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West's Annotated Code of Maryland [Currentness](#)
Constitution of Maryland Adopted by Convention of 1867
↳ Declaration of Rights

→ 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.

LIBRARY REFERENCES

Constitutional Law ¶50 to 80.
Westlaw Key Number Searches: 92k50 to 92k80.
[C.J.S. Constitutional Law §§ 54, 58 to 59, 111 to 222, 441.](#)

RESEARCH REFERENCES**ALR Library**

[118 ALR 5th 347](#), Validity, Construction, and Application of State Statutes and Local Ordinances Governing Personal Watercraft Use.

[109 ALR 395](#), Subterranean and Percolating Waters; Springs; Wells.

[110 ALR 1215](#), Power of Legislature to Change Title of Constitutional Office.

[92 ALR 173](#), Right to Enjoin Practice of Profession or Conduct of Business Without a License or Permit.

[69 ALR 377](#), Constitutionality of Corrupt Practices Acts.

[3 ALR 450](#), Power of Legislature to Set Aside or Impair Judgment.

Encyclopedias

[Maryland Law Encyclopedia Admin Law & Procedure § 3](#), Separation of Administrative and Other Powers; Judicial Powers.

[Maryland Law Encyclopedia Constitutional Law § 74](#), Encroachment on Legislature.

[Maryland Law Encyclopedia Constitutional Law § 75](#), Encroachment on Judiciary.

[Maryland Law Encyclopedia Witnesses § 39](#), Executive Privilege, State Secrets and Information Acquired by Public Officers.

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I. IN GENERAL

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1. Constitutional offices

If office is created by Constitution and specific powers are granted or duties imposed by the Constitution, although additional powers may be granted by statute, the position can neither be abolished by statute nor reduced to impotence by transfer of duties characteristic of office to another office created by legislature. Const. Declaration of Rights, arts. 8, [33](#), [35](#). [Murphy v. Yates, 1975, 348 A.2d 837, 276 Md. 475, 84 A.L.R.3d 1](#). Officers And Public Employees ↪ 4

Since office of state's attorney in Maryland has by the Constitution been vested with a portion of the common-law powers of the Attorney General, General Assembly is powerless to abrogate state's attorney's powers and duties. [Const. art. 5, § 1](#) et seq.; Declaration of Rights, arts. 8, [33](#), [35](#). [Murphy v. Yates, 1975, 348 A.2d 837, 276 Md. 475, 84 A.L.R.3d 1](#). District And Prosecuting Attorneys ↪ 8

2. Counties

The power to levy all needful taxes, and to pay and discharge all claims on or against the county which have been expressly or by implication authorized by law (conferred by Code, art. 28, § 3), conveys authority, and imposes the duty of providing for any local object sanctioned by the legislature. [Board of Com'rs of Public Schools of Allegany County v. Allegany County Com'rs, 1864, 20 Md. 449](#). Counties ↪ 190.1; Counties ↪ 192

Art. 1, sec. 155, of the Code of Public Local Laws, requiring the County Commissioners of Allegany County to levy the balance estimated by the Board of Commissioners of Public Schools, and reported to the County Commissioners as necessary for the support of the schools of the county, is not in conflict with Art. 7, sec. 8, of the Constitution of the State, which ordains "that the County Commissioners shall exercise such powers and duties only as the Legislature may from time to time prescribe; but such powers and duties, and the tenure of office, shall be uniform throughout the State." [Board of Com'rs of Public Schools of Allegany County v. Allegany County Com'rs, 1864, 20 Md. 449](#). Statutes ↪ 89

3. Municipal corporations

City of Baltimore had no power in December 1959 retroactively to subject to tax tangible personal property for years 1958 and 1959, which was previously judicially held exempt from tax and its effort to accomplish such result by ordinance ratifying interpretation of statute by administrative body which had assessed property that, at that time, had no legal existence for purposes of taxation was ineffective. Code 1957, art. 81, §§ 2(20), 8, 9, 31(c), 34, 38, 39. [State Tax Commission v. Armco Steel Corp., 1961, 174 A.2d 327, 226 Md. 533](#). Municipal Corporations ↪

967(1)

