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Annotated Code of Maryland
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*** CURRENT THROUGH THE 2006 REGULAR AND SPECIAL SESSIONS ***
*** WITH UPDATES OF MATERIAL IN EFFECT JANUARY 1, 2007 ***
*** ANNOTATIONS ARE CURRENT THROUGH NOVEMBER 20, 2006 ***

CONSTITUTION OF MARYLAND
DECLARATION OF RIGHTS

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. Dec. of R. art. 8 (2006)

Article 8. Separation of powers

That the Legislative, Executive and Judicial powers of Government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said Departments shall assume or discharge the duties of any other.

- I. General Consideration.
- II. Legislative Powers and Functions.
- III. Executive Powers and Functions.
- IV. Judicial Powers and Functions.

I. GENERAL CONSIDERATION.

CROSS REFERENCES. --

See article II, § 17 and article IV, §§ 1 and 14, of the Constitution.

MARYLAND LAW REVIEW. --For article, "Constitutional Limits on the Decisional Powers of Courts and Administrative Agencies in Maryland," see *35 Md. L. Rev. 414 (1976)*.

For survey of Maryland Court of Appeals decisions, 1975-1976, regarding constitutional law, see *37 Md. L. Rev. 69 (1977)*.

For comment, "Gasoline Marketing Practices and 'Meeting Competition' Under the Robinson-Patman Act: Maryland's Response to Direct Retail Marketing by Oil Companies," see *37 Md. L. Rev. 323 (1977)*.

For article, "The Court of Appeals of Maryland: Roles, Work and Performance -- Part II: Craftsmanship and Decision-Making," see *38 Md. L. Rev. 148 (1978)*.

For discussion of the inherent power of judicial review and constitutional restrictions on arbitrary and capricious administrative action, see *38 Md. L. Rev. 242 (1978)*.

For note discussing the Maryland judiciary's power to regulate the bar, see *41 Md. L. Rev. 399 (1982)*.

For article, "Survey of Developments in Maryland Law, 1983-84," see *44 Md. L. Rev. 626 (1985)*.

For article, "Survey of Developments in Maryland Law, 1987-88," see *48 Md. L. Rev. 551 (1989)*.

For survey, "Developments in Maryland Law, 1989-90," see *50 Md. L. Rev. 1027 (1991)*.

UNIVERSITY OF BALTIMORE LAW REVIEW. --For comment discussing the constitutionality of medical malpractice mediation panels, see *9 U. Balt. L. Rev. 75 (1979)*.

For article, "The Health Care Malpractice Claims Statute: Maryland's Response to the Medical Malpractice Crisis," see *10 U. Balt. L. Rev. 74 (1980)*.

For article, "State Constitutional Law for Maryland Lawyers: Judicial Relief for Violations of Rights," see *10 U. Balt. L. Rev. 102 (1980)*.

For note discussing the mandatory sentencing statute requiring life imprisonment without parole for habitual offenders of violent crimes, see *17 U. Balt. L. Rev. 572 (1989)*.

For article, "Lussier v. Maryland Racing Commission: Maryland's Court of Appeals Upholds a Fine Imposed by an Administrative Agency Despite a Lack of Specific Authorization to Fine from the General Assembly," see *27 U. Balt. L. Rev. 515 (1998)*.

UNIVERSITY OF BALTIMORE LAW FORUM. --Recent Developments: Attorney General Opinions: Deputy Clerk of the Circuit Court May Serve as a Member of the Maryland General Assembly, *28.1 U. Balt. L.F. 34 (1998)*.

HISTORY OF ARTICLE. --See *Board of Supvrs. of Election v. Todd*, *97 Md. 247, 54 A. 963 (1903)*.

INTENT OF ARTICLE. --The separation of powers provision is not intended to prevent one branch from exercising its own powers simply because they affect or even nullify the acts of another branch. *63 Op. Att'y Gen. 305 (1978)*.

THE PURPOSE OF THIS ARTICLE is to parcel out and separate the powers of government, and to confine particular classes of them to particular branches of the supreme authority. *Wright v. Wright's Lessee*, *2 Md. 429 (1852)*.

THIS ARTICLE IS NOT TO BE INTERPRETED AS ENJOINING A COMPLETE SEPARATION between the departments. *Mayor of Baltimore v. State ex rel. Board of Police*, *15 Md. 376 (1860)*.

ONLY DIFFERENCE BETWEEN THIS ARTICLE AND ARTICLE 6 of the Maryland Declaration of Rights is the prohibition in this article against a person, exercising the functions of one of the said departments, assuming or discharging the duties of any other. *State ex rel. Sonner v. Shearin*, *272 Md. 502, 325 A.2d 573 (1974)*.

REVIEW OF ACTION UNDER STATUTE WHICH VIOLATES ARTICLE. --Where the lower court acts under a statute which violates this article, and hence a question of jurisdiction is involved, the Court of Appeals may, of its own motion, review such action, though the question of jurisdiction was not raised below. *Close v. Southern Md. Agric. Ass'n*, *134 Md. 629, 108 A. 209 (1919)*.

THE SPECIFIC PROVISIONS OF MD. CONST., ARTICLE IV, § 25, PREVAIL over the general provisions of this article. *Boyer v. Thurston*, *247 Md. 279, 231 A.2d 50 (1967)*.

ARTICLE NOT APPLICABLE TO LOCAL GOVERNMENT. --The constitutional requirement of separation of powers is not applicable to local government. *Wicomico County v. Todd*, *256 Md. 459, 260 A.2d 328 (1970)*.

PROPOSED EMERGENCY REGULATIONS RESTRICTING DRUG COVERAGE UNDER STATE HEALTH CARE PROGRAMS. --Proposed emergency regulations of the Department of Health and Mental Hygiene that generally restrict the coverage of drugs under two State-funded health care programs to drugs manufactured by pharmaceutical companies that provide certain rebates to the State do not violate this article and article 14 of the Declaration of Rights. *77 Op. Att'y Gen. 110 (August 13, 1992)*.

APPLIED IN *Murphy v. Edmonds*, *325 Md. 342, 601 A.2d 102 (1992)*; *Gordon Family Partnership v. Gar On Jer*, *348 Md. 129, 702 A.2d 753 (1997)*.

QUOTED IN *Blount v. Mandel*, 400 F. Supp. 1190 (D. Md. 1975); *Babbitt v. State*, 294 Md. 134, 448 A.2d 930 (1982); *Howard v. State*, 76 Md. App. 447, 545 A.2d 705, cert. denied, 314 Md. 193, 550 A.2d 381 (1988); *Bell Atl. of Md., Inc. v. Intercom Sys. Corp.*, 366 Md. 1, 782 A.2d 791 (2001); *Dua v. Comcast Cable of Md., Inc.*, 370 Md. 604, 805 A.2d 1061 (2002).

STATED IN *Simms v. State*, 65 Md. App. 685, 501 A.2d 1338 (1986); *Prince George's County v. Wash. Post Co.*, 149 Md. App. 289, 815 A.2d 859 (2003).

