence" which is standard of proof interchangeably used with that of "convincing clarity" is that evidence which is stronger than preponderance of the evidence and which is unmistakable and free from serious or substantial doubt. U.S.C.A.Const. Amend. 1.—DiLeo v. Koltnow, 613 P.2d 318, 200 Colo. 119.—Libel 112(2).

Colo.App. 1991. High school teacher was "public official," and allegedly defamatory statements to school superintendent regarding teacher's homosexuality might have been of public concern, so First Amendment constitutional protections of *New York Times v. Sullivan* and its progeny, including *Gertz*, were applicable. U.S.C.A. Const.Amend. 1.—Hayes v. Smith, 832 P.2d 1022, certiorari denied.—Const Law 90.1(5).

Conn. 1992. Public school teacher is "public official" for purposes of defamation actions. U.S.C.A. Const.Amend. 1.—Kelley v. Bonney, 606 A.2d 693, 221 Conn. 549.—Libel 48(2).

Conn. 1975. Public defender in representing indigent is not a "public official."—Spring v. Constantino, 362 A.2d 871, 168 Conn. 563.—Crim Law 641.11.

Conn.App. 1986. Assistant city manager who shared responsibility for budget, management services, data processing and personnel and acted on behalf of city manager at meetings of city council subcommittees and addressed city groups was a "public official" for First Amendment purposes. U.S.C.A. Const.Amend. 1.—Brown v. K.N.D. Corp., 509 A.2d 533, 7 Conn.App. 418, certification granted 513 A.2d 696, 201 Conn. 802, reversed 529 A.2d 1292, 205 Conn. 8.—Const Law 90.1(5).

Conn.Super. 1968. Delinquent tax collector for city was "public official" within rule that public official, in order to recover for defamation, must prove that statement relating to his official conduct was made with actual malice, that is with knowledge that it was false or with reckless disregard of whether it was false or not.—Ryan v. Dionne, 248 A.2d 583, 28 Conn.Sup. 35.—Libel 51(5).

Del.Supr. 1971. Plaintiff police officer, who was charged by defendant in his letter to local commissioner of public safety with use of excessive and unjustified physical force in arresting defendant, was a "public official" within rule requiring proof of actual malice in actions for defamation brought by public officials.—Jackson v. Filliben, 281 A.2d 604.—Libel 51(5).

D.C. 2001. Department of Corrections (DOC) correctional officer employed by District of Columbia was a "public official," and she therefore was required to prove actual malice in her defamation action against the District, relating to statement in facility-created employee newsletter implying that the correctional officer had received her officer-in-charge position through a "connection."—Beeton v. District of Columbia, 779 A.2d 918.—Libel 48(2).

D.C. 1990. Women's basketball coach at public university was not a "public official" required to prove by clear and convincing evidence that athletic director made statements concerning alleged misappropriations with actual malice; coach was subordinate employee in department with minimal control over or responsibility for policy matters and her functioning as role model to team did not invest her position with stature inviting public scrutiny.—Moss v. Stockard, 580 A.2d 1011, appeal after remand 706 A.2d 561, rehearing denied.—Libel 48(2).

Fla. 1984. Police officer qualifies as "public official" for defamation purposes.—Smith v. Russell,

456 So.2d 462, certiorari denied 105 S.Ct. 1392, 470 U.S. 1027, 84 L.Ed.2d 782.—Libel 48(2).

Fla.App. 2 Dist. 1983. Police officer is "public official" subject to fair comment and criticism from any member of public; to establish that he has been defamed, officer must show that communication was made with malice or reckless disregard for truth.—Russell v. Smith, 434 So.2d 342, decision approved 456 So.2d 462, certiorari denied 105 S.Ct. 1392, 470 U.S. 1027, 84 L.Ed.2d 782.—Libel 48(2).

Fla.App. 5 Dist. 1991. Petitioner's former private counsel in criminal proceeding was not a "public official" for mandamus purposes, making mandamus relief inappropriate in proceeding to obtain copy of transcript of criminal proceeding which may have been in counsel's possession. West's F.S.A. Bar Rule 4–1.16(d).—Snowden v. Davis, 581 So.2d 243.—Mand 61.

Ga. 1992. High school principal was not a "public official" required to establish malice before recovering on defamation action.—Ellerbee v. Mills, 422 S.E.2d 539, 262 Ga. 516, certiorari denied 113 S.Ct. 1833, 507 U.S. 1025, 123 L.Ed.2d 460.—Libel 48(2).

Ga.App. 2005. A police officer who sues to recover for defamatory statements concerning matters affecting his ability or qualifications to carry out the duties of his office is to be considered a "public official" and, therefore, is required to prove actual malice.—Jessup v. Rush, 609 S.E.2d 178, 271 Ga.App. 243, certiorari denied.—Libel 48(2).

Ga.App. 1995. Mayor of city was "public official" and was required to establish that statements printed in letter to newspaper were made with actual malice in order to recover in defamation action. U.S.C.A. Const.Amend. 1.—Gardner v. Boatright, 455 S.E.2d 847, 216 Ga.App. 755.—Libel 48(2), 51(5).

Ga.App. 1978. Chief of police was a "public official" for purposes of defamation suit, and thus could not recover against mayor for statements made at town hall meeting relating to unexplained absence of money posted for traffic offense, in absence of showing that actual malice existed in the constitutional sense.—Goolsby v. Wilson, 246 S.E.2d 371, 146 Ga.App. 288.—Libel 48(2).

Ill. 1988. City police officer who performed ordinary and customary duties of beat police officer was a "public official" who was required to show that allegedly false statements in newspaper articles were made with "actual malice" to recover in libel action. U.S.C.A. Const.Amend. 1.—Reed v. Northwestern Pub. Co., 125 Ill.Dec. 316, 530 N.E.2d 474, 124 Ill.2d 495, certiorari denied 109 S.Ct. 1344, 489 U.S. 1067, 103 L.Ed.2d 813.—Libel 48(2), 51(5).

Ill. 1968. Village sergeant of police and juvenile officer, second in command to police chief who was in full charge when chief was off duty, was a "public official" within rule affording constitutional protection to comments on public officials.—Suchomel v. Suburban Life Newspapers, Inc., 240 N.E.2d 1, 40 Ill.2d 32.—Libel 48(2).

Ill. 1968. City patrolman, although lowest in rank of police officials, was a "public official" within rule affording constitutional protection to comments on public officials. U.S.C.A.Const. Amends. 1, 14.—Coursey v. Greater Niles Tp. Pub. Corp., 239 N.E.2d 837, 40 Ill.2d 257.—Libel 48(2).

Ill.App. 1 Dist. 1984. Since it is crucially important that people should discuss character and qualifications of candidates for public office, publication concerning "public official" or "public figure," which includes candidates for office, is protected from suit for defamation unless public official or public figure can demonstrate that falsehood was published with "actual malice," i.e., with knowledge that it was false or with reckless disregard of whether it was false or not. U.S.C.A. Const.Amend. 1.—Matchett v. Chicago Bar Ass'n, 81 Ill.Dec. 571, 467 N.E.2d 271, 125 Ill.App.3d 1004, certiorari denied 105 S.Ct. 2115, 471 U.S. 1054, 85 L.Ed.2d 480, rehearing denied 105 S.Ct. 3490, 472 U.S. 1022, 87 L.Ed.2d 624.—Libel 51(5).

Ill.App. 1 Dist. 1975. Police officer was "public official" and was thus required to show actual malice in action for defamation.—Weber v. Woods, 334 N.E.2d 857, 31 Ill.App.3d 122.—Libel 51(5).

Ill.App. 1 Dist. 1967. "Public official", within privilege of comment on official conduct, applies at very least to those among hierarchy of government employees who have, or appear to the public to have, substantial responsibility for or control over the conduct of governmental affairs.—Suchomel v. Suburban Life Newspapers, Inc., 228 N.E.2d 172, 84 Ill.App.2d 239, affirmed 240 N.E.2d 1, 40 Ill.2d 32.—Libel 48(2).

Ill.App. 1 Dist. 1967. Patrolman in employ of village police department had no substantial responsibility for or control over conduct of governmental affairs and was not a "public official", within rule that damages could not be awarded to public officer in suit for libel based upon defamatory criticism of his official conduct without proof that defendant acted with actual malice or reckless disregard of truth.—Coursey v. Greater Niles Tp. Pub. Corp., 227 N.E.2d 164, 82 Ill.App.2d 76, affirmed 239 N.E.2d 837, 40 Ill.2d 257.—Libel 51(5).

Ill.App. 4 Dist. 1986. Jailer was not a "public official" and, therefore, was not required to prove that statements made by newspaper concerning his alleged connection with attempted escape of two prisoners were made with actual malice in order to recover damages for libel. U.S.C.A. Const.Amend. 1.—Smith v. Copley Press, Inc., 94 Ill.Dec. 785, 488 N.E.2d 1032, 140 Ill.App.3d 613, appeal denied, certiorari denied 107 S.Ct. 319, 479 U.S. 916, 93 L.Ed.2d 292.—Libel 4, 48(1).

Ill.App. 4 Dist. 1968. Plaintiff in libel action, who supervised the design and construction of public building and who provided specifications upon which bids were taken for chairs and furnishings, and whose services included the acquisition of such items, was in a position to significantly influence the construction and furnishings of a public building provided through public funds and thus was a

"public official".—Turley v. W. T. A. X., Inc., 236 N.E.2d 778, 94 Ill.App.2d 377.—Libel 51(5).

Ill.App. 5 Dist. 1968. Nursing home which was licensed by state department of health and some of whose patients were subnormal and mentally retarded children placed in home as wards of state was "public official" within qualified or privileged doctrine applicable to criticism of public officials.—Doctors Convalescent Center, Inc. v. East Shore Newspapers, Inc., 244 N.E.2d 373, 104 Ill.App.2d 271.—Libel 48(2).

Ill.App. 5 Dist. 1968. City attorney was a "public official" within court rules affording freedom of comment concerning public officials, and city attorney suing for libel because of newspaper article was required to overcome constitutional protection afforded statements concerning public officials by proving that defamatory statement was made with knowledge that it was false or was made with reckless disregard of whether it was false or not.—Tunnell v. Edwardsville Intelligencer, Inc., 241 N.E.2d 28, 99 Ill.App.2d 1, reversed 252 N.E.2d 538, 43 Ill.2d 239, certiorari denied 90 S.Ct. 1259, 397 U.S. 1021, 25 L.Ed.2d 530.—Libel 51(5).

Ind.App. 1966. "Public official" within meaning of Removal Act which provides for removal to Appellate Court, on petition of Attorney General, of actions for restraining orders, injunctions, and mandamuses against "public officials" means any person who has official act to perform under a statute. Laws 2nd Sp.Sess.1965, c. 7.—Ulrich v. Beatty, 216 N.E.2d 737, 139 Ind.App. 174, rehearing denied 217 N.E.2d 858, 139 Ind.App. 174.—Courts 485.

Iowa 2003. Dean of college of medicine was not a "public official" for purposes of whistleblower statute forbidding retaliation against public employee for disclosure of adverse information to a public official or law enforcement agency; position was presumably created by state university rather than by legislature, dean did not exercise sovereign power, only legislative description of dean's duties was those of "chief administrative officer," and dean was supervised by university president. I.C.A. §§ 70A.28, subd. 2, 262.9, subd. 2; Iowa Admin.Code, 681-12.1(3).—Hegeman v. Kelch, 666 N.W.2d 531, rehearing denied.—Colleges 8.1(3).