A municipal corporation may delegate to subordinate officials the power to carry ordinances into effect, even though such delegation requires the exercise of a certain amount of discretion which may be regarded as part of the police power, if such discretion is guided and restrained by standards sufficient to protect citizen against arbitrary or unreasonable exercise thereof. [Pressman v. Barnes, 1956, 121 A.2d 816, 209 Md. 544](#). Municipal Corporations ↪ 591

Question whether a particular regulation of an administrative official is arbitrary or unreasonable, or not fairly within scope of power delegated to him by municipality, is subject to judicial review, but, if matter is fairly debatable, court should not substitute its judgment for that of the administrative official, who is charged with the duty of promulgating the regulation. [Pressman v. Barnes, 1956, 121 A.2d 816, 209 Md. 544](#). Municipal Corporations ↪ 63.5

The same restrictions, which rest on the Legislature as to delegation of legislative powers conferred upon it by the Constitution, rest upon a municipal corporation as to powers granted to it by the Legislature. [Pressman v. Barnes, 1956, 121 A.2d 816, 209 Md. 544](#). Municipal Corporations ↪ 591

After a street has been paved under a void ordinance, which assessed the expense against the property benefited, the legislature may authorize the city to levy special assessments against such property, to the extent to which it was specially benefited. [City of Baltimore v. Ulman, 1894, 30 A. 43, 79 Md. 469](#), affirmed [17 S.Ct. 1001, 165 U.S. 719, 41 L.Ed. 1184](#). Municipal Corporations ↪ 514(4)

Acts 1892, c. 219, which gives cities power to provide by ordinance for improving streets, and for assessing the cost of the work on the property benefited, provides that before the passage of such an ordinance 10 days' notice shall be given. Chapter 284, passed a few days later, provides for the levying of an assessment against property benefited by a public improvement, when the original assessment was void. Held, that the 10 days' notice required by the former act was not necessary to the passage of an ordinance under the latter. [City of Baltimore v. Ulman, 1894, 30 A. 43, 79 Md. 469](#), affirmed [17 S.Ct. 1001, 165 U.S. 719, 41 L.Ed. 1184](#). Municipal Corporations ↪ 514(10)

The exercise of a power conferred on a corporation, to be exercised for the public good, is not discretionary, but imperative; and the words "power and authority" in such case may be construed "duty and obligation." [Board of Com'rs of Public Schools of Allegany County v. Allegany County Com'rs, 1864, 20 Md. 449](#). Municipal Corporations ↪ 53

II. LEGISLATIVE POWERS

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[31](#). Nature and scope of powers

In determining whether provision of federal statute that Home Owners' Loan Corporation and its loans shall be exempt from taxation prohibited recording tax on mortgages executed to corporation under Maryland statute and, if so, whether act exceeded power of Congress, the Supreme Court would assume that the creation of the Home Owners' Loan Corporation was a constitutional exercise of congressional power and that the activities of the corporation through which the national government lawfully acts must be regarded as governmental functions entitled to whatever immunity attaches to those functions when performed by the government itself through its departments. Home Owners' Loan Act of 1933, s 4(c), [12 U.S.C.A. s 1463\(c\)](#); [U.S.C.A.Const. art. 1, s 8, cl. 18](#); Code Pub.Gen.Laws Md.1924, art. 81, ss 213, 214, as added by Laws 1937, Ex.Sess., c. 11, s 4. [Pittman v. Home Owners' Loan Corp. of Washington, D.C., 1939, 60 S.Ct. 15, 308 U.S. 21, 124 A.L.R. 1263, 84 L.Ed. 11](#). Constitutional Law ↪ 50

Absent any constitutional prohibition, it is within the legislative power to define crimes and to fix their punishment. [Owens v. State, 1999, 724 A.2d 43, 352 Md. 663](#), certiorari denied [119 S.Ct. 2354, 527 U.S. 1012, 144 L.Ed.2d 250](#). Constitutional Law ↪ 50

Considering whether common law doctrine of contributory negligence should be replaced with doctrine of comparative negligence was function of General Assembly. [Stewart v. Hechinger Stores Co., 1997, 702 A.2d 946, 118 Md.App. 354](#), certiorari denied [707 A.2d 90, 349 Md. 104](#), certiorari denied [119 S.Ct. 121, 525 U.S. 848, 142 L.Ed.2d 97](#), rehearing denied [119 S.Ct. 580, 525 U.S. 1034, 142 L.Ed.2d 483](#). Constitutional Law ↪ 50