CITED IN *Board of Comm'rs of Public Schools v. County Comm'rs*, 20 Md. 449 (1864); *Magruder v. Swann*, 25 Md. 173 (1866); *Robey v. Broersma*, 181 Md. 325, 26 A.2d 820 (1942); *Redwood v. Lane*, 194 Md. 91, 69 A.2d 907 (1949); *Haldas v. Commissioners of Charlestown*, 207 Md. 255, 113 A.2d 886 (1955); *Board of County Comm'rs v. Donohoe*, 220 Md. 362, 152 A.2d 555 (1959); *National Can Corp. v. State Tax Comm'n*, 220 Md. 418, 153 A.2d 287 (1959), appeal dismissed, 361 U.S. 534, 80 S. Ct. 586, 4 L. Ed. 2d 538 (1960); *State Tax Comm'n v. Armco Steel Corp.*, 226 Md. 533, 174 A.2d 327 (1961); *Deems v. Western Md. Ry.*, 247 Md. 95, 231 A.2d 514 (1967); *Brotherhood of R.R. Trainmen v. B & O R.R.*, 248 Md. 580, 238 A.2d 516 (1968); *Ball v. State*, 7 Md. App. 219, 254 A.2d 367 (1969); *Montgomery County v. Walsh*, 274 Md. 502, 336 A.2d 97 (1975), appeal dismissed, 424 U.S. 901, 96 S. Ct. 1091, 47 L. Ed. 2d 306 (1976); *Baker v. State*, 39 Md. App. 133, 383 A.2d 698 (1978); *Chairman of Bd. of Trustees v. Waldron*, 285 Md. 175, 401 A.2d 172 (1979); *Lemberos v. Laurel Racecourse, Inc.*, 489 F. Supp. 1376 (D. Md. 1980); *Kronovet v. Lipchin*, 288 Md. 30, 415 A.2d 1096 (1980); *Cities Serv. Co. v. Governor of Md.*, 290 Md. 553, 431 A.2d 663 (1981); *Automobile Trade Ass'n v. Insurance Comm'r*, 292 Md. 15, 437 A.2d 199 (1981); *Avara v. Baltimore News Am. Div.*, 292 Md. 543, 440 A.2d 368 (1982); *Porten Sullivan Corp. v. State*, 318 Md. 387, 568 A.2d 1111 (1990); *Maryland Classified Employees Ass'n v. Schaefer*, 325 Md. 19, 599 A.2d 91 (1991), cert. denied, 502 U.S. 1090, 112 S. Ct. 1160, 117 L. Ed. 2d 407 (1992); *Lussier v. Maryland Racing Comm'n*, 343 Md. 681, 684 A.2d 804 (1996); *State v. Board of Educ.*, 346 Md. 633, 697 A.2d 1334 (1997); *Board of License Comm'rs v. Corridor Wine, Inc.*, 361 Md. 403, 761 A.2d 916 (2000); *Edwards Sys. Tech. v. Corbin*, 379 Md. 278, 841 A.2d 845 (2004); *Spencer v. Md. State Bd. of Pharm.*, 380 Md. 515, 846 A.2d 341 (2004); *Univ. Sys. v. Balt. Sun Co.*, 381 Md. 79, 847 A.2d 427 (2004); *Bienkowski v. Brooks*, 386 Md. 516, 873 A.2d 1122 (2005); *DOL, Licensing & Regulation v. Boardley*, 164 Md. App. 404, 883 A.2d 953 (2005); *Duckworth v. Deane*, 393 Md. 524, 903 A.2d 883 (2006).

II. LEGISLATIVE POWERS AND FUNCTIONS.

LEGISLATIVE DEPARTMENT IS PREDOMINANT BRANCH OF GOVERNMENT. --The legislative department is nearest to the source of power and is manifestly the predominant branch of the government. *Crane v. Meginnis*, 1 G. & J. 463 (1829).

RESTRICTIONS ON POWER OF LEGISLATURE GENERALLY. --The legislature is subject only to such restrictions and limitations as are prescribed by the Bill of Rights and the form of government and the *Constitution of the United States*. *Whittington v. Polk*, 1 H. & J. 236 (1802).

The powers of the Maryland legislature are plenary except as restrained or confined by the federal or *State Constitutions*. *First Continental Sav. & Loan Ass'n v. Director, State Dep't of Assmts. & Taxation*, 229 Md. 293, 183 A.2d 347 (1962).

ELECTION AND QUALIFICATIONS OF MEMBERS. --Although the ultimate power to judge the elections and qualifications of its members continues to reside in the Senate and House of Delegates, respectively, the exercise of that power is, to some extent, constrained by law. *Lamb v. Hammond*, 308 Md. 286, 518 A.2d 1057 (1987).

LEGISLATURE CAN NEITHER ABOLISH NOR REDUCE CONSTITUTIONALLY CREATED OFFICE. --If an office is created by the State Constitution, and specific powers are granted or duties imposed by the State Constitution, although additional powers may be granted by statute, the position can neither be abolished by statute nor reduced to

impotence by the transfer of duties characteristic of the office to another office created by the legislature, which is but another facet of the principle of separation of powers guaranteed by this article. *Murphy v. Yates*, 276 Md. 475, 348 A.2d 837 (1975).

DELEGATION OF LEGISLATIVE POWER. --Except when authorized by the Constitution, the legislature cannot delegate the power to make laws to any other authority. As the lawmaking function, under the doctrine of separation of powers, is assigned exclusively to the legislature, any attempt to abdicate it in any particular field is unconstitutional, but this principle is not violated where a municipal corporation is vested with powers of legislation as to matters of local concern. *Pressman v. Barnes*, 209 Md. 544, 121 A.2d 816 (1956).

A statute or ordinance vesting discretion in administrative officials without fixing any standards for their guidance is an unconstitutional delegation of legislative power, but where the discretion to be exercised relates to police regulations for the protection of public morals, health, safety or general welfare, and it is impracticable to fix standards without destroying the flexibility necessary to enable the administrative officials to carry out the legislative will, legislation delegating such discretion without such restriction may be valid. *Pressman v. Barnes*, 209 Md. 544, 121 A.2d 816 (1956).

The right of the legislature to delegate powers to administrative agencies has been recognized in Maryland for more than 125 years. *Department of Natural Resources v. Linchester Sand & Gravel Corp.*, 274 Md. 211, 334 A.2d 514 (1975).

Ordinarily when legislative authority is delegated to administrative officials, there must be sufficient standards for the guidance of the administrative officials. However, it has been recognized that the complexity of modern economic conditions may make it impossible to tailor specific guidelines for every conceivable situation and that latitude in granting discretion is necessary. *Governor of Md. v. Exxon Corp.*, 279 Md. 410, 370 A.2d 1102 (1977), aff'd, 437 U.S. 117, 98 S. Ct. 2207, 57 L. Ed. 2d 91 (1978).

The General Assembly, in enacting Maryland's Vehicle Emissions Inspection Program, §§ 23-201 through 23-208 of the *Transportation Article*, particularly §§ 23-202 and 23-207 of the *Transportation Article*, did not violate the separation of powers provisions of this article by unconstitutionally delegating legislative power to an administrative agency. *DOT v. Armacost*, 311 Md. 64, 532 A.2d 1056 (1987).