Iowa 1944. The state conservation director is "public official" within provision of Workmen's Compensation Act that official elected or appointed by state shall not be deemed a workman or employee, so as to preclude award of compensation for his accidental death, in view of substantial sovereign powers delegated to him by statute. Code 1939, § 1421, subd. 3, d; §§ 1703.38–1703.40, 1703.43, 1714, 1741, 1742, 1745, 1746, 1787, 1794.085, 1794.099.—Hutton v. State, 16 N.W.2d 18, 235 Iowa 52.—Work Comp 377.

Kan. 1979. Attorney who was acting as officer of the court in his capacity as murder defendant's court-appointed attorney was not a "public official" for purposes of libel action brought by him, and fact that he was paid by state for his services did not make him a public official.—Steere v. Cupp, 602 P.2d 1267, 226 Kan. 566.—Libel 48(2).

Kan.App. 1984. "Public official," for purposes of qualified privilege under law of defamation, is one whose position in government has such apparent importance that the public has an independent interest in the qualifications and performance of the person who holds it, beyond the general public interest in the qualifications and performance of all governmental employees.—Sellars v. Stauffer Communications, Inc., 684 P.2d 450, 9 Kan.App.2d 573, affirmed 695 P.2d 812, 236 Kan. 697.—Libel 48(2).

La. 1995. Purchasing agent for state university was "public official" under *New York Times* for purposes of defamation action brought by agent based on allegations that he was involved in wrongdoing in solicitation of bids.—Davis v. Borskey, 660 So.2d 17, 1994-2399 (La. 9/5/95).—Libel 48(2).

La. 1969. Plaintiff who had been notified of her appointment as parish director of public welfare before date of alleged defamatory statements was "public official" within rule prohibiting public official from recovering damages for defamation without proof of actual malice, even though she had not yet received letter of confirmation from State Director of Public Welfare.—Bienvenu v. Angelle, 223 So.2d 140, 254 La. 182.—Libel 51(5).

La. 1967. Relation between sheriff and his deputy is an official and not a private relation, deputy is representative of sheriff in his official capacity, he is "public officer" or "public official" whose authority and duty are regulated by law and so far as public is concerned, acts of deputy are acts of sheriff himself. LSA–R.S. 33:1433; LSA–Const. art. 19, § 1.—Thompson v. St. Amant, 196 So.2d 255, 250 La. 405, certiorari granted 88 S.Ct. 766, 389 U.S. 1033, 19 L.Ed.2d 820, reversed 88 S.Ct. 1323, 390 U.S. 727, 20 L.Ed.2d 262.—Sheriffs 79.

La.App. 1 Cir. 1997. If individual acts as agent of state and exercises portion of sovereign power or if his office enjoys large degree of independence in which he is not under direct control and supervision of employer, he is "public official" or officer. LSA–R.S. 42:1.—Molinario v. Department of Public Safety and Corrections, 700 So.2d 992, 962026 (La.App. 1 Cir. 9/23/97).—Offic 1.

La.App. 1 Cir. 1997. Unknown dental hygienist who allegedly terminated inmate's dentist-ordered diet, resulting in inmate's inability to eat for approximately four days, was not "public official" entitled to attorney fees for successful defense of inmate's suit; nothing established that hygienist was anything other than employee of state agency. LSA–R.S. 42:1, 42:261, subd. E.—Molinario v. Department of Public Safety and Corrections, 700 So.2d 992, 962026 (La.App. 1 Cir. 9/23/97).—States 215.

La.App. 1 Cir. 1997. Secretary of Department of Public Safety and Corrections (DPSC) was "public official," for purposes of determining whether Secretary was entitled to attorney fees for successful defense of inmate's suit arising from unknown dental hygienist's alleged termination of inmate's

dentist-ordered diet. LSA–R.S. 36:403, 42:261, subd. E.—Molinario v. Department of Public Safety and Corrections, 700 So.2d 992, 962026 (La.App. 1 Cir. 9/23/97).—States 215.

La.App. 1 Cir. 1994. Purchasing agent at state university was a "public official" and therefore had burden of proving malice by clear and convincing evidence in order to prevail on defamation claim against university.—Davis v. Borskey, 643 So.2d 179, 1992-2339 (La.App. 1 Cir. 8/22/94), writ granted 648 So.2d 398, 1994-2399 (La. 12/19/94), affirmed 660 So.2d 17, 1994-2399 (La. 9/5/95).—Libel 48(2), 112(2).

La.App. 1 Cir. 1968. Appointee to position of director of public welfare was a "public official", and as such was precluded from recovering damages for defamatory falsehood relating to official conduct in the absence of proof of actual malice.—Bienvenu v. Angelle, 211 So.2d 395, writ issued 214 So.2d 549, 252 La. 879, reversed 223 So.2d 140, 254 La. 182.—Libel 48(3), 51(5).

La.App. 1 Cir. 1966. Deputy sheriff was "public official" within rule prohibiting public official from recovering damages for defamatory falsehood unless he proved that statement was made with actual malice, that is, with knowledge that it was false or with reckless disregard of whether it was false or not.—Thompson v. St. Amant, 184 So.2d 314, writ issued 186 So.2d 627, 249 La. 376, reversed 196 So.2d 255, 250 La. 405, certiorari granted 88 S.Ct. 766, 389 U.S. 1033, 19 L.Ed.2d 820, reversed 88 S.Ct. 1323, 390 U.S. 727, 20 L.Ed.2d 262.—Libel 51(5).

La.App. 2 Cir. 1974. Police officer sued for personal injuries was "public official" within statute requiring plaintiff to furnish bond for attorney fees. LSA–R.S. 42:261, subd. D.—Houston v. Brown, 292 So.2d 911.—Costs 107.

La.App. 2 Cir. 1972. Parish treasurer, whose office was created by legislative enactment and who was elected by police jury, was required to maintain office at parish seat and was required to take oath of office, was, with regard to his action for damages for defamatory remarks, a "public official" for purposes of rule that malice is an essential element in any charge of official misconduct. LSA–R.S. 33:1651, 42:1; LSA–Const. art. 19, § 1.—Cherry v. Hall, 270 So.2d 626.—Libel 48(2).

La.App. 3 Cir. 1995. Rehabilitation counselor who had contract with United States Department of Labor was neither "public official" nor "public figure" for purposes of defamation action against editor of newsletter for counselors; counselor had no substantial responsibility for or control over conduct of governmental affairs, and he did not occupy position involving scrutiny and discussion apart from that occasioned by charges in editor's article concerning counselor's reinstatement.—Hebert v. Louisiana Ass'n of Rehabilitation Professionals, Inc., 653 So.2d 757, 1994-1223 (La.App. 3 Cir. 4/5/95), writ granted, vacated 683 So.2d 216, 1995-1104 (La. 6/30/95), rehearing denied 661 So.2d 481, 1995-1104 (La. 10/13/95).—Libel 48(1), 48(2).

La.App. 3 Cir. 1982. Deputy coroner, who derived his authority from legislative enactment and exercised a portion of the sovereign power to the same extent as the coroner himself, who was not under the control or supervision of anyone, who made important policy decisions such as whether to commit a person to a mental hospital, who had no contractual relationship with the state, and who was statutorily required to have the same qualifications as the coroner, was a "public official" excepted from coverage under the workers' compensation laws and, hence, could sue the State directly in tort for injuries received when he fell on the front steps of a state hospital while performing the duties of a deputy coroner. LSA-R.S. 23:1034, 33:1552, 42:1.—Cloud v. State, 420 So.2d 1259, writ denied 423 So.2d 1166, writ denied 423 So.2d 1167.—Work Comp 374, 2089.

La.App. 3 Cir. 1981. Police jury was not "public official" and, when named as defendant, could not move to require plaintiff to post bond for attorney's fees; however, secretary treasurer of policy jury was "public official" and could make such motion. LSA–R.S. 42:261, subd. E.—Motty v. Vermilion Parish Police Jury, 408 So.2d 42.—Costs 107.

La.App. 3 Cir. 1981. Secretary treasurer of police jury was "public official" within intendment of statute which grants certain defendants right to require plaintiff to furnish a bond for attorney fees before proceeding with trial, and thus secretary treasurer was entitled to require attorney fee bond of defendants prior to trial of their third-party demand against secretary treasurer. LSA–R.S. 42:261, subd. E.—Detraz v. Fontana, 406 So.2d 248, writ granted 410 So.2d 1129, reversed in part 416 So.2d 1291.—Counties 211.1.

La.App. 3 Cir. 1980. State trooper is "public official" within statute providing that unsuccessful plaintiff shall, under certain circumstances, be liable to successful defendant public official for attorney fees and has right, by rule, to require plaintiff to furnish bond to cover such fees. LSA–R.S. 40:1301, 42:261, subd. E.—Brown v. Aetna Life & Cas. Ins. Co., 394 So.2d 290.—States 215.

La.App. 4 Cir. 1996. "Public official" designation, for purposes of defamation claim, applies at the very least to those among hierarchy of government employees who have, or appear to public to have, substantial responsibility for or control over conduct of governmental affairs.—Landrum v. Board of Com'rs of the Orleans Levee Dist., 685 So.2d 382, 1995-1591 (La.App. 4 Cir. 11/27/96), rehearing denied.—Libel 48(2).

La.App. 4 Cir. 1996. Terminated police officer was "public official," and thus was required to show actual malice in his defamation action against former employer; officer's former duties as major and second-in-command in Orleans Levee District Police Department appeared to include substantial responsibility for or control over conduct of department.—Landrum v. Board of Com'rs of the Orleans Levee Dist., 685 So.2d 382, 1995-1591 (La.App. 4 Cir. 11/27/96), rehearing denied.—Libel 48(2), 51(5).

Me. 1986. Public high school teacher was not a "public official" required to prove his allegations in slander action with convincing clarity. U.S.C.A. Const.Amends. 1, 14.—True v. Ladner, 513 A.2d 257.—Libel 48(2), 112(1).

Me. 1983. Plaintiff, who was police officer when alleged cheating incident occurred and city councilor when articles and editorials about alleged cheating incident appeared in newspapers, was "public official" for purposes of libel action, and thus to succeed, had to prove not only that allegedly defamatory statements were in fact false, but that defendants made statements with actual malice; that is, with knowledge that they were false or with reckless disregard of whether they were false.—Tucci v. Guy Gannett Pub. Co., 464 A.2d 161.—Libel 48(2).

Md. 1986. Police officer who failed to stop allegedly drunk driver that injured pedestrian was "public official" who was acting within scope of law enforcement function and who would be entitled to immunity for nonmalicious acts, if police officer was acting in discretionary, rather than ministerial, capacity when officer encountered driver.—Ashburn v. Anne Arundel County, 510 A.2d 1078, 306 Md. 617.—Mun Corp 747(3).

Md. 1970. Public school teacher was not a "public official" to whom defense of governmental immunity was available.—Duncan v. Koustenis, 271 A.2d 547, 260 Md. 98.—Schools 147.