Separation of powers doctrine embodied in Maryland Constitution does not require absolute separation between branches of government. [Const. Art. 2, § 8. McCulloch v. Glendening, 1997, 701 A.2d 99, 347 Md. 272](#). Constitutional Law ↪ 50

Corollary to principle of stare decisis is that most basic function of judiciary is to say what law

is, and that legislature's function is to make new law. [Post v. Bregman, 1996, 686 A.2d 665, 112 Md.App. 738](#), certiorari granted [691 A.2d 1313, 345 Md. 237](#), reversed [707 A.2d 806, 349 Md. 142](#), reconsideration denied. Constitutional Law ↪ 50; Constitutional Law ↪ 67

Separation of powers provision of Maryland Constitution does not impose a complete separation between branches of government. Const.Declaration of Rights, Art. 8. [Christ by Christ v. Maryland Dept. of Natural Resources, 1994, 644 A.2d 34, 335 Md. 427](#). Constitutional Law ↪ 50

Separation of powers provision in Maryland Constitution does not require much stricter application of that doctrine than is applied in cases under Federal Constitution. Const.Declaration of Rights, Art. 8. [Department of Transp. v. Armacost, 1987, 532 A.2d 1056, 311 Md. 64](#). Constitutional Law ↪ 50

Separation of powers doctrine is a limitation upon state's police power. Const. Declaration of Rights, Art. 8. [Attorney General of Maryland v. Waldron, 1981, 426 A.2d 929, 289 Md. 683, 17 A.L.R.4th 794](#). Constitutional Law ↪ 50

In addition to specific powers and functions expressly granted to three organs of government by State Constitution, each branch possesses additional powers perforce implied from right and obligation to perform its constitutional duties. [Attorney General of Maryland v. Waldron, 1981, 426 A.2d 929, 289 Md. 683, 17 A.L.R.4th 794](#). Constitutional Law ↪ 50

Legislature may not circumvent the system of checks and balances which guaranties that no branch of government, however designated, may be granted an untrammelled right to arbitrarily grant or withhold that which is derived from the people, be it due as a matter of right, sought as an aspiration, or bestowed as largess; democracy does not recognize such monarchical discretion. [State Dept. of Assessments and Taxation v. Clark, 1976, 367 A.2d 69, 34 Md.App. 136](#), certiorari granted 280 Md. 735, reversed [380 A.2d 28, 281 Md. 385](#). Constitutional Law ↪ 50

Powers of General Assembly are virtually unlimited, except for such restraints as are imposed by Constitution. [Const. art. 3, §§ 2, 5, 6; art. 4, § 8](#); Const. Declaration of Rights, arts. 8, [36, 37](#); [U.S.C.A.Const. Amend. 14. Perkins v. Eskridge, 1976, 366 A.2d 21, 278 Md. 619](#). Constitutional Law ↪ 50

Legislature exercises a large discretion in determining what public welfare requires, what may be injurious to the general welfare of the public and also what measures are either necessary or appropriate for protection and promotion of these interests. [Aero Motors, Inc. v. Administrator, Motor Vehicle Administration, 1975, 337 A.2d 685, 274 Md. 567](#). Constitutional Law ↪ 50

Although some mingling, blending and overlapping of legislative, executive and judicial functions is permissible within administrative agencies, such constitutional "elasticity" cannot be stretched to point where, in effect, there no longer exists separation of governmental power since Constitution does not permit merger of three branches of state government nor does it make any one of three departments subordinate to other, when exercising trust committed to it. Const. Declaration of Rights, art. 8. [Department of Natural Resources v. Linchester Sand & Gravel Corp., 1975, 334 A.2d 514, 274 Md. 211](#). Constitutional Law ↪ 50

When legislature confers, by enactment, powers upon one of other branches of government which are beyond those permitted under Constitution or any of three branches of government

takes unto itself powers denied to it or those strictly within sovereignty of another branch, courts must step in and declare such encroachments to be constitutionally prohibited. Const. Declaration of Rights, art. 8. [Department of Natural Resources v. Linchester Sand & Gravel Corp., 1975, 334 A.2d 514, 274 Md. 211.](#) Constitutional Law ↪ 50

Constitutional doctrine of separation of powers is, generally speaking, not applicable to local government. [Const. art. 4, § 1. County Council for Montgomery County v. Investors Funding Corp., 1973, 312 A.2d 225, 270 Md. 403.](#) Constitutional Law ↪ 50