The delegation doctrine prohibits a legislative body from delegating its lawmaking function to any other branch of government or entity. The doctrine is a corollary of the United States Constitution's separation of powers clause, and is expressly provided in the *Maryland Constitution*. *Maryland State Police v. Warwick Supply & Equip. Co.*, 330 Md. 474, 624 A.2d 1238 (1993).

INSURANCE COMMISSIONER'S AUTHORITY TO IMPLEMENT LOCAL TAX NOT IMPROPER DELEGATION OF AUTHORITY. --A retaliatory tax statute which computes the burden imposed by foreign states on Maryland insurers by regarding local taxes as though they were imposed by the foreign state, without setting a standard for allocation of such local taxes, is not an improper delegation of legislative taxing authority because it leaves discretion to the State insurance commissioner to devise a method or formula for transmitting the local tax into an effective statewide burden; delegation to the commissioner here is not a delegation to make law, but rather a delegation of the authority to implement and enforce the expressed legislative will. *Metropolitan Life Ins. Co. v. Insurance Comm'r*, 58 Md. App. 457, 473 A.2d 933 (1984).

THE POWER OF APPOINTING OFFICERS MAY BE EXERCISED BY THE LEGISLATURE if given to it by law. *Mayor of Baltimore v. State ex rel. Board of Police*, 15 Md. 376 (1860).

LEGISLATURE MAY NOT PASS ON VALIDITY OF ACTS OF ASSEMBLY. --If the legislature could finally pass on the validity of acts of assembly, this article would be defeated; the courts must pass on such validity. *Whittington v. Polk*, 1 H. & J. 236 (1802).

IT MAY CHANGE RULES AND REGULATIONS FOR PROSECUTION OF APPEALS. --Acts 1927, ch. 224, changing the form for certification of exceptions in records on appeal, did not involve a violation of the provision of the

Declaration of Rights that the legislative and judicial powers of government shall be separate and distinct, since *article IV, § 18, of the Constitution* expressly gives the General Assembly power to change or modify the rules and regulations for the prosecution of appeals, and the act was not inconsistent with the *Rules of Court. Savage Mfg. Co. v. Magne, 154 Md. 46, 139 A. 570 (1927)*.

BUT MAY NOT DECLARE RIGHTS OF PARTIES IN ANY GIVEN DETERMINATION OF COURT OF APPEALS. --The legislature may not, on any given determination of the Court of Appeals, declare what would be the rights of the parties, since that is a judicial power. *Prout v. Berry, 2 Gill 147 (1844)*.

REQUIRING COURT TO GRANT APPEAL IN CERTAIN CASES. --Acts 1845, ch. 358, requiring the Washington County court to grant an appeal in a certain case and providing what should be contained in the record, was unconstitutional under this article. *Miller v. State ex rel. Fiery, 8 Gill 141 (1849)*.

AUTHORIZING COURT OF APPEALS TO REOPEN AND REHEAR CERTAIN CASES. --Acts 1872, ch. 310, purporting to authorize the Court of Appeals to reopen and rehear certain cases and pass such judgments, decrees, etc., as right and justice require, was invalid under this article. *Dorsey's Lessee v. Gary, 37 Md. 64 (1872)*.

Acts 1854, ch. 160, authorizing the court upon application, and on the establishment of a prima facie case, to open certain decrees, provided the court should be satisfied that justice would be promoted thereby, did not violate this article. *Calvert v. Williams, 10 Md. 478 (1857)*.

AUTHORIZING COURTS TO CHANGE EFFECT OF DECREES WHICH HAD BECOME FINAL. --Acts 1868, ch. 249, was held, insofar as it authorized the courts to change the effect of decrees which had become final, to be void under this article. *Roche v. Waters, 72 Md. 264, 19 A. 535 (1890)*.

ANY ATTEMPT BY THE LEGISLATURE TO IMPOSE JUDICIAL FUNCTIONS ON THE MARYLAND TAX COURT would not result in the exercise of original judicial jurisdiction by that administrative agency, and therefore the exercise of appellate jurisdiction by a court reviewing the agency's decisions. Rather, this attempt would fail as violating this article. *Shell Oil Co. v. Supervisor of Assmts., 276 Md. 36, 343 A.2d 521 (1975)*.

VACATING CERTAIN DEEDS, DECREES, ETC. --Acts 1816, ch. 157, vacating certain deeds, decrees, etc., held to violate this article. *Berrett v. Oliver, 7 G. & J. 191 (1835); Regents of Univ. of Md. v. Williams, 9 G. & J. 365 (1838)*.

GOVERNOR'S AUTHORITY TO REDUCE APPROPRIATIONS UPHELD. --In light of the Governor's role in the budgetary process, and considering the safeguards set forth in the statute, § 7-213 of the *State Finance and Procurement Article*, which allows the Governor to reduce appropriations for items he deems unnecessary, does not violate the principle of separation of powers set forth in this article. *Judy v. Schaefer, 331 Md. 239, 627 A.2d 1039 (1993)*.

REQUIRING JUDGES TO APPROVE CERTAIN ACCOUNTS. --A statute requiring judges to approve certain accounts which have reference to the fees prescribed by Article 36 of the Code (repealed by ch. 26, Acts 2004) was held to violate this article; hence so much of the statute as prohibited the payment of such fees without the approval of the judges was nugatory. *Robey v. County Comm'rs, 92 Md. 150, 48 A. 48 (1900)*.

DETERMINING WHAT IS DUE FROM ONE COUNTY TO ANOTHER. --Acts 1906, ch. 450, determining what amount is due by one county to another in connection with a certain bridge, and directing its payment, together with a certain sum annually for the maintenance of the bridge, was held void under this article. *County Comm'rs v. County Comm'rs, 108 Md. 188, 69 A. 801 (1908)*.

DIRECTING CREDITS OR WAIVER OF INTEREST ON JUDGMENTS OF STATE. --The legislature may pass resolutions directing credits or the waiver of interest upon judgments of the State against a county clerk and the sureties upon his bond. *In re Green's Estate, 4 Md. Ch. 349 (1848)*.

ABOLISHING CORPORATION AND TRANSFERRING FRANCHISES AND PROPERTY. --Acts 1825, ch. 190, purporting to abolish the corporation known as "The Regents of the University of Maryland," and to appoint a trustee composed of different persons, and to transfer to the latter all the franchises and property of the corporation, was held to be in violation of this article, since it was an exercise of judicial power by the legislature. And an unconstitutional act cannot be made valid by a subsequent acquiescence in it. *Regents of Univ. of Md. v. Williams*, 9 G. & J. 365 (1838).

LEGISLATURE MAY IMPOSE TAXES AND PROVIDE FOR THEIR COLLECTION. --The legislature may not only impose taxes, but may provide the means and details for their collection. *State v. Mayhew*, 2 Gill 487 (1845).

IT MAY NOT DIRECT PARTIES TO PAY ASSESSMENTS WHICH COURT HAS DECIDED THEY DO NOT OWE. --Acts 1864, ch. 344, directing certain parties to pay certain assessments which the Court of Appeals had decided they did not owe, held void under this article. *Mayor of Baltimore v. Horn*, 26 Md. 194 (1867).