Md. 1970. "Public official", such as may not recover for libel absent showing that statement was both false and made with actual malice, applies at least to those government employees who have, or appear to have, substantial responsibility or control over the conduct of government affairs—that is, to those employees who occupy position in government which has such apparent importance that the public has independent interest in the qualification and performance of the person who holds it, beyond the general public interest in the qualifications and performance of all government employees.—A. S. Abell Co. v. Barnes, 265 A.2d 207, 258 Md. 56, certiorari denied 91 S.Ct. 2224, 403 U.S. 921, 29 L.Ed.2d 700.—Libel 51(5).

Md.App. 2000. Male co-worker of female employe of Mass Transit Administration (MSA) was not a "public official" who could be held liable for gender-based discrimination in violation of equal protection provision of State Constitution, in case arising from co-worker's alleged sexual harassment of employee. Const.Declaration of Rights, Art. 24.—Manikhi v. Mass Transit Admin., 758 A.2d 95, 360 Md. 333.—Const Law 224(3).

Md.App. 2000. Person is a "public official" for purposes of common law public official immunity if: (1) the position was created by law and involves continuing, not occasional, duties; (2) the holder of the office performs an important public duty; (3) the position calls for exercise of some portion of the sovereign power of the state; and (4) the position has a definite term for which a commission was issued and a bond and an oath were required.—Callahan v. Bowers, 748 A.2d 499, 131 Md.App. 163, certiorari granted 753 A.2d 1033, 359 Md. 335, vacated 754 A.2d 388, 359 Md. 395.—Offic 114.

Md.App. 1999. A person is a "public official" entitled to immunity from liability for tortious conduct according to the following guidelines: (1) the position was created by law and involves continuing and not occasional duties; (2) the holder performs an important public duty; (3) the position calls for the exercise of some portion of the sovereign power of the State; and (4) the position has a definite term for which a commission is issued and a bond and an oath are required. Code, Courts and Judicial Proceedings, § 5–321(b)(1) (1996).—Biser v. Deibel, 739 A.2d 948, 128 Md.App. 670, certiorari denied 745 A.2d 436, 357 Md. 482.—Offic 116.

Md.App. 1999. Town's planning director and zoning administrator was a "public official" entitled to immunity from liability for tortious conduct, if she acted in a discretionary capacity when advising landowner of the necessary changes to obtain a variance and permission to construct a commercial building in a residential area; even though neither position had a defined term for which a commission was issued and neither a bond nor an oath was required, the director had authority to seek criminal or civil enforcement of the zoning ordinance and exercised the state's sovereign power. Code, Courts and Judicial Proceedings, § 5–321(b)(1) (1996).—Biser v. Deibel, 739 A.2d 948, 128 Md. App. 670, certiorari denied 745 A.2d 436, 357 Md. 482.—Mun Corp 170.

Md.App. 1979. A "public official" is a person who, upon being issued a commission, taking required oath, enters upon, for a fixed tenure, a position called an office where he or she exercises in his or her own right some of the attributes of sovereign he or she serves for benefit of public.—Macy v. Heverin, 408 A.2d 1067, 44 Md.App. 358.—Offic 1.

Md.App. 1979. A retired major in police department was a "public official" for purpose of determining whether he was required to show malice in suit for libel for newspaper article which mentioned him in his capacity as a police officer.—Hohman v. A. S. Abell Co., 407 A.2d 794, 44 Md.App. 193.—Libel 48(2).

Md.App. 1978. Inasmuch as a police officer was acting within scope of his law enforcement function as a "public official" at time of incident leading to officer's slander suit, test to be applied was to effect that public officials may sue for libel only when they can demonstrate that alleged libel was made with actual malice, defined to mean publication of false statements with actual knowledge of their falsity or with reckless disregard for their truth or falsity.—Delia v. Berkey, 395 A.2d 1189, 41 Md.App. 47, certiorari granted 284 Md. 741, affirmed 413 A.2d 170, 287 Md. 302.—Libel 51(5).

Md.App. 1978. Police officer is "public official" when acting within scope of his law enforcement function and is protected by qualified immunity against civil liability for nonmalicious acts performed within scope of his authority.—Karangelen

v. Snyder, 391 A.2d 474, 40 Md.App. 393.—Mun Corp 189(1).

Mass. 2000. A police officer, including a patrol-level police officer, is a "public official," who may not recover in defamation action based on statement relating to his official conduct absent showing that statement was made with actual malice. U.S.C.A. Const.Amend. 1.—Rotkiewicz v. Sadowsky, 730 N.E.2d 282, 431 Mass. 748.—Libel 48(2).

Mass. 1992. A sitting judge is a "public official" for purposes of libel action.—Milgroom v. News Group Boston, Inc., 586 N.E.2d 985, 412 Mass. 9.—Libel 48(2).

Mass. 1976. Person may be deemed a "public official" where he is fulfilling duties which are public in nature, involving in their performance the exercise of some portion of the sovereign power, whether great or small.—Town of Arlington v. Board of Conciliation and Arbitration, 352 N.E.2d 914, 370 Mass. 769, appeal after remand 375 N.E.2d 343, 6 Mass.App.Ct. 874.—Offic 1.

Mich. 1999. Deputy sheriff is a "public official" for purposes of misconduct in office charges when the allegations supporting the charges arise from the performance of that deputy's official duties. M.C.L.A. § 750.505.—People v. Coutu, 589 N.W.2d 458, 459 Mich. 348, on remand 599 N.W.2d 556, 235 Mich.App. 695, leave to appeal denied 607 N.W.2d 721, 461 Mich. 945, on remand People v. Carlin, 607 N.W.2d 733, 239 Mich.App. 49.—Sheriffs 153.

Mich. 1999. Defendant was a "public official" for purposes of his misconduct in office charges, where charges of misrepresenting overtime and ordering subordinates to chauffeur prominent county officials to various locations arose from performance of his command duties as a deputy sheriff. M.C.L.A. § 750.505.—People v. Coutu, 589 N.W.2d 458, 459 Mich. 348, on remand 599 N.W.2d 556, 235 Mich.App. 695, leave to appeal denied 607 N.W.2d 721, 461 Mich. 945, on remand People v. Carlin, 607 N.W.2d 733, 239 Mich.App. 49.—Sheriffs 153.

Mich.App. 2001. The designation of a person as a "public official" who is required under the First Amendment to prove actual malice when bringing a defamation claim applies at the very least to those among the hierarchy of government employees who have, or appear to the public to have, substantial responsibility for or control over the conduct of governmental affairs. U.S.C.A. Const.Amend. 1.—Tomkiewicz v. Detroit News, Inc., 635 N.W.2d 36, 246 Mich.App. 662.—Const Law 90.1(5).

Mich.App. 2001. Where a position in government has such apparent importance that the public has an independent interest in the qualifications and performance of the person who holds it, beyond the general public interest in the qualifications and performance of all government employees, the person who holds the position is a "public official" who is required under the First Amendment to prove actual malice when bringing a defamation claim. U.S.C.A. Const.Amend. 1.—Tomkiewicz v. Detroit News, Inc., 635 N.W.2d 36, 246 Mich.App. 662.—Const Law 90.1(5).

Mich.App. 2001. For a government employee to be a "public official" who is required under the First Amendment to prove actual malice when bringing a defamation claim, the employee's position must be one which would invite public scrutiny and discussion of the person holding it, entirely apart from the scrutiny and discussion occasioned by the particular charges in controversy. U.S.C.A. Const.Amend. 1.—Tomkiewicz v. Detroit News, Inc., 635 N.W.2d 36, 246 Mich.App. 662.—Const Law 90.1(5).

Mich.App. 2001. City police lieutenant was a "public official" who was required under the First Amendment to prove actual malice in defamation action against newspaper that erroneously published photograph identifying lieutenant as the police officer who had stalked a former mistress; lieutenant's office afforded him significant authority and control over daily lives of other citizens. U.S.C.A. Const.Amend. 1.—Tomkiewicz v. Detroit News, Inc., 635 N.W.2d 36, 246 Mich.App. 662.—Const Law 90.1(5); Libel 48(2).

Mich.App. 2001. State senator seeking reelection was "public official" or "public figure," for purposes of defamation action arising from brochure distributed by political party's state central committee, and thus was required by statute to prove by clear and convincing evidence that publication was false and a product of actual malice. M.C.L.A. § 600.2911(6).—Faxon v. Michigan Republican State Central Committee, 624 N.W.2d 509, 244 Mich.App. 468, appeal denied 639 N.W.2d 256, 465 Mich. 941.—Libel 48(3).

Mich.App. 1991. Deputy county sheriff was not a "public official" but, rather, was a "public employee" whose resignation was effective on date it was submitted and, thus, after deputy submitted unconditional letter of resignation, he could not bring wrongful discharge action. M.C.L.A. § 51.70.—Schultz v. Oakland County, 466 N.W.2d 374, 187 Mich.App. 96.—Sheriffs 21.

Mich.App. 1988. Contract compliance officer employed for city to monitor public contractors' compliance with prevailing wage and other standards qualified as "public official," derogatory statements about whom were protected by qualified privilege.—Peterfish v. Frantz, 424 N.W.2d 25, 168 Mich.App. 43.—Libel 48(2).

Mich.App. 1988. Government employee is "public official," derogatory statements about whom are protected by qualified privilege, where employee's position is of such importance that public has independent interest in his qualifications and performance beyond its general public interest in qualifications and performance of all government employees.—Peterfish v. Frantz, 424 N.W.2d 25, 168 Mich.App. 43.—Libel 48(2).

Mich.App. 1984. City water commissioner was a "public official," subject to conviction under statute proscribing such officials from, inter alia, corruptly accepting any gift or gratuity, rather than under

separate statute prohibiting agents, employees, or servants, other than public officials, from requesting or accepting bribes. M.C.L.A. §§ 750.118, 750.125.—People v. Clark, 350 N.W.2d 878, 134 Mich.App. 324.—Brib 1(1).

Mich.App. 1981. Position of state police trooper is not "state office" within meaning of jurisprudence distinguishing "public official" from ordinary government employee.—Burnett v. Moore, 314 N.W.2d 458, 111 Mich.App. 646.—States 53.

Minn. 1991. County probation officer is peace officer with significant authority in performance of government duties and, thus, is "public official" for purposes of applying *New York Times v. Sullivan* defamation standard. U.S.C.A. Const.Amend. 1.—Britton v. Koep, 470 N.W.2d 518.—Libel 48(2).

Minn.App. 1995. "Public official" is government employee whose position and duties are of nature that First Amendment demands open debate; on the other hand, "public figure" is person who has invited comment by assuming special prominence in society or by thrusting himself or herself to forefront of public controversies seeking to influence their outcome. U.S.C.A. Const.Amend. 1.—Elstrom v. Independent School Dist. No. 270, 533 N.W.2d 51, review denied.—Const Law 90.1(5); Libel 48(1), 48(2).

Minn.App. 1995. Public school teacher is "public official" for purposes of defamation action. U.S.C.A. Const.Amend. 1.—Elstrom v. Independent School Dist. No. 270, 533 N.W.2d 51, review denied.—Libel 48(2).

Minn.App. 1989. County Attorney, who performs governmental duties directly related to public interest, is "public official," who must prove actual malice before any defamation can be found.—Foley v. WCCO Television, Inc., 449 N.W.2d 497, review denied, certiorari denied 110 S.Ct. 3302, 497 U.S. 1038, 111 L.Ed.2d 811.—Libel 48(2), 51(5).