Legislature exercises a large discretion in determining what public welfare requires, in what may be injurious to general welfare of public and also what measures are either necessary or appropriate for protection and promotion of these interests. [Salisbury Beauty Schools v. State Bd. of Cosmetologists, 1973, 300 A.2d 367, 268 Md. 32.](#) Constitutional Law ↪ 50

The constitutional requirement of separation of powers is not applicable to local government. [Barranca v. Prince George's County, 1972, 287 A.2d 286, 264 Md. 562.](#) Constitutional Law ↪ 50

Constitutional requirement of separation of powers was not applicable to local government, and, under county charter, council in executive session could veto bill which it had enacted in legislative session. Const. Declaration of Rights, art. 8; [Const. art. 11-A, § 3. Wicomico County v. Todd, 1970, 260 A.2d 328, 256 Md. 459.](#) Constitutional Law ↪ 50; Counties ↪ 52

Legislature has power to prohibit discrimination in public accommodations and housing. [Montgomery Citizens League v. Greenhalgh, 1969, 252 A.2d 242, 253 Md. 151.](#) Constitutional Law ↪ 50

Delegated legislative powers of general assembly are plenary, except as limited by Federal and State Constitutions. [Const. art. 3, § 56. Board of Sup'rs of Elections for Anne Arundel County v. Attorney General, 1967, 229 A.2d 388, 246 Md. 417,](#) dissenting opinion [230 A.2d 61.](#) Constitutional Law ↪ 50

Functions when they are not purely and completely judicial or legislative in nature but have qualities or incidents resembling them are referred to as "quasi-judicial" or "quasi-legislative". [Hyson v. Montgomery County Council, 1966, 217 A.2d 578, 242 Md. 55.](#) Constitutional Law ↪ 50; Constitutional Law ↪ 67

Powers of Maryland Legislature are plenary except as restrained or confined by Federal or State Constitutions. [First Continental Sav. & Loan Ass'n v. Director, State Dept. of Assessments and Taxation, 1962, 183 A.2d 347, 229 Md. 293.](#) Constitutional Law ↪ 50

Plenary power to legislate is vested in the General Assembly unless restrained by Constitution. [Johns Hopkins University v. Williams, 1952, 86 A.2d 892, 199 Md. 382.](#) Constitutional Law ↪ 50

The constitutional requirement of separation of powers is not applicable to local government. [Pressman v. D'Alesandro, 1949, 69 A.2d 453, 193 Md. 672.](#) Constitutional Law ↪ 50

Legislature may enact legal provisions intended to prevent evasion of and to aid in enforcement of a legal enactment. [Maryland Unemployment Compensation Board v. Albrecht, 1944, 36 A.2d](#)

[666, 183 Md. 87](#). Constitutional Law ↪ 50

It is for the legislature to enact such measures as it deems desirable for advancement of the public welfare, but the judiciary is the ultimate authority to determine whether constitutional restraints have been violated, confining itself to the question of legislative power. [State v. Magaha, 1943, 32 A.2d 477, 182 Md. 122](#). Constitutional Law ↪ 50; Constitutional Law ↪ 67

The defeat of a proposed amendment to the declaration of rights of the Constitution by an adverse vote of the people did not destroy or weaken the power vested in the Legislature at the time the amendment was proposed or in any manner affect the then existing organic law of the state. Acts 1937, c. 525; Const.Md.Declaration of Rights, art. 15. [Oursler v. Tawes, 1940, 13 A.2d 763, 178 Md. 471](#). Constitutional Law ↪ 50

The Legislature may not do indirectly that which is prohibited from being done directly. [Gordy v. Dennis, 1939, 5 A.2d 69, 176 Md. 106](#). Constitutional Law ↪ 50

It is the province of the Legislature to fix the penalty for the commission of crimes and offenses and thus limit the power of the court to impose penalties. [Kirschgessner v. State, 1938, 198 A. 271, 174 Md. 195](#). Constitutional Law ↪ 50

Power of Legislature to determine through what agencies work of government is to be carried on is restrained by Constitution, although broad and comprehensive. [Raney v. Montgomery County Com'rs, 1936, 183 A. 548, 170 Md. 183](#). Constitutional Law ↪ 50