BUT IT MAY PROVIDE FOR NEW AND DIFFERENT ASSESSMENT. --Although the Court of Appeals has decided that a certain ordinance and tax assessment thereunder were void, and in pursuance thereof the lower court has enjoined the collection of the assessment, an act may subsequently be passed providing for the collection of an assessment to be paid to the extent that the property was specially benefited -- not the original assessment but a new one and not necessarily the same amount. *Mayor of Baltimore v. Ulman*, 79 Md. 469, 30 A. 43 (1894), aff'd, 165 U.S. 719, 17 S. Ct. 1001, 41 L. Ed. 1184 (1897).

DIRECTING COUNTY COMMISSIONERS TO LEVY SUM AND PAY IT TO CERTAIN PERSONS. --Acts of 1916, ch. 466, directing the County Commissioners of Allegany County to levy a certain sum of money and pay the same to the sureties of a county tax collector, held invalid under this article. *Harris v. County Comm'rs*, 130 Md. 488, 100 A. 733 (1917).

APPEALS FROM REZONING DECISIONS. --While comprehensive rezoning is essentially a legislative function, the General Assembly can nonetheless provide for appeals from sectional map amendment decisions if it so desires, and courts may review such decisions to the extent permitted by separation of powers principles. *County Council v. Carl M. Freeman Assocs.*, 281 Md. 70, 376 A.2d 860 (1977).

REQUIRING ARBITRATION AS CONDITION PRECEDENT TO CIVIL SUIT. --This article does not prevent the General Assembly from requiring, as a condition precedent to a civil suit, that the litigants attempt to resolve their dispute by submitting it to an arbitral panel before presenting the controversy to a court for resolution. *Attorney Gen. v. Johnson*, 282 Md. 274, 385 A.2d 57 (1978), appeal dismissed, 439 U.S. 805, 99 S. Ct. 60, 58 L. Ed. 2d 97 (1978), overruled on other grounds, *Newell v. Richards*, 323 Md. 717, 594 A.2d 1152 (1991), *Carrion v. Linzey*, 342 Md. 266, 675 A.2d 527 (1996), *Elliott v. Scher, Muher, Lowen, Bass, Quarter, P.A.*, 114 Md. App. 334, 689 A.2d 1289 (1997).

HEALTH CARE MALPRACTICE CLAIMS ACT, which in essence requires that malpractice disputes be submitted to nonbinding arbitration as a condition precedent to the institution of a court action, does not in any fashion impermissibly transgress the separation of powers doctrine. *Attorney Gen. v. Johnson*, 282 Md. 274, 385 A.2d 57 (1978), appeal dismissed, 439 U.S. 805, 99 S. Ct. 60, 58 L. Ed. 2d 97 (1978), overruled on other grounds, *Newell v. Richards*, 323 Md. 717, 594 A.2d 1152 (1991), *Carrion v. Linzey*, 342 Md. 266, 675 A.2d 527 (1996), *Elliott v. Scher, Muher, Lowen, Bass, Quarter, P.A.*, 114 Md. App. 334, 689 A.2d 1289 (1997).

APPOINTMENT OF GENERAL ASSEMBLY MEMBER TO WASHINGTON SUBURBAN TRANSIT COMMISSION. --This article may preclude appointment of a current member of the General Assembly to the Washington Suburban Transit Commission. *61 Op. Att'y Gen.* 152 (1976).

Constitutional prohibitions to the appointment of a member of the General Assembly to the Washington Suburban Transit Commission would not be avoided by appointing ex-officio General Assembly members because members of

the legislative branch would be exercising powers within the executive branch which are unrelated to their legislative duties. *61 Op. Att'y Gen. 152 (1976)*.

SIMULTANEOUS SERVICE IN THE POSTS OF DEPUTY CLERK OF COURT AND GENERAL ASSEMBLY MEMBER does not violate either the dual office prohibitions in article 35 of the Declaration of Rights and *Article III, § 11, of the Constitution*, or the separation of powers doctrine embodied in this article. *82 Op. Att'y Gen. 125 (October 7, 1997)*.

ESTABLISHMENT OF ETHICAL STANDARDS. --The General Assembly may, without violating either the separation of powers provision or any other specific provision of the Constitution, exercise its plenary legislative authority to establish ethical standards for all officers and employees of the three branches of State government. *63 Op. Att'y Gen. 305 (1978)*.

The General Assembly may establish a body to determine violations of a statute setting forth ethical standards for all officers and employees of the three branches of State government subject to two limitations. The statutorily created body may not determine alleged violations by judges, and would be precluded from inquiring into the actual legislative acts of members of the legislature. *63 Op. Att'y Gen. 305 (1978)*.

While a body established by the General Assembly to determine violations of a statute setting forth ethical standards for all officers and employees of the three branches of State government might be given authority to levy monetary penalties, assess damages and enter cease and desist orders, subject to judicial review and enforcement, such a body could not be given the authority to determine criminal violations or to remove various officers. *63 Op. Att'y Gen. 305 (1978)*.

AS TO POWER OF LEGISLATURE TO PASS ACTS OF DIVORCE, prior to the Constitution of 1867, see *Crane v. Meginnis, 1 G. & J. 463 (1829)*; *Wright v. Wright, 2 Md. 429 (1852)*.

LEGISLATURE HAS POWER TO CONTRACT FOR THOSE THINGS REASONABLY NECESSARY TO ENABLE IT TO EXERCISE ITS EXCLUSIVE LEGISLATIVE POWER. This includes the power to contract for a telephone system to facilitate communications to, from, and within the General Assembly. *65 Op. Att'y Gen. 231 (1980)*.

The legislature has inherent authority to award a contract for its telephone system and is not required to award the contract by competitive bidding. *65 Op. Att'y Gen. 231 (1980)*.

NONECONOMIC DAMAGES. --If the legislature can, without violating separation of powers principles, establish statutes of limitations, establish statutes of repose, create presumptions, create new causes of action and abolish old ones, then it also can limit noneconomic damages without violating the separations of powers doctrine. *Franklin v. Mazda Motor Corp., 704 F. Supp. 1325 (D. Md. 1989)*, superseded by statute on other grounds, *Owens Corning v. Bauman, 125 Md. App. 454, 726 A.2d 745 (1999)*.

Legislative cap on noneconomic damages in personal injury actions found in § 11-108 of the Courts Article does not interfere with the jury's function to determine the true amount of damages; and thus does not violate the separation of powers doctrine embodied in this article. *Edmonds v. Murphy, 83 Md. App. 133, 573 A.2d 853 (1990)*, aff'd, *325 Md. 342, 601 A.2d 102 (1992)*.

IMPOSITION OF COUNTY BUDGET AND FISCAL POLICIES AND PURCHASING LAWS UPON CIRCUIT COURTS. --Article 24, § 8-101 (5), concerning the applicability of county budget and fiscal policies and purchasing laws upon circuit courts, does not violate the separation of powers requirement of this article. *73 Op. Att'y Gen. 92 (1988)*.

Circuit Court for Prince George's County is subject to the budget and fiscal policies and purchasing laws of the county, including the county's Minority Business Enterprise Program; however, the county may not apply its purchasing regulations to the Court in a way that would deprive the Court of adequate and suitable facilities, equipment, or personnel reasonably necessary to carry out the Court's judicial function. *73 Op. Att'y Gen. 92 (1988)*.