Mo. 2005. For purposes of whether official immunity barred patient's medical malpractice action against medical director of public health clinic, director was a "public official"; position of medical director existed to discharge city, county, and state obligations to improve health of the public, and director's office was created by agreement between city and state university. V.A.M.S. § 205.050; 19 Mo.Code of State Regulations 10–1.010(4).—State ex rel. Howenstine v. Roper, 155 S.W.3d 747.—Health 770.

Mo. 1969. Manager of community center would be a "public official" within meaning of rule requiring that falsehoods to be actionable be published with malice.—Brown v. Kitterman, 443 S.W.2d 146.—Libel 51(5).

Mo.App. E.D. 1996. Candidate for public office was "public official" or "public figure" for purposes of defamation claim against opponent and entity that produced opponent's campaign commercial; thus, finding of defamation had to be supported by clear and convincing proof that libelous falsehood was made with "actual malice," i.e., knowledge that it was false or with reckless disregard of whether it was false or not at time when defendants had serious doubt as to whether it was true. U.S.C.A. Const.Amend. 1.—Bauer v. Ribaudo, 926 S.W.2d 38, rehearing, transfer denied, and transfer denied, appeal after remand 975 S.W.2d 180, rehearing, transfer denied, and opinion adopted and reinstated after retransfer.—Libel 48(3), 112(2).

Mo.App. E.D. 1993. Schools' director of public transportation was a "public official," as required to support his claim of official immunity from suit for injuries sustained by student in school bus accident; director was vested with power to establish bus routes and debussing points, and fact that director had supervisor, the associate superintendent, or that superintendent or school board may have had ultimate authority to establish bus routes, did not indicate that director was not exercising his power independently without any other authority other than law. V.A.M.S. §§ 162.621, 163.161, subd. 2, 168.211, subds. 1, 2.—Webb v. Reisel, 858 S.W.2d 767, rehearing, transfer denied.—Schools 63(3).

Mo.App. W.D. 1994. Police officer is "public official" for purpose of official immunity doctrine.—Brown v. Tate, 888 S.W.2d 413.—Mun Corp 747(3).

Mo.App. W.D. 1981. Small town policeman charging newspaper with defamation in reporting events at city council meeting involving firing of police chief and possible succession of plaintiff as chief was a "public official" within meaning of the *New York Times* defamation standard, especially as there was deep controversy in community over whether the existing chief should be fired and, apparently there was also a division of opinion as to whether plaintiff was an appropriate successor. U.S.C.A.Const. Amend. 1.—Shafer v. Lamar Pub. Co., Inc., 621 S.W.2d 709.—Libel 48(2).

Mo.App. 1977. City police officer was a "public official" within meaning of New York Times rule and thus allegedly defamatory statements concerning police officer that were contained in memorandum prepared by city chief of police were qualifiedly privileged.—Ramacciotti v. Zinn, 550 S.W.2d 217.—Libel 48(2).

Mo.App. 1969. Deputy marshal in village of some 1,000 persons was "public official" within rule requiring that he, in his action for libel, prove not only that statements were false but were made with actual malice. U.S.C.A.Const. Amends. 1, 14; V.A.M.S.Const. art. 1, § 8.—Rowden v. Amick, 446 S.W.2d 849.—Libel 51(5).

Mo.App. 1907. A city councilman, like a city marshal, is a "public official." His duties are defined by law. He is not the general or private agent of the city, and the councilmen could only bind the city by such construction as they are by law authorized to make, and, since the right of any public officer can exist only by law, the city council is powerless to bind the city in any manner to pay a compensation to the marshal not fixed by a valid ordinance.—O'Dwyer v. City of Monett, 100 S.W. 670, 123 Mo.App. 184.

Nev. 1993. Police officer is "public official" required to show actual malice for allegedly defamatory statement. U.S.C.A. Const.Amend. 1.—Posadas v. City of Reno, 851 P.2d 438, 109 Nev. 448.—Libel 51(1).

N.J. 1994. Police lieutenant who was challenging article purporting to describe his official conduct was "public official" required to meet actual malice standard in libel suit, even though he was not in charge on night of arrest in question; lieutenant would be in charge of police operations at other times.—Costello v. Ocean County Observer, 643 A.2d 1012, 136 N.J. 594.—Libel 48(2).

N.J.Super.A.D. 1999. School district's athletic director was "public official" required to show actual malice in defamation action against teacher's union and union employee responsible for handling sexual harassment and discrimination complaints about director; the director administered a substantial budget, supervised approximately 60 coaches and other employees, and spoke at booster club meetings and various other community functions, and the performance of high school athletic teams is often a matter of substantial public interest within a community.—Standridge v. Ramey, 733 A.2d 1197, 323 N.J.Super. 538.—Libel 48(2).

N.J.Super.A.D. 1987. For defamation purposes, position of "public official" must be one which would invite public scrutiny and discussion of person holding it, entirely apart from scrutiny and discussion occasioned by charges in controversy.—Vassallo v. Bell, 534 A.2d 724, 221 N.J.Super. 347.—Libel 48(2).

N.J.Super.A.D. 1983. Where executive director of city parking authority had, or appeared to public to have, substantial responsibility for conduct of governmental affairs, executive director was "public official."—Burke v. Deiner, 463 A.2d 963, 190 N.J.Super. 382, certification granted 470 A.2d 422, 95 N.J. 201, reversed 479 A.2d 393, 97 N.J. 465.—Libel 48(2).

N.J.Super.A.D. 1966. Assessor of city was a "public official," and therefore insofar as published statement about him by defendant candidate might have been interpreted by average reader to relate to his official conduct as assessor, it would not be actionable, even if a defamatory falsehood, without proof of actual malice.—Eadie v. Pole, 221 A.2d 547, 91 N.J.Super. 504.—Libel 51(5).

N.J.Super.L. 1982. Chemist employed by county to work at task deemed important and required to be performed in public interest was "public official" within scope of rule governing admissibility of written statement of acts done or act, condition or event observed by public official. Rules of Evid., N.J.S.A. 2A:84A, Rule 62(3).—State v. Malsbury, 451 A.2d 421, 186 N.J.Super. 91.—Crim Law 429(1).

N.J.Super.L. 1976. State official was not "public official," within purview of rule providing that venue shall be laid in county in which cause of action arose in actions not affecting real property which are brought by or against municipal corporations, counties, public agencies or officials. R. 4:3-2(a)(2).—J. J. Nugent Co. v. Sagner, 359 A.2d 515, 141 N.J.Super. 591, reversed 376 A.2d 945, 151 N.J.Super. 189.—Venue 11.

N.J.Super.L. 1976. "Public official" and "public agency," within purview of statute providing that venue shall be laid in county in which cause of action arose in actions not affecting real property which are brought by or against municipal corporations, counties, public agencies or officials, should not be given their broad general meaning, but should be construed to embrace only public agencies and officials similar in nature to specific government bodies listed. R. 4:3-2(a)(2).—J. J. Nugent Co. v. Sagner, 359 A.2d 515, 141 N.J.Super. 591, reversed 376 A.2d 945, 151 N.J.Super. 189.—Venue 11.

N.Y. 1932. Water board having power to collect bills or turn off water supply is "public official," whose proceedings and action may be given as news and fairly and truly reported. Civil Practice Act, § 337.—Briarcliff Lodge Hotel v. Citizen-Sentinel Publishers, 183 N.E. 193, 260 N.Y. 106, reargument denied 185 N.E. 728, 261 N.Y. 537.—Libel 49.

N.Y.A.D. 1 Dept. 1969. Letter written by union official to postmaster complaining of actions of supervisor of branch post office was qualifiedly privileged as comment concerning acts of a "public official" and supervisor could not recover damages for publication of letter without showing that publication was made with actual malice.—Silbowitz v. Lepper, 299 N.Y.S.2d 564, 32 A.D.2d 520.—Libel 48(2).

N.Y.A.D. 2 Dept. 1994. Position of senior court clerk was not of such importance that public had independent interest in his qualifications and performance apart from public's general interest in qualifications and performance of all government employees, and clerk was not "public official" and was not required to prove that allegedly defamatory statements about him in magazine article were published with actual malice or reckless disregard for their truth in order to recover damages in defamation action.—Lambert v. Corcoran, 619 N.Y.S.2d 326, 209 A.D.2d 674.—Libel 48(2).

N.Y.A.D. 2 Dept. 1978. A police patrolman is a "public official" for purpose of the rule that a "public official" may recover damages for a defamatory falsehood only where the statement was made with knowledge that it was false or with reckless disregard of whether the statement was false.—Malerba v. Newsday, 406 N.Y.S.2d 552, 64 A.D.2d 623.—Libel 48(2).

N.Y.A.D. 3 Dept. 1986. Police officer is a "public official" who must satisfy actual malice standard to recover damages for defamation.—Derrig v. Quinlan, 508 N.Y.S.2d 952, 125 A.D.2d 777.—Libel 48(2), 51(5).

N.Y.A.D. 3 Dept. 1931. Attorney's official status on behalf of client with governmental powers does not make him "public official" within statute. Public Officers Law, § 5.—People ex rel. Dawson v.

Knox, 247 N.Y.S. 731, 231 A.D. 490, affirmed 196 N.E. 582, 267 N.Y. 565.—Atty & C 14.

N.Y.A.D. 4 Dept. 1990. Superintendent of county jail was a "public official" who had to prove by evidentiary facts in defamation action that sheriff who issued allegedly defamatory news release was motivated by actual malice or actual ill will.—Stanwick v. Meloni, 551 N.Y.S.2d 106, 158 A.D.2d 944.—Libel 48(2), 51(5).

N.Y.Sup. 2002. Private citizens satisfied likelihood of success on merits requirement for preliminary injunction barring member of county legislature from exercising full powers pending resolution of suit seeking his ouster, through showing that his other position as police chief of town made him a "public official," under county law prohibiting legislator from holding any other salaried public office.—Held v. Hall, 737 N.Y.S.2d 829, 190 Misc.2d 444.—Inj 138.46.

N.Y.Sup. 1998. Public school principal was a "public official," for purposes of the libel law requirement that actual malice be shown by a public figure complainant.—Jee v. New York Post Co., Inc., 671 N.Y.S.2d 920, 176 Misc.2d 253, affirmed 688 N.Y.S.2d 49, 260 A.D.2d 215, leave to appeal denied 697 N.Y.S.2d 565, 93 N.Y.2d 817, 719 N.E.2d 926.—Libel 51(5).

N.Y.Sup. 1979. Former justice of the Supreme Court was a "public official" and was, therefore, required to establish actual malice in order to recover for allegedly defamatory material contained in book by investigative journalist.—Rinaldi v. Viking Penguin, Inc., 422 N.Y.S.2d 552, 101 Misc.2d 928, modified 425 N.Y.S.2d 101, 73 A.D.2d 43, motion denied 49 N.Y.2d 1049, affirmed 438 N.Y.S.2d 496, 52 N.Y.2d 422, 420 N.E.2d 377.—Libel 48(2), 51(5).