[Const. art. 3, §§ 1, 27 to 30, inclusive, art. 2, § 17](#), providing the procedure to be followed in the enactment of legislation, held to vest the sole legislative power of the state in the General Assembly. [Brawner v. Curran, 1922, 119 A. 250, 141 Md. 586](#). Constitutional Law ↪ 50

Acts 1910, c. 180, creating a public service commission, prescribing its powers and duties and providing for the regulation and control of public service corporations and utilities, does not invest the commission with powers both legislative and judicial so as to be repugnant to Declaration of Rights, art. 8. [Gregg v. Laird, 1913, 87 A. 1111, 121 Md. 1](#). Constitutional Law ↪ 50

While the Constitution apportions the powers of government, the three departments are co-ordinate. [Painter v. Mattfeldt, 1913, 87 A. 413, 119 Md. 466](#). Constitutional Law ↪ 50

The power of the Legislature over the making of laws is supreme, except where restrained by the Constitution. [Stiefel v. Maryland Inst. for Instruction of Blind, 1884, 61 Md. 144](#). Constitutional Law ↪ 50

The Constitution distributes the powers of government among several and distinct departments, and the limits of these cannot be extended or an encroachment of one upon the other permitted. [Hammond v. Haines, 1866, 25 Md. 541, 90 Am.Dec. 77](#). Constitutional Law ↪ 50

The General Assembly, in this State, composed of the Senate and House of Delegates, is the only law-making power. [Hammond v. Haines, 1866, 25 Md. 541, 90 Am.Dec. 77](#). Constitutional Law ↪ 50

Each of the co-ordinate departments of the government is independent of the other, in the sphere of its action, and has duties to perform in which it is not subject to the control of the other; but

this independence does not proceed from the grade of the office so much as the nature of the act to be performed. [Magruder v. Swann, 1866, 25 Md. 173](#). Constitutional Law ↪ 50

The power of appointment to offices created by law, having been exercised by the Legislature, from the earliest period of the government, in the absence of any prohibition in the Constitution, express or implied, it is to be presumed that the people intended the Legislature should continue to exercise the power. [City of Baltimore v. State, 1860, 15 Md. 376, 74 Am.Dec. 572](#). Constitutional Law ↪ 50

If the power of appointing officers to offices created by law is conferred by the Constitution on any other branch of the government, the Legislature cannot exercise such power, and the law would be void, but if the power is given to the Legislature, it may be exercised notwithstanding the 6th Art. of the Bill of Rights. [City of Baltimore v. State, 1860, 15 Md. 376, 74 Am.Dec. 572](#). Constitutional Law ↪ 50

The power to govern belongs to the people, and it is their duty to exercise it for the common good, and being under that obligation, it is not to be assumed that they have impaired the means of performing the duty by parting with the power to any division of the body politic. [City of Baltimore v. State, 1860, 15 Md. 376, 74 Am.Dec. 572](#). Constitutional Law ↪ 50

It is for the Legislature to correct the defects, if any, in existing laws, leaving to the debtor the absolute power of disposing of his property, and it is not within the province of courts of equity to stretch their power beyond the limits of the authorities of the law for the purpose of remedying such defects. [Uhl v. Dillon, 1857, 10 Md. 500, 69 Am.Dec. 172](#). Constitutional Law ↪ 50; Constitutional Law ↪ 70.1(7.1)

The organization of society, no less than the constitution, contemplates the existence of the legislative power as indestructible, and as co-existent with itself and the organic law. [Wright v. Wright's Lessee, 1852, 2 Md. 429, 56 Am.Dec. 723](#). Constitutional Law ↪ 50

Within the particular limits assigned to each, the several departments of government are supreme and uncontrollable. [Wright v. Wright's Lessee, 1852, 2 Md. 429, 56 Am.Dec. 723](#). Constitutional Law ↪ 50

32. Delegation of powers--In general

Legislature validly delegated the power to set the rate of telephone commission paid for non-emergency collect calls by inmates by its broad grant of authority to the Department of Budget and Management (DBM) to regulate the operation of telephone systems in the State's correctional facilities and by the creation of the Inmate Welfare Fund, which was funded by the commission on non-emergency collect calls placed by inmates, and thus, commission did not violate Article 8 of the Declaration of Rights regarding the separation of powers. [Benson v. State, 2005, 887 A.2d 525, 389 Md. 615](#). Constitutional Law ↪ 62(14); Telecommunications ↪ 926