CONSENT TO RECEIPT OF COMMISSION ON COLLECT CALLS MADE BY INMATES. --Commission received by the State of Maryland from collect telephone calls made by inmates does not violate art. 14 of the Declaration of Rights because the commission is within the scope of article 14 and the Maryland Legislature consented to the commission by enacting the Inmate Welfare Fund, § 10-502 *et seq. of the Correctional Services Article. Benson v. State*, 389 Md. 615, 887 A.2d 525 (2005).

III. EXECUTIVE POWERS AND FUNCTIONS.

DOCTRINE OF EXECUTIVE PRIVILEGE IS RECOGNIZED AS PART OF THE LAW OF THIS STATE. Hamilton v. Verdow, 287 Md. 544, 414 A.2d 914 (1980).

SCOPE OF EXECUTIVE PRIVILEGE. --Executive privilege differs from many other evidentiary privileges in that it is for the benefit of the public and not the governmental officials who claim the privilege. Apart from diplomatic, military or sensitive security matters, the privilege is not an absolute one. *Hamilton v. Verdow*, 287 Md. 544, 414 A.2d 914 (1980).

GOVERNOR'S POWER TO REMOVE OFFICERS PRIOR TO EXPIRATION OF TERMS OF OFFICE. --Court of Appeals of Maryland holds that the power to remove officers appointed by a Governor, during the term of the officers' appointment, for misconduct or incompetency, is solely the Governor's and the attempt by the Legislature to terminate those officers, previously appointed by the Governor and approved by the Senate, prior to the expiration of their terms of office, is an usurpation of executive power in violation of *Md. Const. art. II, §§ 1, 9 and 15* and in violation of *Article 8 of the Declaration of Rights of Maryland. Schisler v. State*, 394 Md. 519, 907 A.2d 175 (2006).

PRESUMPTION OF PRIVILEGE. --When a formal claim of executive privilege is made for confidential communications of the chief executive, or confidential communications of other government officials of an advisory or deliberative nature, there is a presumptive privilege. *Hamilton v. Verdow*, 287 Md. 544, 414 A.2d 914 (1980).

BURDEN, WHEN A FORMAL CLAIM OF EXECUTIVE PRIVILEGE IS MADE, IS ON THE PARTY SEEKING PRODUCTION to make a preliminary showing that the communications or documents may not be privileged or, in those cases where a weighing approach is appropriate, that there is some necessity for production. *Hamilton v. Verdow*, 287 Md. 544, 414 A.2d 914 (1980).

COURT DETERMINES APPLICABILITY OF PRIVILEGE. --Like other privileges, whenever a formal claim of executive privilege is made in litigation, its applicability is for the court to decide. *Hamilton v. Verdow*, 287 Md. 544, 414 A.2d 914 (1980).

IN CAMERA INSPECTION MAY BE UTILIZED to determine whether the material is privileged, to sever privileged from nonprivileged material if severability is feasible, and to weigh the government's need for confidentiality against the litigant's need for production. *Hamilton v. Verdow*, 287 Md. 544, 414 A.2d 914 (1980).

BUT IT IS NOT AUTOMATIC. --In camera inspection by the trial judge does not automatically follow whenever a claim of executive privilege is made. *Hamilton v. Verdow*, 287 Md. 544, 414 A.2d 914 (1980).

SOME FACTUAL MATTER IS ENTITLED TO PROTECTION UNDER EXECUTIVE PRIVILEGE PRINCIPLES, such as information obtained on the understanding that it would remain confidential and certain investigative information. *Hamilton v. Verdow*, 287 Md. 544, 414 A.2d 914 (1980).

MATERIAL DEEMED PRIVILEGED. --Where the material sought from the government consists wholly of

confidential opinions, deliberations and recommendations for use in civil litigation where the government is not a party, and where there is no charge of misconduct involving the government agency from which production is sought, the material is clearly privileged. *Hamilton v. Verdow*, 287 Md. 544, 414 A.2d 914 (1980).

EXECUTIVE ORDERS. --The Governor's broad authority under this article, as well as under §§ 3-302 and 3-401 of the *State Government Article*, to issue executive orders for the guidance and direction of units and employees of the Executive Branch necessarily permits the promulgation of an executive order authorizing limited collective-bargaining rights for Executive Branch employees. *McCulloch v. Glendening*, 347 Md. 272, 701 A.2d 99 (1997).

THE STATE MAY DELEGATE THE POLICE POWER TO SUBORDINATE BOARDS and commissions, and the reasonable and just exercise by them of the designated power will be upheld. *Downs v. Swann*, 111 Md. 53, 73 A. 653 (1909); *State ex rel. Ebert v. Loden*, 117 Md. 373, 83 A. 564 (1912).

ADMINISTRATIVE DETERMINATIONS. --The provisions of §§ 3-708, 3-712, 3-718, 3-719 and 3-720, of the *Financial Institutions Article* do not deny stockholders of a bank who do not consent to a merger due process, or violate the constitutional provisions as to separation of powers. Due process does not necessarily mean judicial process; it is sufficient if there is at some stage an opportunity to be heard suitable to the occasion and an opportunity for judicial review at least to ascertain whether the fundamental elements of due process have been met. *Burke v. Fidelity Trust Co.*, 202 Md. 178, 96 A.2d 254 (1953).

THE WORKMEN'S COMPENSATION LAW DOES NOT VIOLATE THIS ARTICLE; the Industrial Accident Commission is not a court and has no judicial power within the meaning of this article. *Solvuca v. Ryan & Reilly Co.*, 131 Md. 265, 101 A. 710 (1917); *Mattare v. Cunningham*, 148 Md. 309, 129 A. 654 (1925).

DELEGATION OF AUTHORITY TO DEPARTMENT OF NATURAL RESOURCES. --This section grants to the Department of Natural Resources the authority to adopt a prohibition against the operation of a particular type of vessel by persons under a certain age; and the delegation by the General Assembly to the Department of such broad authority does not violate the separation of powers requirement of the *Maryland Declaration of Rights*. *Christ v. Maryland Dep't of Natural Resources*, 335 Md. 427, 644 A.2d 34 (1994).

DELEGATION OF POWER TO REPEAL STATUTE TO GOVERNOR INVALID. --A statute authorizing the Governor to add to the classified service such offices and places of employment not included therein as he might think advisable was invalid since it attempted to delegate to the Governor the power to repeal the statute excepting certain positions from the classified service. *Ahlgren v. Cromwell*, 179 Md. 243, 17 A.2d 134 (1941).

A MANDAMUS WOULD NOT ISSUE DIRECTING THE GOVERNOR TO COUNT CERTAIN VOTES AND TO EXCLUDE CERTAIN OTHER VOTES for and against the adoption of the *Constitution*. *Miles v. Bradford*, 22 Md. 170 (1864).

ABOLITION OF POSITIONS WITHIN MERIT SYSTEM. --This article does not prohibit the abolition of positions within the merit system. *Ball v. Board of Trustees*, 251 Md. 685, 248 A.2d 650 (1968).