N.Y.Sup. 1967. Supervisor and senior administrator in branch post office was sufficiently important to be a "public official" within qualified privilege rule.—Silbowitz v. Lepper, 285 N.Y.S.2d 456, 55 Misc.2d 443, affirmed 299 N.Y.S.2d 564, 32 A.D.2d 520.—Libel 48(2).

N.Y.Sup. 1966. "Public official", within rule prohibiting public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves statement was made with actual malice, applies at very least to those among hierarchy of government employees who have, or appear to the public to have, substantial responsibility for or control over conduct of governmental affairs.—Krutech v. Schimmel, 272 N.Y.S.2d 261, 50 Misc.2d 1052, reversed 278 N.Y.S.2d 25, 27 A.D.2d 837.—Libel 48(2).

N.Y.Sup. 1965. In a strictly literal sense, occupant of governmental position, even of minor nature, is a "public official".—Gilligan v. King, 264 N.Y.S.2d 309, 48 Misc.2d 212, affirmed 290 N.Y.S.2d 1014, 29 A.D.2d 935.—Offic 1.

N.Y.Sup. 1955. Attendant at state hospital for the criminally insane was not a "public official" within meaning of Public Officers Law, and his committal to another state hospital for observation and treatment of mental illness did not justify order declaring his position in competitive class of state civil service vacant without notice to him of specific charges and opportunity to be heard. Civil Service Law, § 22; Public Officers Law, § 30.—Application of Sweeney, 147 N.Y.S.2d 612, 1 Misc.2d 125.—Offic 55(1).

N.Y.Sup. 1954. County committee of a political party was not a "municipal corporation" and chairman of such committee was not an "official of county" or "public official" within meaning of statute limiting power to enforce restitution or recovery of fraudulent, illegal, unjust or inequitable demand or claim against or expense of county. General Municipal Law, § 51; Election Law, § 2, subds. 8–10.—Heydeman v. Rockland County, 132 N.Y.S.2d 788, 206 Misc. 473.—Counties 207(2).

N.C.App. 2006. County schools' director of federal programs, who supervised county's special education teachers, aides in special education classrooms, and related service providers, was a "public official," for purposes of public official immunity from negligence claims brought by parents of special-needs elementary school student who was allegedly abused by teacher's aide; in her supervisory role, director performed discretionary acts involving personal deliberation. West's N.C.G.S.A. § 115C–287.1(a)(3).—Farrell v. Transylvania County Bd. of Educ., 625 S.E.2d 128.—Schools 63(3).

N.C.App. 2005. County building inspector was a "public official," rather than a "public employee," and, therefore, was not personally liable in individual capacity for allegedly negligent inspection; even though the inspector was not the chief inspector, he had a position created by statute, exercised a portion of the sovereign power delegated to him, and used discretion, and the complaint against him did not allege malicious or corrupt conduct. West's N.C.G.S.A. § 160A–411.—McCoy v. Coker, 620 S.E.2d 691.—Counties 92.

N.C.App. 2003. Probation officer was a "public official" who could not be held liable for negligence in her individual capacity in probationer's action alleging that probation officer filed an untrue probation violation report; probation officers were appointed, were required to take an oath of office, and were accorded same rights as sheriffs in state, and probation officers did not perform merely ministerial duties but instead had to bring personal deliberation, decision and judgment to each situation. West's N.C.G.S.A. §§ 15–204, 15–205.—Lambert v. Cartwright, 584 S.E.2d 341, 160 N.C.App. 73, review denied 590 S.E.2d 268, 357 N.C. 658.—Courts 55.

N.C.App. 2003. A "public official" who enjoys official immunity from liability is someone whose position is created by the constitution or statutes of the sovereign.—Lambert v. Cartwright, 584 S.E.2d 341, 160 N.C.App. 73, review denied 590 S.E.2d 268, 357 N.C. 658.—Offic 114.

N.C.App. 2003. A "public official" is one who exercises some portion of sovereign power and discretion, whereas "public employees" perform ministerial duties.—Dalenko v. Wake County Dept.

of Human Services, 578 S.E.2d 599, 157 N.C.App. 49, stay denied 585 S.E.2d 380, writ denied 585 S.E.2d 380, appeal dismissed, review and certiorari denied 585 S.E.2d 386, 357 N.C. 458, reconsideration denied 587 S.E.2d 664, 357 N.C. 504, review dismissed 585 S.E.2d 386, 357 N.C. 458, certiorari denied Bennett v. Wake County Dept. of Human Services, 124 S.Ct. 1411, 540 U.S. 1178, 158 L.Ed.2d 79.—Offic 1.

N.C.App. 2002. Firefighter trainer was not "public official" who could be immune from personal liability for mere negligence in performance of his duties, given that no statute or constitutional provision created position.—Seymour v. Lenoir County, 567 S.E.2d 799, 152 N.C.App. 464, review denied 577 S.E.2d 887, review allowed 577 S.E.2d 887, appeal dismissed 579 S.E.2d 397.—Offic 116.

N.C.App. 2001. For purposes of public official immunity, a "public official" is one whose position is created by the North Carolina Constitution or the North Carolina General Statutes and exercise some portion of sovereign power and discretion, whereas "public employees" perform ministerial duties.—Vest v. Easley, 549 S.E.2d 568, 145 N.C.App. 70.—Offic 114.

N.C.App. 1995. For immunity purposes, police officer is a "public official".—Young v. Woodall, 458 S.E.2d 225, 119 N.C.App. 132, review allowed 461 S.E.2d 770, 341 N.C. 424, reversed 471 S.E.2d 357, 343 N.C. 459.—Mun Corp 747(3).

N.C.App. 1995. Deputy sheriff in performance of his investigative and arrest duties is "public official," immune from claims of negligence.—Marlowe v. Piner, 458 S.E.2d 220, 119 N.C.App. 125.—Sheriffs 99, 102.

N.C.App. 1994. For purposes of defamation action, town manager was "public official" with regard to allegedly defamatory statements made after his termination as town manager.—Varner v. Bryan, 440 S.E.2d 295, 113 N.C.App. 697.—Libel 48(2).

N.C.App. 1988. Parole case analyst was "public employee," rather than "public official," and thus, analyst could be held liable for alleged negligence and false imprisonment in connection with delay in consideration of inmate for release on parole; analyst's position was not created by statutory provision, and record was devoid of any sovereign power exercised by analyst.—Harwood v. Johnson, 374 S.E.2d 401, 92 N.C.App. 306, review allowed 377 S.E.2d 754, 324 N.C. 247, affirmed in part, reversed in part 388 S.E.2d 439, 326 N.C. 231, rehearing denied 392 S.E.2d 90, 326 N.C. 488.—Pardon 56.

N.C.App. 1988. Secretary of the Department of Corrections was "public official"; therefore, the Secretary could not be held liable for alleged negligence in connection with delay in consideration of inmate for release on parole. G.S. §§ 143B–261, 143B–263.—Harwood v. Johnson, 374 S.E.2d 401, 92 N.C.App. 306, review allowed 377 S.E.2d 754, 324 N.C. 247, affirmed in part, reversed in part 388 S.E.2d 439, 326 N.C. 231, rehearing denied 392 S.E.2d 90, 326 N.C. 488.—Pardon 56.

N.C.App. 1984. A medical examiner is a "public official," and decision to conduct autopsy is "discretionary," involving use of medical examiner's judgment. G.S. §§ 130–198 to 130–200.—Grad v. Kaasa, 314 S.E.2d 755, 68 N.C.App. 128, reversed 321 S.E.2d 888, 312 N.C. 310.—Coroners 14.

N.C.App. 1980. Medical examiner in mental commitment proceeding was a "public official" for purposes of rule that a public official would be prohibited from recovering damages for defamatory statements relating to his official conduct unless there was actual malice. U.S.C.A.Const. Amend. 1; G.S. § 122–43; §§ 122–59, 122–63, 122–65 (Repealed).—Hall v. Piedmont Publishing Co., 266 S.E.2d 397, 46 N.C.App. 760, appeal dismissed, review denied 301 N.C. 88.—Libel 48(2).

N.C.App. 1979. For purposes of action in which plaintiff, former Internal Revenue Service agent, alleged libel and malicious interference with her employment contract, plaintiff, who acted on behalf of the government in an official capacity while working as an Internal Revenue Service agent, was a "public official," and thus defendant had the right to criticize plaintiff and to communicate such criticism to her supervisor unless criticism was made with knowledge at the time that the words were false or without probable cause or without checking for truth by the means at hand.—Angel v. Ward, 258 S.E.2d 788, 43 N.C.App. 288.—Libel 48(2), 51(5).

N.C.App. 1977. Policeman was "public official" who could not recover damages for defamatory falsehood relating to his official conduct without proof that statement was made with "actual malice," i. e., with knowledge that it was false or with reckless disregard of whether it was false or not.—Dellinger v. Belk, 238 S.E.2d 788, 34 N.C.App. 488, review denied 241 S.E.2d 517, 294 N.C. 182.—Libel 48(2), 51(5).

N.C.App. 1974. Deputy sheriff, who is representative of sheriff in his official capacity, who is public officer whose authority and duties are regulated and prescribed by law, and whose acts are generally regarded as acts of sheriff himself, is "public official" for purposes of rule that damages can be awarded to public official in suit for libel only where defendant acted with knowledge that alleged libelous statements were false or with reckless disregard of their truth or falsity. U.S.C.A.Const. Amends. 1, 14; G.S. § 153A–103.—Cline v. Brown, 210 S.E.2d 446, 24 N.C.App. 209, certiorari denied 211 S.E.2d 793, 286 N.C. 412.—Libel 48(2).

Ohio 2001. Employee in city's utilities department, who removed brass water meters from city warehouse without permission and sold them to scrap yard, was a "public official," for purposes of the theft-in-office statute. R.C. §§ 2921.01(A), 2921.41.—State v. Lozano, 740 N.E.2d 273, 90 Ohio St.3d 560, 2001-Ohio-224.—Mun Corp 174.

Ohio 2001. Public employee is a "public official," for purposes of the theft-in-office statute. R.C. §§ 2921.01(A), 2921.41.—State v. Lozano, 740 N.E.2d 273, 90 Ohio St.3d 560, 2001-Ohio-224.—Offic 121.

Ohio 1999. Public school principal is not a "public official" for purposes of defamation law.—E. Canton Edn. Assn. v. McIntosh, 709 N.E.2d 468, 85 Ohio St.3d 465, 1999-Ohio-282, reconsideration denied 711 N.E.2d 1014, 86 Ohio St.3d 1421, reconsideration denied State ex rel. McIntosh v. Osnaburg Local School Dist. Bd. of Edn., 711 N.E.2d 1015, 86 Ohio St.3d 1421, certiorari denied Slick v. McIntosh, 120 S.Ct. 614, 528 U.S. 1061, 145 L.Ed.2d 509.—Libel 48(2).

Ohio 1994. Police officer testifying in trial regarding his personal advice to nephew about that relative's cooperation in murder investigation is "public official" for defamation purposes; such statements are relevant to officer's fitness to hold his job, as competent officer should truthfully testify while under oath at trial, officers should encourage citizens to cooperate with criminal investigations, and they should refrain from providing special treatment to relatives suspected of criminal conduct.—Soke v. Plain Dealer, 632 N.E.2d 1282, 69 Ohio St.3d 395, 1994-Ohio-337.—Libel 48(2).