APPOINTMENT OF MEMBERS OF COMMISSION ON MEDICAL DISCIPLINE. --Placing the authority to appoint members of the Commission on Medical Discipline in the Medical and Chirurgical Faculty, a professional organization chartered by the General Assembly of Maryland by Chapter 105 of Acts of 1798, rather than in the hands of the Governor, does not offend the separation of powers provision of the *Maryland Declaration of Rights*. *Commission on Medical Discipline v. Stillman*, 291 Md. 390, 435 A.2d 747 (1981).

STANDING. --It is not the proper function of an administrative official or agency in the executive branch of government to decide whether a plaintiff or potential plaintiff has standing to maintain an action in court. *Sugarloaf*

Citizens' Ass'n v. Department of Env't, 344 Md. 271, 686 A.2d 605 (1996).

IV. JUDICIAL POWERS AND FUNCTIONS.

THIS ARTICLE PROHIBITS COURTS FROM PERFORMING NONJUDICIAL FUNCTIONS. -- *Reyes v. Prince George's County*, 281 Md. 279, 380 A.2d 12 (1977).

When faced with the responsibility of juxtaposing a statute which provides for judicial review of administrative agencies with the separation of powers doctrine as it is enshrined in the Maryland Constitution, it is clear that the analysis involves contrasting the relative role of the administrative agency process with that of the judiciary; both the agencies and the courts are governmental ministries created to promote public purposes, and in this sense they are collaborative instrumentalities, rather than rivals or competitors, in the paramount task of safeguarding the interests of our citizens. However, the agencies and the courts each have their own, separate, constitutionally-erected fortress of power and responsibility in the relationship each has to the activities delegated by the legislature to administrative agencies. *Sadler v. Dimensions Healthcare Corp.*, 378 Md. 509, 836 A.2d 655 (2003).

Judicial review of the actions of an administrative agency is restricted primarily because of the fundamental doctrine of separation of powers as set forth in this article. *Sadler v. Dimensions Healthcare Corp.*, 378 Md. 509, 836 A.2d 655 (2003).

THIS ARTICLE PLACES LIMITS ON A COURT'S POWER TO REVIEW or interfere with the conclusions, acts or decisions of a coordinate branch of government made within its own sphere of authority. *Hamilton v. Verdow*, 287 Md. 544, 414 A.2d 914 (1980).

THE JUDICIARY MAY NOT COMPEL ACTION ON THE PART OF A COORDINATE BRANCH of the government; its authority is confined to restraining the potency of enactments when they transcend constitutional limits. *Watkins v. Watkins*, 2 Md. 341 (1852).

A COURT OF CHANCERY IS WITHOUT JURISDICTION to entertain a petition asking the chancellor to decide certain questions of law relating to a bill passed by the General Assembly and vetoed by the Governor after adjournment of the General Assembly and praying a decree declaring the bill void or enjoining the Secretary of State from submitting it to the General Assembly at its next session as required by *article II, § 17, of the Constitution*. *Maryland-National Capital Park & Planning Comm'n v. Randall*, 209 Md. 18, 120 A.2d 195 (1956).

JUDICIAL CHARACTER OF FUNCTION IS DEPENDENT UPON ITS QUALITIES. --The mere fact that a judge is called on by a statute to execute a certain function does not make that function a judicial one; its character is dependent upon its qualities. *Robey v. County Comm'rs*, 92 Md. 150, 48 A. 48 (1900).

JUDICIARY MUST PROHIBIT UNCONSTITUTIONAL ENCROACHMENTS OF POWER. --When the legislature confers, by enactment, powers upon one of the other branches of government which are beyond those permitted under the State Constitution, or any of the three branches of government takes unto itself powers denied to it or those strictly within the sovereignty of another branch, the State courts must step in and declare such encroachments to be constitutionally prohibited. *Department of Natural Resources v. Linchester Sand & Gravel Corp.*, 274 Md. 211, 334 A.2d 514 (1975).

CONSTRUING STATUTES, in connection with applying statutory provisions to specific cases, is a large and essential part of the judicial process. *Mangum v. Maryland State Bd. of Censors*, 273 Md. 176, 328 A.2d 283 (1974).

ADVISORY OPINION TO LEGISLATURE OR EXECUTIVE. --The constitutional limitation which prohibits any Maryland court from rendering an advisory opinion to the legislature or executive flows from this article. *Reyes v. Prince George's County*, 281 Md. 279, 380 A.2d 12 (1977).

MOOT CASES. --The constitutional limitations of this article are not applicable to prevent decision by the Court of Appeals in a moot case where requisite extraordinary circumstances exist. *Reyes v. Prince George's County*, 281 Md. 279, 380 A.2d 12 (1977).

AGENCIES AND COURTS ARE COLLABORATIVE INSTRUMENTALITIES. --Both agencies and courts are governmental ministries created to promote public purposes, and in this sense they are collaborative instrumentalities, rather than rivals or competitors, in the paramount task of safeguarding the interests of citizens. *Department of Natural Resources v. Linchester Sand & Gravel Corp.*, 274 Md. 211, 334 A.2d 514 (1975).

BUT THIS ARTICLE PROHIBITS INTERCHANGE OF FUNCTIONS. --This article prohibits courts from performing nonjudicial functions and prohibits administrative agencies from performing judicial functions. *Shell Oil Co. v. Supervisor of Assmts.*, 276 Md. 36, 343 A.2d 521 (1975).

ADJUDICATORY DETERMINATIONS BY ADMINISTRATIVE AGENCIES. --While administrative agencies perform activities which are legislative in nature, they also are frequently called upon to make factual determinations and thus adjudicate. This dual role has long been accepted as constitutionally permissible. Adjudicatory determinations by such agencies are not judgments or decrees; that such an agency ascertains questions of fact and applies the law to those facts in a particular case does not alone vest it with judicial power in the constitutional sense. *Attorney Gen. v. Johnson*, 282 Md. 274, 385 A.2d 57 (1978), appeal dismissed, 439 U.S. 805, 99 S. Ct. 60, 58 L. Ed. 2d 97 (1978), overruled on other grounds, *Newell v. Richards*, 323 Md. 717, 594 A.2d 1152 (1991), *Carrion v. Linzey*, 342 Md. 266, 675 A.2d 527 (1996), *Elliott v. Scher, Muher, Lowen, Bass, Quarter, P.A.*, 114 Md. App. 334, 689 A.2d 1289 (1997).

The method of determining liability under former § 7-6A-10.2 (c) of the Natural Resources Article (see now § 15-813 of the Environment Article), in authorizing the Department of Natural Resources to sit as the sole factfinder and judge in a dispute between neighboring property owner and quarry operator, did not improperly displace the judicial branch of government in violation of this article; the legislature has the right to delegate quasi-judicial powers to administrative agencies. *Maryland Aggregates Ass'n v. State*, 337 Md. 658, 655 A.2d 886 (1995).

JUDICIAL POWER TO REVIEW ADMINISTRATIVE AGENCIES CONSTITUTIONALLY INHERENT. --In order to review administrative agency functions, the courts may be provided with specific authorization to do so by the legislature through statutory provision, but, even absent such authority, the judiciary has an undeniable constitutionally-inherent power to review, within limits, the decisions of administrative agencies. *Department of Natural Resources v. Linchester Sand & Gravel Corp.*, 274 Md. 211, 334 A.2d 514 (1975).

WHEN FACED WITH THE RESPONSIBILITY OF JUXTAPOSING A STATUTE WHICH PROVIDES FOR JUDICIAL REVIEW OF ADMINISTRATIVE AGENCIES WITH THE SEPARATION OF POWERS DOCTRINE as it is enshrined in the State Constitution, it is clear that the analysis involves contrasting the relative role of the administrative agency process with that of the judiciary. *Department of Natural Resources v. Linchester Sand & Gravel Corp.*, 274 Md. 211, 334 A.2d 514 (1975).

SCOPE OF JUDICIAL REVIEW OF ADMINISTRATIVE ACTION. --When an administrative agency is acting in a fact-finding capacity (quasi-judicial), the courts review the appealed conclusions by determining whether the contested decision was rendered in an illegal, arbitrary, capricious, oppressive, or fraudulent manner. *Department of Natural Resources v. Linchester Sand & Gravel Corp.*, 274 Md. 211, 334 A.2d 514 (1975).

In those instances where an administrative agency is acting in a manner which may be considered legislative in nature (quasi-legislative), the judiciary's scope of review of that particular action is limited to assessing whether the agency was acting within its legal boundaries. *Department of Natural Resources v. Linchester Sand & Gravel Corp.*, 274 Md. 211, 334 A.2d 514 (1975).

In regard to administrative agencies, which, while often functioning as fact-finding bodies, perform essentially nonjudicial duties, a State court's inquiry is almost always limited to finding whether there was illegality or

unreasonableness in the action. When that inquiry is finished, judicial scrutiny ends. *Department of Natural Resources v. Linchester Sand & Gravel Corp.*, 274 Md. 211, 334 A.2d 514 (1975).

The role of the courts in regard to administrative agency functions is to see that these responsibilities were properly empowered to the agency and have been performed within the confines of the traditional standards of procedural and substantive fair play. *Department of Natural Resources v. Linchester Sand & Gravel Corp.*, 274 Md. 211, 334 A.2d 514 (1975).

Administrative review of disciplinary action involving state employees was to be conducted with deference to discretionary powers entrusted to Executive Branch officials; if substantial evidence supported findings that an emergency medical technician violated state policies by punching a patient who refused to cooperate with state employees who were trying to transport the patient to a treatment facility, it was not a court's place to second-guess the administrative decision to fire the employee, and therefore the court of appeals overruled the ruling of *Maryland State Retirement Agency v. Delambo*, 109 Md. App. 683, 675 A.2d 1018 (1996), to the contrary. *Md. Aviation Admin. v. Noland*, 386 Md. 556, 873 A.2d 1145 (2005).

REVIEW OF ADMINISTRATIVE REGULATIONS. --In exercising that portion of the judicial power of this State vested in it by *Md. Const., Art. IV, §§ 1 and 41A*, the district court possessed the fundamental jurisdiction to decide whether the adoption of COMAR .08.04.04.07, concerning power vessels towing persons, by the Department of Natural Resources violated this article. *Howard v. State*, 76 Md. App. 447, 545 A.2d 705, cert. denied, 314 Md. 193, 550 A.2d 381 (1988).

UNGUIDED DISCRETION TO VOID LOCAL GOVERNMENT ACTION UNCONSTITUTIONAL. --County Code provision which purported to allow a court to void legislation or other local governmental action where the court concluded that to do so would be in the best interest of the public, impermissibly attempted to vest the court with the power of unguided legislative, rather than judicial, discretion. Such discretion is inconsistent with this article and is unconstitutional. *Sugarloaf Citizens Assoc. v. Gudis*, 319 Md. 558, 573 A.2d 1325 (1990).

INDEPENDENT PERSONNEL SYSTEM NOT AUTHORIZED BY CONSTITUTION. --Neither the separation of powers clause nor any other provision of the Maryland Constitution gives the judiciary exclusive authority to establish its own personnel system, free of control of the General Assembly or the executive. *65 Op. Att'y Gen. 309 (1980)*.

While legislation establishing a personnel system to govern such matters as the hiring, compensation, promotion and discipline of employees in the judicial branch may provide that such a personnel system is subject to the exclusive control of the judiciary, neither the separation of powers clause nor any other provision of the Maryland Constitution requires that the judiciary be given such exclusive power. *65 Op. Att'y Gen. 309 (1980)*.

BUT MAY BE LEGISLATIVELY ESTABLISHED. --The legislature may establish or provide for the establishment of a personnel system governing such matters as the hiring, compensation, promotion, and discipline of employees in the judicial branch, whether these employees are compensated by the State or the subdivisions, so long as the courts can still exercise their judicial power effectively. *65 Op. Att'y Gen. 309 (1980)*.

FIXING RATES OF PUBLIC UTILITIES IS LEGISLATIVE AND NOT JUDICIAL. --When the Public Service Commission has hearings upon the rates of a public utilities corporation and subsequently promulgates the rates which such company may charge, such act is legislative and not judicial; the nature of the final act determines the nature of the previous inquiry. *Gregg v. Laird*, 121 Md. 1, 87 A. 1111 (1913).

Court of Appeals held that it had exceeded its own powers when it promulgated a rule that appeared to allow garnishment by a third party of contingent settlement proceeds because the legislature had already determined that while matured and unmatured debts could be garnished, contingent ones could not. *Consol. Constr. Servs. v. Simpson*, 372 Md. 434, 813 A.2d 260 (2002).

RULE OF THE COURT CANNOT TRANSFER JUDICIAL POWERS TO COMMISSIONERS TO TAKE TESTIMONY. --No rule of court can transfer to commissioners to take testimony, appointed by the courts under an act

of assembly, powers intended by the legislature to be exclusively exercised by the courts themselves. *Mitchell v. Mitchell, 1 Gill 66 (1843)*.

ACT TRANSFERRING CONTROL OF COURTHOUSE TO COURT CRIER. --Acts 1902, ch. 455, transferring the control of the courthouse of Prince George's County from the County Commissioners to the court crier, held void under this article. *County Comm'rs v. Mitchell, 97 Md. 330, 55 A. 673 (1903)*; *Close v. Southern Md. Agric. Ass'n, 134 Md. 629, 108 A. 209 (1919)*.

ACT IMPOSING NONJUDICIAL DUTY ON CIRCUIT COURTS. --Act providing for licensing of race courses, driving parks, etc., by the circuit courts, was unconstitutional and void, in that it attempted to impose on the courts a nonjudicial duty. *Close v. Southern Md. Agric. Ass'n, 134 Md. 629, 108 A. 209 (1919)*.

ACT PROVIDING FOR APPOINTMENT BY JUDGES OF VISITORS TO JAIL. --Acts 1901, ch. 15, providing for the appointment by the judges of the fifth circuit of visitors to the jail in Anne Arundel County, held void under this article. *Beasley v. Ridout, 94 Md. 641, 52 A. 61 (1902)*.

AUTHORIZING CIRCUIT JUDGE TO DETERMINE, UPON OBJECTION, WHETHER LIQUOR LICENSE SHOULD ISSUE. --Acts 1894, ch. 6, providing that if an objection were filed to an application for a liquor license in Carroll County, the judge of the circuit court should determine whether the license should issue, was held not to violate this article. *McCrea v. Roberts, 89 Md. 238, 43 A. 39 (1899)*; *Close v. Southern Md. Agric. Ass'n, 134 Md. 629, 108 A. 209 (1919)*.