Ohio 1986. Public school superintendent was a "public official" for purposes of defamation law; overruling *Milkovich v. News-Herald*, 15 Ohio St.3d 292, 473 N.E.2d 1191. Const. Art. 1, § 11; U.S.C.A. Const.Amend. 1.—Scott v. News-Herald, 496 N.E.2d 699, 25 Ohio St.3d 243, 25 O.B.R. 302.—Libel 48(2).

Ohio 1984. Former head wrestling coach of high school was not "public official" within First Amendment analysis by virtue of his employment as public high school teacher and coach. U.S.C.A. Const.Amend. 1.—Milkovich v. News-Herald, 473 N.E.2d 1191, 15 Ohio St.3d 292, 15 O.B.R. 424, certiorari denied Lorain Journal Co. v. Milkovich, 106 S.Ct. 322, 474 U.S. 953, 88 L.Ed.2d 305, appeal after remand 545 N.E.2d 1320, 46 Ohio App.3d 20, dismissed 540 N.E.2d 724, 43 Ohio St.3d 707, certiorari granted 110 S.Ct. 863, 493 U.S. 1055, 107 L.Ed.2d 947, reversed 110 S.Ct. 2695, 497 U.S. 1, 111 L.Ed.2d 1, on remand 591 N.E.2d 394, 70 Ohio App.3d 480, cause dismissed 571 N.E.2d 137, 59 Ohio St.3d 702, cause dismiss—Const Law 90.1(5).

Ohio App. 3 Dist. 2000. Probation officer was a "public official," within meaning of falsification statute regarding statements made for the purpose of misleading a public official in performing the public official's official function. R.C. § 2921.13(A)(3).—In re Slusser, 748 N.E.2d 105, 140 Ohio App.3d 480, 2000-Ohio-1734, dismissed, appeal not allowed 743 N.E.2d 400, 91 Ohio St.3d 1460.—Obst Just 7.

Ohio App. 7 Dist. 1998. Law enforcement officer is a "public official," for purposes of criminal statutes governing offenses against justice and public administration. R.C. § 2921.01(A).—State v. Collier, 722 N.E.2d 1096, 131 Ohio App.3d 530, appeal not allowed 708 N.E.2d 212, 85 Ohio St.3d 1447.—Offic 120.1.

Ohio App. 7 Dist. 1998. A special constable is not in the same classification as other law enforcement officers, and thus is not a "public official" for purposes of criminal statutes governing offenses against justice and public administration. R.C. § 2921.01(A).—State v. Collier, 722 N.E.2d 1096, 131 Ohio App.3d 530, appeal not allowed 708 N.E.2d 212, 85 Ohio St.3d 1447.—Offic 120.1.

Ohio App. 7 Dist. 1998. Defendant who was employed as a special constable by association of owners of properties located in subdivision, which was a private entity, was not a "public official" with respect to that position, so that defendant's actions in allegedly accepting compensation for same hours worked both as special constable, and in his separate position with police department, could not support conviction for theft in office. R.C. §§ 2921.01(A), 2921.41(A)(1).—State v. Collier, 722 N.E.2d 1096, 131 Ohio App.3d 530, appeal not allowed 708 N.E.2d 212, 85 Ohio St.3d 1447.—Mun Corp 190; Offic 120.1.

Ohio App. 10 Dist. 1994. Deputy chief of university police department was "public official," for purposes of his defamation action against university newspaper arising from editorial alleging that he had reputation for using excessive force; public had significant interest in his performance, students and faculty relied on university police for security, interest of campus community in deputy chief's performance was increased by his high position in department, and university community was principal audience of publication in which editorial in question appeared. U.S.C.A. Const.Amend. 1.—Waterson v. Cleveland State Univ., 639 N.E.2d 1236, 93 Ohio App.3d 792.—Libel 48(2).

Ohio App. 10 Dist. 1984. "Public official" entitled to official immunity is one who exercises some of the sovereign powers of the state in performing his job duties.—Catalina v. Crawford, 483 N.E.2d 486, 19 Ohio App.3d 150, 19 O.B.R. 240.—Offic 114.

Ohio App. 11 Dist. 1989. Unsuccessful mayoral candidate was "public official" or "public figure" both on day of election, when first newspaper article concerning his alleged misconduct during campaign appeared, and six months later, when other articles concerning same misconduct appeared after probable cause hearings before state Elections Commission, and actual malice standard governed candidate's defamation claim against newspapers and their reporters; candidate was councilman as well as candidate on day of election, and hearings before Commission arose out of complaints lodged against candidate in connection with his campaign activities. U.S.C.A. Const.Amend. 1.—Mastandrea v. Lorain Journal Co., 583 N.E.2d 984, 65 Ohio App.3d 221, dismissed 553 N.E.2d 276, 50 Ohio St.3d 701, certiorari denied 111 S.Ct. 73, 498 U.S. 822, 112 L.Ed.2d 46.—Libel 48(3).

Ohio Com.Pl. 1993. Village legal counsel hired pursuant to statute authorizing general plan village to obtain legal counsel by contract is not "public official" nor is his position an "office." R.C. § 733.48.—Rose v. Wellsville, 613 N.E.2d 262, 63 Ohio Misc.2d 9.—Mun Corp 123.

Okla. 1980. "Public official" designation within *New York Times* libel rule applies at the very least to those among the hierarchy of government em-

ployees who have, or appear to the public to have, substantial responsibility for or control over conduct of governmental affairs. U.S.C.A.Const. Amend. 1.—Hodges v. Oklahoma Journal Pub. Co., 617 P.2d 191, 1980 OK 102.—Libel 48(2).

Okla. 1980. Phrase "governmental employee" as used in *Rosenblatt* test to determine whether libel plaintiff is a "public official" within *New York Times* rule is not limited to those individuals who have a traditional "employee–employer" relationship with a governmental unit; it extends to those who have, or appear to have, substantial responsibility for or control over conduct of governmental affairs and the alleged libel must relate to this official capacity. U.S.C.A.Const. Amend. 1.—Hodges v. Oklahoma Journal Pub. Co., 617 P.2d 191, 1980 OK 102.—Libel 48(2).

Okla. 1980. Plaintiff in libel action, who as license tag agent had held a position of substantial public impact, and had duties which involved collection and accounting for substantial amount of public funds, as well as administering area of the law which affected practically every citizen of county in which he served, was a "governmental employee" within *Rosenblatt* test and, thus, plaintiff was a "public official" within *New York Times* libel rule. U.S.C.A.Const. Amend. 1.—Hodges v. Oklahoma Journal Pub. Co., 617 P.2d 191, 1980 OK 102.—Libel 48(2).

Okla. 1978. Grade school wrestling coach was "public official" within contemplation of New York Times rule providing that actual malice is required to maintain defamation action by public official, in that coach's position in government had such apparent importance that public had independent interest in qualifications and performance of person who held it, beyond general public interest in qualifications and performances of all government employees.—Johnston v. Corinthian Television Corp., 583 P.2d 1101, 1978 OK 88.—Libel 48(2).

Okla.App. Div. 1 1995. Vice president of school board who was incorrectly identified as rape suspect in newspaper photograph was "public official" requiring showing of actual malice in order to recover in defamation action against newspaper, even though libel did not relate to his official conduct as school board vice president. U.S.C.A. Const. Amend. 1.—Strong v. Oklahoma Pub. Co., 899 P.2d 1185, 1995 OK CIV APP 89.—Libel 48(2), 51(5).

Okla.App. Div. 1 1995. Designation as "public official" under *New York Times* standard, as will require showing of actual malice in order to allow recovery in defamation action, applies to those in government who have, or appear to public to have, substantial responsibility for or control over conduct of governmental affairs. U.S.C.A. Const. Amend. 1.—Strong v. Oklahoma Pub. Co., 899 P.2d 1185, 1995 OK CIV APP 89.—Libel 48(2).

Okla.App. Div. 2 1983. Plaintiff, in libel action, was a "public official" by virtue of her position as a public school teacher, and was also a "public figure" by virtue of her civil rights work, radio show, and books.—Luper v. Black Dispatch Pub. Co., 675 P.2d 1028, 1983 OK CIV APP 54.—Libel 48(1), 48(2).

Or.App. 2000. Former city administrator was a "public official" after her dismissal from that position, and therefore she was required under the First Amendment to prove actual malice in a defamation action regarding city resident's letters to newspaper describing her by her former position rather than by name and attacking her alleged misconduct in the use of a bank account that she had opened while working for the city, where the alleged misconduct, as the resident described it, was directly related to her work as a public official. U.S.C.A. Const. Amend. 1.—Victoria v. Le Blanc, 7 P.3d 668, 168 Or.App. 586.—Const Law 90.1(5); Libel 48(2), 51(5).

Or.App. 1984. As a police officer, plaintiff bringing libel action was a "public official."—McNabb v. Oregonian Pub. Co., 685 P.2d 458, 69 Or.App. 136, review denied 687 P.2d 797, 297 Or. 824, certiorari denied 105 S.Ct. 1193, 469 U.S. 1216, 84 L.Ed.2d 339.—Libel 48(2).

Pa. 1999. Chairman of city parking authority received no compensation, and, therefore, was not a "public official" or "public employee," so as to preclude him from being member of regional asset district board. 16 P.S. §§ 6102–B, 6117–B; 53 P.S. § 348(b).—Allegheny Institute Taxpayers Coalition v. Allegheny Regional Asset Dist., 727 A.2d 113, 556 Pa. 102, certiorari denied Schaefer v. DeStefano, 121 S.Ct. 1663, 532 U.S. 998, 149 L.Ed.2d 644.—Mun Corp 142.

Pa. 1980. For purposes of Ethics Act's provision that no former official or public employee could represent a person on any matter before the governmental body with which official or employee had been associated for one year after he left such body, a court of law was a "governmental body" and a judge, who had retired or resigned, was a "public official." 65 P.S. §§ 403(e), 406, 406(d).—Wajert v. State Ethics Commission, 420 A.2d 439, 491 Pa. 255.—Judges 21.

Pa. 1939. A notary public in presenting note to bank for payment at instance of collecting bank acted as "private agent" of the payee or of the collecting bank, or both, although the notary in subsequently protesting the note acted as a "public official" in performance of his duty. 7 P.S. § 213.—Hamburger Bros. & Co. v. Third Nat. Bank & Trust Co. of Scranton, 5 A.2d 87, 333 Pa. 377.—Banks 162.

Pa.Super. 2005. In defamation action, judge was a "public official" and, as such, had to prove that television station, reporter and producer acted with actual malice in broadcasting report that judge allegedly uttered racial slurs at African-American woman at security checkpoint at airport.—Manning v. WPXI, Inc., 886 A.2d 1137, reargument denied.—Libel 48(2).

Pa.Cmwlth. 1984. Certified public accountant who is appointed auditor of municipality is not a "public official" under Ethics Act. 65 P.S.

§§ 401–413.—Rogers v. Com., State Ethics Com'n, 470 A.2d 1120, 80 Pa.Cmwlth. 43.—Mun Corp 123.

R.I. 1985. Determination of whether a libel plaintiff is a "public official" is a question of law.—Hall v. Rogers, 490 A.2d 502.—Libel 123(8).