REQUIRING CIRCUIT COURT TO CALL ELECTION ON QUESTION OF GRANTING OF LIQUOR LICENSES. --Acts 1896, ch. 195, providing that whenever one half of the registered voters of Wicomico County, or of any district thereof, petitioned the circuit court for a vote on the granting vel non of liquor licenses, the court should order an election, was held void under this article. *Board of Supvrs. of Election v. Todd, 97 Md. 247, 54 A. 963 (1903)*.

LOCAL ELECTION BOARD'S SIGNATURE VERIFICATION AUTHORITY IS NOT UNCONSTITUTIONAL. --The authority of a local elections board to verify signatures on a nominating petition may be quasi-judicial but its exercise is not an unconstitutional usurpation of judicial powers when the board's action is subject to judicial review. *Burroughs v. Raynor, 56 Md. App. 432, 468 A.2d 141 (1983)*.

THE ALLEGANY COUNTY LIQUOR LAW, Acts 1933, Sp. Sess., ch. 5, was held invalid as imposing on the judges of the Circuit Court for Allegany County duties which were nonjudicial in character. *Cromwell v. Jackson, 188 Md. 8, 52 A.2d 79 (1947)*.

RECOGNITION OF TOLLING EXCEPTIONS TO STATUTES OF LIMITATIONS --Recognition of a tolling exception to a statute of limitations was not per se inconsistent with the separation of powers principles embodied in this article, as the appellate court had the authority to look to the underlying purpose of a statutory enactment in order to ascertain legislative intent, and Rule 2-231, which established the procedures for class actions, recognized such authority. *Philip Morris USA, Inc. v. Christensen, -- Md. --, 905 A.2d 340 (2006)*.

SERVICES HELD TO BE JUDICIAL. --Services performed by the chief judge of the third judicial district, as chancellor under certain acts of assembly, held to be of a strictly judicial character. *State v. Chase, 5 H. & J. 297 (1821)*.

LEGAL CLASSIFICATIONS MADE AS A NECESSARY PART OF JUDICIAL FUNCTION. --It is judge-made law which decides the varying legal liability of an owner of land to persons upon his property according to whether they be invitees, licensees or trespassers, and the age below which infants cannot be charged with contributory negligence. These, and many other classifications, are made as a necessary part of the judicial function. The making of such determinations violates no principle of the separation of powers, for traditionally and as an inherent part of our system

of government their formulation is a necessary part of the judicial duty. *Latz v. Latz*, 10 Md. App. 720, 272 A.2d 435, cert. denied, 261 Md. 726 (1971).

JUDICIAL REVIEW OF DECISIONS OF INSURANCE COMMISSIONER. --The provisions of former Article 48A, § 242B [see now §§ 11-501 through 11-503 of the Insurance Article], providing for judicial review of the decisions of the Insurance Commissioner, did not do damage to the constitutional requirements of separation of powers. *State Ins. Comm'r v. National Bureau of Cas. Underwriters*, 248 Md. 292, 236 A.2d 282 (1967).

ELECTION OR APPOINTMENT OF JUDGE AS MEMBER OF VISITORS AND GOVERNORS OF WASHINGTON COLLEGE would not violate this article. *63 Op. Att'y Gen. 106* (1978).

JUDGES NOT PRECLUDED FROM TEACHING PART-TIME AT STATE INSTITUTIONS. --The Constitution and laws of Maryland do not preclude judges from teaching part-time at State institutions. *65 Op. Att'y Gen. 285* (1980).

A judge who teaches part-time at a State institution does not violate or otherwise offend the doctrine of separation of powers as contained in this article. *65 Op. Att'y Gen. 285* (1980).

A judge who teaches part-time in a State institution does not hold "incompatible" positions prohibited by the common law. *65 Op. Att'y Gen. 285* (1980).

GENERAL ASSEMBLY MAY AID COURTS IN PERFORMANCE OF THEIR JUDICIAL FUNCTION. --The General Assembly may act pursuant to its police or other legitimate power to aid the courts in the performance of their judicial functions. *Attorney Gen. v. Waldron*, 289 Md. 683, 426 A.2d 929 (1981).

JUDICIARY IS PROPER AUTHORITY FOR REGULATING LEGAL PROFESSION. --The proper repository for the authority, responsibility and obligation to regulate the legal profession, in this State's scheme of constitutionally divided realms of power, is and must ultimately be the judiciary. *Attorney Gen. v. Waldron*, 289 Md. 683, 426 A.2d 929 (1981).

The General Assembly may not constitutionally place restrictions on the practice of law so onerous or burdensome that they impinge on the ability of the judicial branch to carry out its duties. *Attorney Gen. v. Waldron*, 289 Md. 683, 426 A.2d 929 (1981).

SINCE ADMISSION TO BAR IS JUDICIAL FUNCTION, GENERAL ASSEMBLY MAY NOT PRESCRIBE MAXIMUM QUALIFICATIONS NECESSARY FOR ADMITTANCE, for the judiciary is always free to adopt any additional requirements it deems necessary to maintain a high level of professional competence in the bar and promote public trust in and respect for the profession. *Attorney Gen. v. Waldron*, 289 Md. 683, 426 A.2d 929 (1981).

State high court has the legislative power under *Md. Const. art. IV, § 18(a)* and *Md. Const. Decl. Rights art. 8* to govern, by enacting rules, the admission of attorneys to the state bar and cannot be compared to other professional licensing boards. *In re Kimmer*, 392 Md. 251, 896 A.2d 1006 (2006).

GENERAL ASSEMBLY MAY ESTABLISH MINIMUM CRITERIA FOR LEARNING AND CHARACTER OF PERSONS ADMITTED TO BAR of this State. *Attorney Gen. v. Waldron*, 289 Md. 683, 426 A.2d 929 (1981).

PROHIBITION OF JUDICIAL STAYS ON MEDICAL LICENSE REVOCATIONS DOES NOT VIOLATE ARTICLE. --Section 14-408 (c) of the Health Occupations Article, prohibiting judicial stays of orders of the Commission on Medical Discipline (now State Board of Physicians) revoking medical licenses, does not violate the separation of powers doctrine contained in this article. *Commission on Medical Discipline v. Stillman*, 291 Md. 390, 435 A.2d 747 (1981).

AUTHORITY OF DOMESTIC RELATION MASTER TO DETAIN FOR WILLFUL CONTEMPT. --Chapter 886, Acts 1980, relating to the authority of a master of domestic relation causes for the Circuit Court of Prince George's County to detain for willful contempt, does not offend the separation of powers doctrine embodied in this article. *65 Op. Att'y Gen. 183* (1980).

ISSUANCE OF STATEMENTS OF CHARGES BY DISTRICT COURT COMMISSIONERS as permitted by Md. Rule 4-211 is not a violation of the separation of powers principle. *State v. Smith*, 305 Md. 489, 505 A.2d 511, cert. denied, 476 U.S. 1186, 106 S. Ct. 2925, 91 L. Ed. 2d 552 (1986).