S.C. 2006. For purposes of defamation action, a "public official" is a person who, among the hierarchy of government employees, has or appears to the public to have substantial responsibility for or control over the conduct of governmental affairs.—Erickson v. Jones Street Publishers, L.L.C., 629 S.E.2d 653, 368 S.C. 444, rehearing denied.—Libel 48(2).

S.C. 1980. Police officer was "public official" for purposes of defamation action brought in connection with report of supposed false arrest. U.S.C.A.Const. Amend. 1.—McClain v. Arnold, 270 S.E.2d 124, 275 S.C. 282.—Libel 48(2).

S.C.App. 2001. High school assistant principal was not "public official," and thus, in context of slander action, he was not required to prove actual malice and falsity of alleged defamatory statement.—Goodwin v. Kennedy, 552 S.E.2d 319, 347 S.C. 30, rehearing denied.—Libel 48(1).

S.C.App. 1996. Police officer is "public official" within meaning of statute criminalizing threatening public official; officers are elected or appointed to their positions. Const. Art. 5, § 24; Code 1976, § 16–3–1040.—State v. Carter, 478 S.E.2d 86, 324 S.C. 383, rehearing denied, and certiorari denied.—Extort 25.1.

S.C.App. 1996. In determining whether individual is "public official" at common law, particularly as it relates to prosecution for misconduct in office, courts focus on existence of duty owed to public.—State v. Bridgers, 473 S.E.2d 829, 323 S.C. 185, rehearing denied, and certiorari granted, reversed 495 S.E.2d 196, 329 S.C. 11.—Offic 1, 120.1.

S.C.App. 1996. State highway patrol officer against whose life threat had been made by motorist who was arrested after he had left scene of accident was not "public official" for purposes of offense of threatening to injure or kill public official; highway patrol officers, since they are not elected or appointed, cannot be considered public officials within meaning of statute. Code 1976, § 16–3–1040.—State v. Bridgers, 473 S.E.2d 829, 323 S.C. 185, rehearing denied, and certiorari granted, reversed 495 S.E.2d 196, 329 S.C. 11.—Extort 25.1.

S.D. 1996. Person who has substantial responsibility for or control over conduct of governmental affairs or has position with such apparent importance that public has independent interest in qualifications and performances of person who holds it, beyond general public interest in the qualifications and performance of all governmental employees, may be considered to be "public figure" or "public official" under First Amendment for purposes of libel action. U.S.C.A. Const.Amend. 1.—Sparagon v. Native American Publishers, Inc., 542 N.W.2d 125, 1996 SD 3.—Const Law 90.1(5); Libel 48(2).

Tenn. 1992. County employee who had substantial responsibility for and control over financial affairs of county was a "public official" for purposes of defamation claim against newspaper, and whether employee had primary duty of preparing warrants for signature and mailing signed warrants to vendors was not determinative.—Ferguson v. Union City Daily Messenger, Inc., 845 S.W.2d 162, certiorari denied 113 S.Ct. 2931, 508 U.S. 961, 124 L.Ed.2d 681, rehearing denied 114 S.Ct. 14, 509 U.S. 941, 125 L.Ed.2d 766.—Libel 48(2).

Tenn.Ct.App. 1997. Public school teacher was "public official" for purposes of defamation action. U.S.C.A. Const.Amend. 1.—Campbell v. Robinson, 955 S.W.2d 609, appeal denied.—Libel 48(2).

Tex. 1976. In that civil engineer's performance of private consultation work for county relative to flooding problem in subdivision did not require that he have direct dealings with public or have authority to act on behalf of county or expend public funds to solve flooding problem, engineer was not a "public official" in his capacity as consulting engineer on such project for purpose of rule prohibiting public official from recovering damages for defamatory falsehood relating to official conduct unless he proves malice.—Foster v. Laredo Newspapers, Inc., 541 S.W.2d 809, certiorari denied 97 S.Ct. 1160, 429 U.S. 1123, 51 L.Ed.2d 573.—Libel 51(5).

Tex. 1938. A licensed state land surveyor in undertaking to make surveys pursuant to application for survey of area believed to be unsurveyed public school land is a "public official" engaged in performance of his duties. Vernon's Ann.Civ.St. arts. 5268–5282.—Walker v. Kenedy, 127 S.W.2d 163, 133 Tex. 193.—Pub Lands 173(10).

Tex.Crim.App. 1940. A policeman of a city is a "public official".—Simpson v. State, 137 S.W.2d 1035, 138 Tex.Crim. 622.—Mun Corp 188.

Tex.App.–Houston [1 Dist.] 1983. Court reporter does not possess substantial responsibility for or control over conduct of governmental affairs; thus, court reporter is not "public official" for purposes of defamation; rather, she is "private individual" for whom standard of liability is negligence.—Houston Chronicle Pub. Co. v. Stewart, 668 S.W.2d 727, dismissed.—Libel 48(2).

Tex.App.–Texarkana 1996. Deputy sheriff who brought defamation action against newspaper and television station based on statements in article and program alleging that he had intervened in investigation of his son in connection with murder was "public official" for purposes of *New York Times* rule as matter of law, and could recover only upon showing of malice. U.S.C.A. Const.Amend. 1.—Hailey v. KTBS, Inc., 935 S.W.2d 857.—Libel 48(2), 51(5).

Tex.App.–Amarillo 1993. Plaintiff in libel action, who was high school athletic director, head football coach, and classroom teacher, was "public official"; plaintiff had substantial responsibility for and control over conduct of "governmental affairs," plaintiff's contact with public concerning his official duties generated interest in his qualifications and

performance independent of public's interest in qualification and performance of all government employees, and plaintiff's position was one which invited public scrutiny and discussion of him entirely apart from that occasioned by newspaper article which was subject of action. U.S.C.A. Const. Amend. 1.—Johnson v. Southwestern Newspapers Corp., 855 S.W.2d 182, rehearing denied, and writ denied.—Libel 48(2).

Tex.App.–Amarillo 1982. Where attorney was not a holder of governmental office at time of allegedly libelous broadcast and broadcast did not discuss his previous performance as special prosecutor, attorney was not "public official."—Durham v. Cannan Communications, Inc., 645 S.W.2d 845, writ dismissed.—Libel 48(2).

Tex.App.–Waco 2004. Assistant district attorney who prosecuted capital murder defendant on behalf of the State was a "public official," and thus, the assistant district attorney was required to prove actual malice, in defamation action against publisher and writer of article questioning evidence against capital murder defendant; assistant district attorney was a government employee who had or appeared to have substantial responsibility or control over conduct of government affairs.—Pardo v. Simons, 148 S.W.3d 181.—Libel 48(2).

Tex.App.–Waco 2004. Defamation plaintiff, who as police officer and later as sheriff's deputy investigated the case against capital murder defendant, was a "public official," and thus, plaintiff was required to prove actual malice, in defamation action against publisher and writer of article questioning evidence against capital murder defendant.—Pardo v. Simons, 148 S.W.3d 181.—Libel 48(2).

Tex.App.–Corpus Christi 1997. City attorney who was paid on retainer, attended up to six monthly meetings of city commissioners and civil service commission, and had contact with public through public meetings and sending notices of court hearings to citizens was "public official" under *New York Times* standard and thus required to make showing of actual malice in order to recover for defamatory statement relating to official duties. U.S.C.A. Const.Amend. 1.—Rogers v. Cassidy, 946 S.W.2d 439.—Libel 48(2).

Tex.App.–Corpus Christi 1990. There was some evidence supporting jury's determination that plaintiff, a Child Protective Services specialist, was "public official," and special question in that regard was thus properly submitted in libel action arising out of newspaper article that allegedly implied plaintiff was not doing her job as proper welfare agent. Vernon's Ann.Texas Rules Civ.Proc., Rule 278.—Villarreal v. Harte-Hanks Communications, Inc., 787 S.W.2d 131, writ denied, certiorari denied 111 S.Ct. 1316, 499 U.S. 923, 113 L.Ed.2d 249.—Libel 123(8).

Tex.App.–Houston [14 Dist.] 1998. Court-appointed psychologist in child custody case who had the power to determine visitation between mother and child was a "public official" for purposes of defamation action brought by psychologist against film makers and television network, which broadcast documentary film which allegedly unfairly and falsely criticized psychologist's handling of case; allegedly defamatory remarks related to his conduct as a psychologist, and psychologist, for all intents and purposes, was the judge, with the authority to determine mother's parental rights.—HBO, A Div. of Time Warner Entertainment Co., L.P. v. Harrison, 983 S.W.2d 31.—Libel 48(1).

Tex.App.–Houston [14 Dist.] 1987. Genuine issues of material fact existed as to whether elected justice of the peace was "public official," subject to actual malice standard in defamation action he brought against newspaper publishing companies and legal reporter, so as to preclude summary judgment; newspaper item did not refer to justice in his official capacity, and content of article did not expressly relate to official conduct as justice.—Guinn v. Texas Newspapers, Inc., 738 S.W.2d 303, writ denied, certiorari denied Cox Enterprises, Inc. v. Guinn, 109 S.Ct. 864, 488 U.S. 1041, 102 L.Ed.2d 988.—Judgm 181(33).

Tex.Civ.App.–Corpus Christi 1976. Court reporter is a "public official" and as such is subject to the mandamus powers of the Court of Civil Appeals. Vernon's Ann.Civ.St. arts. 1823, 1824, 2324.—City of Ingleside v. Johnson, 537 S.W.2d 145.—Mand 63.

Utah 1990. Police officer became "public official" for purposes of defamation action by virtue of facts and circumstances which gave rise to killing criminal suspect; officer's role in killing was not that of private individual, officer exercised decision making responsibility, and officer had duty to decide what was lawful or against law.—Madsen v. United Television, Inc., 797 P.2d 1083.—Libel 48(2).

Utah 1984. State chemist is a "public official" for purposes of rule providing exception to hearsay rule for reports and findings of public officials. Rules of Evid., Rule 62(4).—Yacht Club v. Utah Liquor Control Com'n, 681 P.2d 1224.—Evid 333(1).

Va. 1998. County sheriff was "public official" for purposes of Virginia Freedom of Information Act (FOIA). Const. Art. 7, § 4; Code 1950, § 2.1–341.—Tull v. Brown, 494 S.E.2d 855, 255 Va. 177.—Records 51.

Va. 1987. Public school "teacher" was not a "public official" under *New York Times* standard, and was not required to prove *New York Times* or "actual" malice before she could recover compensatory damages in defamation action against newspaper publisher and reporter with regard to newspaper article concerning her teaching. U.S.C.A. Const.Amend. 1.—Richmond Newspapers, Inc. v. Lipscomb, 362 S.E.2d 32, 234 Va. 277, certiorari denied 108 S.Ct. 1997, 486 U.S. 1023, 100 L.Ed.2d 228.—Libel 48(1), 51(5).

Wash. 1979. For purposes of defamation action, the term "public official" applies at the very least to those among the hierarchy of government employees who have, or appear to the public to have, substantial responsibility for or control over the

conduct of governmental affairs; when position in government has such apparent importance that public has an independent interest in the qualifications and performance of person who holds it, beyond the general public interest in qualifications and performance of all government employees, the actual malice standards apply.—Clawson v. Longview Pub. Co., 589 P.2d 1223, 91 Wash.2d 408.—Libel 48(2).

Wash. 1973. Port district commissioner who became subject of allegedly libelous newspaper article as result of such position was a "public official" for purposes of defense of privilege.—Chase v. Daily Record, Inc., 515 P.2d 154, 83 Wash.2d 37.—Libel 48(2).

Wash.App. Div. 1 1984. A police officer is not a "public official" for all times and all defamation actions.—Himango v. Prime Time Broadcasting, Inc., 680 P.2d 432, 37 Wash.App. 259, review denied 102 Wash.2d 1004.—Libel 48(2).

Wash.App. Div. 1 1984. "Public official" or "public figure" may not recover damages for defamation unless he or she proves that statement claimed to be defamatory was made with "actual malice," that is, with knowledge that it was false or with reckless disregard of whether it was false or not.—Rye v. Seattle Times Co., 678 P.2d 1282, 37 Wash.App. 45, review denied 102 Wash.2d 1004, certiorari denied 105 S.Ct. 593, 469 U.S. 1087, 83 L.Ed.2d 703.—Libel 51(5).

W.Va. 1992. Attorney who was appointed to municipal judgeship and to position on Racing Commission, and was elected by lawyers to Board of Governors of State Bar, was not "public figure" or "public official" for purposes of libel action; attorney was not an elected public official, nor did attorney exert control over government affairs, and editorial at issue failed to identify attorney as public official.—Hinerman v. Daily Gazette Co., Inc., 423 S.E.2d 560, 188 W.Va. 157, certiorari denied 113 S.Ct. 1384, 507 U.S. 960, 122 L.Ed.2d 759.—Libel 48(1), 48(2).

W.Va. 1974. Municipal police sergeant was "public official" within the contemplation of United States Supreme Court decision of New York Times Co. v. Sullivan, pertaining to the necessity of actual malice in publishing false information, and the sergeant was required to allege and prove actual malice in order to recover in libel action against newspaper which published incorrect story that the sergeant had been jailed on bad check charges.—Starr v. Beckley Newspapers Corp., 201 S.E.2d 911, 157 W.Va. 447.—Libel 48(2), 100(7).

W.Va. 1955. County Superintendent of Schools was a "public official" within rule that mandamus will lie to compel public official to do an act which he has refused to do, if refusal is arbitrary, capricious or based upon misapprehension of law.—Cochran v. Trussler, 89 S.E.2d 306, 141 W.Va. 130.—Mand 79.

W.Va. 1934. Where elected constable employed as coal tipple worker and peace officer, was fatally shot on employer's property while endeavoring to preserve peace, presumption existed that constable was acting as "public official" and not as "employee," hence his widow was not entitled to compensation out of Workmen's Compensation Fund (Code 1931, 6-3-1; 23-2-1).—Ferrell v. State Compensation Com'r, 172 S.E. 609, 114 W.Va. 555.—Work Comp 695.

Wis. 1969. City attorney is a "public official" whose appointment or selection is within the home rule authority of a municipality.—Gramling v. City of Wauwatosa, 171 N.W.2d 897, 44 Wis.2d 634.—Mun Corp 131.

Wis.App. 1999. "Public official," for purposes of actual malice requirement in defamation action brought by a public official, includes a public figure who, by being drawn into or injecting himself or herself into a public controversy, becomes a public figure for a limited purpose because of his or her involvement in a particular public controversy.—Erdmann v. SF Broadcasting of Green Bay, Inc., 599 N.W.2d 1, 229 Wis.2d 156, review denied 604 N.W.2d 572, 230 Wis.2d 274.—Libel 48(1).

Wis.App. 1985. Chief of police is a "public official" who must show actual malice in order to recover damages for a defamatory statement relating to his official conduct.—Pronger v. O'Dell, 379 N.W.2d 330, 127 Wis.2d 292.—Libel 48(2), 51(5).

## PUBLIC OFFICIAL IMMUNITY

D.Md. 1997. In Maryland, "public official immunity" can be established by showing that the individual actor, whose alleged negligent conduct is at issue, is a public official rather than a mere government employee or agent, and that his tortious conduct occurred while he was performing discretionary, as opposed to ministerial, acts in furtherance of his official duties, and upon establishing these elements, a qualified immunity attaches, so that, in the absence of malice, the individual involved is free from liability.—Hicks v. Cassilly, 971 F.Supp. 956, reversed 153 F.3d 720, certiorari denied Lavodie v. Cassilly, 119 S.Ct. 1037, 525 U.S. 1143, 143 L.Ed.2d 45.—Offic 116.

Ill. 2000. "Public official immunity" is a common law defense to liability for employees of the State of Illinois, where those employees engage in discretionary functions.—Michigan Ave. Nat. Bank v. County of Cook, 247 Ill.Dec. 473, 732 N.E.2d 528, 191 Ill.2d 493.—States 78.

Miss. 1993. "Public official immunity" protects deliberative and decisional process of government, while "governmental immunity" merely protects public treasury; therefore, while insurance may be relevant to governmental immunity, it is not relevant to public official immunity.—Sullivan v. Sumrall By and Through Ritchey, 618 So.2d 1274.—Mun Corp 723; Offic 114.

## PUBLIC OFFICIAL IMMUNITY DOCTRINE

Ill.App. 1 Dist. 1999. Common law "public official immunity doctrine" provides that state officials and employees are protected from personal liability for actions taken in the exercise of their official

discretion.—Michigan Ave. Nat. Bank v. County of Cook, 239 Ill.Dec. 713, 714 N.E.2d 1010, 306 Ill. App.3d 392, rehearing denied, appeal allowed 243 Ill.Dec. 562, 723 N.E.2d 1163, 186 Ill.2d 570, affirmed 247 Ill.Dec. 473, 732 N.E.2d 528, 191 Ill.2d 493.—States 78.

### PUBLIC OFFICIAL OR EMPLOYEE

Utah 1992. Utah code section authorizing state to garnish tax refunds to turn over to judgment creditors applied to private as well as public employees; words "or otherwise" following "public official or employee" clearly indicated that statute had application beyond public employees. Rules Civ.Proc., Rule 64D(d)(viii); U.C.A.1953, 78–27–15, 78–27–16; Consumer Credit Protection Act § 303(a), 15 U.S.C.A. § 1673(a).—Funk v. Utah State Tax Com'n, 839 P.2d 818.—Tax 3555.

### PUBLIC OFFICIAL PROCEEDING

Cal.App. 1 Dist. 1988. State agency's summary of findings following its investigation of day-care center's expenditure of public funds was "public official proceeding" within meaning of absolute media privilege statute; thus, accurate news article on summary was absolutely privileged. West's Ann. Cal.Civ.Code § 47, subd. 4.—Howard v. Oakland Tribune, 245 Cal.Rptr. 449, 199 Cal.App.3d 1124.—Libel 36.

Cal.App. 1 Dist. 1984. Police investigation into allegedly abusive arrest made by city reserve police officer, initiated by city councilman's request to city council, was a "public official proceeding" under statute governing privileged publications or broadcasts. West's Ann.Cal.Civ.Code § 47, subd. 4.—Green v. Cortez, 199 Cal.Rptr. 221, 151 Cal.App.3d 1068.—Libel 39.

### PUBLIC OFFICIAL PROCEEDINGS

Okla. 1912. There is no practical difference in the meaning of "public official proceedings" and "proceedings authorized by law" as applied to privileged communications, and an investigation by a Senate committee of charges against one, appointed to office by the President and whose appointment has been sent to the Senate for confirmation, falls within the meaning of the latter term as used in Wilson's Rev. & Ann.St.1903, § 2239, 12 O.S. 1951 § 1443, 21 O.S.1951 § 772.—Tuohy v. Halsell, 128 P. 126, 35 Okla. 61, 43 L.R.A.N.S. 323, Am.Ann. Cas. 1916B,1110, 1912 OK 782.

### PUBLIC OFFICIALS

U.S.Ill. 1984. Executives of private nonprofit corporation having operational responsibility for administration of federal housing grant program within city under terms of subgrant from city were "public officials" within meaning of federal bribery statute, and thus were subject to prosecution under statute. 18 U.S.C.A. §§ 201, 201(a).—Dixson v. U.S., 104 S.Ct. 1172, 465 U.S. 482, 79 L.Ed.2d 458.—Brib 1(2).

C.A.7 (Ill.) 1982. Executive director and housing rehabilitation coordinator of federally funded, community-based, nonprofit corporation were "public officials" for purposes of statute prohibiting any "public official" from directly or indirectly asking, demanding, soliciting, accepting, or receiving anything of value in return for being influenced in performance of any official act. 18 U.S.C.A. § 201(c).—U.S. v. Hinton, 683 F.2d 195, certiorari granted Dixson v. U.S., 103 S.Ct. 567, 459 U.S. 1085, 74 L.Ed.2d 930, affirmed 104 S.Ct. 1172, 465 U.S. 482, 79 L.Ed.2d 458.—Brib 1(2).

C.A.7 (Ind.) 1978. Grain inspectors licensed by the United States Department of Agriculture and regulations thereunder and acting on behalf of the Department of Agriculture by issuing certificates required by the Warehouse Act and its implementing regulations were "public officials" within purview of statute proscribing bribing "any public official" for past or future official acts. 18 U.S.C.A. § 201(f); United States Warehouse Act, §§ 11, 15, 30, 7 U.S.C.A. §§ 252, 256, 270.—U.S. v. Kirby, 587 F.2d 876.—Brib 1(2).

C.A.2 (N.Y.) 1989. Postal employees responsible for ensuring that bulk-paid mail of private mailers had proper documentation reflecting payment, and that mail be further processed and its postage verified if it did not have proper documentation, constituted "public officials," within meaning of bribery statute. 18 U.S.C.A. § 201.—U.S. v. Gelb, 881 F.2d 1155, certiorari denied 110 S.Ct. 544, 493 U.S. 994, 107 L.Ed.2d 541, denial of post-conviction relief affirmed in part, vacated in part 944 F.2d 52.—Brib 1(2).

C.A.2 (N.Y.) 1976. That community school boards are authorized to establish parents' or parent-teacher associations under New York Education Law does not make the officers of the parents' or parent-teacher associations "public officials" for purpose of state action requirement. 42 U.S.C.A. §§ 1983, 1985(3); Education Law N.Y. §§ 2590–d, 2590–h.—Buck v. Board of Elections of City of New York, 536 F.2d 522.—Civil R 1326(6).

D.Del. 1968. Under Delaware law permitting arrest without a warrant by peace officer in whose presence misdemeanor was committed, and defining "peace officer" as "any public official authorized to make arrests in a criminal case", federal postal inspectors could not make arrests in Delaware, since federal officials are not "public officials" within the Delaware definition of a peace officer, and since federal postal inspectors have no arrest power at all. 11 Del.C. §§ 1901, 1906; 39 U.S.C.A. § 3523(a)(2)(K).—U.S. v. Moderacki, 280 F.Supp. 633.—Arrest 63.2.

D.Kan. 1994. Persons are "public officials" for purposes of federal bribery statute if they occupy position of public trust with official federal responsibilities. 18 U.S.C.A. § 201.—U.S. v. Jackson, 850 F.Supp. 1481.—Brib 1(2).

D.Md. 1991. Civil rights action by teachers at public community college challenging abrogation of tenure occurring after State of Maryland took over college presented substantial federal question, inasmuch as teachers were not "public officials" whose office could be modified or abolished by state to

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