It is ordinarily not a constitutionally impermissible delegation of legislative authority for a legislative body to adopt a standard promulgated by a different governmental entity. [Edwards Systems Technology v. Corbin, 2004, 841 A.2d 845, 379 Md. 278](#). Constitutional Law ↪ 60

General Assembly cannot constitutionally delegate to another body its fundamental decision-making authority in sense that it cannot delegate functions which Constitution expressly and unquali-

fiedly vests in General Assembly itself, such as its power to impeach, to propose constitutional amendments, or to enact statutes. Const.Declaration of Rights, Art. 8. [Christ by Christ v. Maryland Dept. of Natural Resources, 1994, 644 A.2d 34, 335 Md. 427](#). Constitutional Law ↪ 60

A court has no jurisdiction to perform a nonjudicial function, and any enactment which attempts to confer such a function on a court is unconstitutional. Const.Declaration of Rights, Art. 8. [Duffy v. Conaway, 1983, 455 A.2d 955, 295 Md. 242](#). Constitutional Law ↪ 61; Courts ↪ 42(1)

Placing authority in professional organization to appoint majority of membership of Commission on Medical Discipline did not offend separation of powers provisions of Declaration of Rights. Const. Declaration of Rights, Art. 8; Acts 1798, c. 105. [Commission on Medical Discipline v. Stillman, 1981, 435 A.2d 747, 291 Md. 390](#). Constitutional Law ↪ 64; Health ↪ 105

Provision of county code authorizing court to reverse or modify decision of zoning board if decision is unsupported by competent, material, and substantial evidence in view of the entire record did not present any question of attempt to delegate legislative power to the judicial branch in violation of the State Constitution, since action of the zoning board unsupported by such evidence would be unreasonable, arbitrary and capricious, and thus would result in denial of due process. Const. Declaration of Rights, arts. 8, [23. Storch v. Zoning Bd. of Howard County, 1972, 298 A.2d 8, 267 Md. 476](#). Constitutional Law ↪ 61

Except when authorized by the Constitution, the Legislature cannot delegate the power to make laws to any other authority. [Pressman v. Barnes, 1956, 121 A.2d 816, 209 Md. 544](#). Constitutional Law ↪ 60

Under doctrine of separation of powers, the lawmaking function is assigned exclusively to the Legislature, and any attempt to abdicate it in any particular field is unconstitutional. [Pressman v. Barnes, 1956, 121 A.2d 816, 209 Md. 544](#). Constitutional Law ↪ 60

Statute authorizing judges of Circuit Court for Allegany County to approve license for sale of alcoholic beverages if court is of opinion that applicant is fit person or place proper one with reference to public peace and general welfare of neighborhood or to character of inhabitants, due regard being given to number of licenses issued for neighborhood, as well as all specific restrictions and conditions set forth in act, imposes duties on judges which are quasi-legislative and non-judicial and therefore statute as a whole is unconstitutional, notwithstanding the severability clause. Pub.Loc.Laws 1930, art. 1, §§ 301, 301A, 301B, 304, 305, as added by Laws 1933, Sp.Sess., c. 5; Declaration of Rights, art. 8. [Cromwell v. Jackson, 1947, 52 A.2d 79, 188 Md. 8](#). Constitutional Law ↪ 61; Intoxicating Liquors ↪ 15; Statutes ↪ 64(3)

The power delegated to the General Assembly to enact laws cannot be redelegated to the people. Const.Declaration of Rights, art. 8. [Ahlgren v. Cromwell, 1941, 17 A.2d 134, 179 Md. 243](#). Constitutional Law ↪ 60

The state may delegate the police power to subordinate boards and commissions, and a reasonable and just exercise by them of the delegated power will be upheld. [Downs v. Swann, 1909, 73 A. 653, 111 Md. 53, 134 Am.St.Rep. 586](#). Constitutional Law ↪ 60

[33](#). ---- Executive, delegation of powers, legislative powers

Rules which were promulgated by the Maryland Racing Commission and which, inter alia, delegate to racing stewards power and duty to regulate and govern conduct of all racing officials and of all owners, trainers, jockeys, grooms, and other persons attendant on horses during, before, and after races are not unconstitutionally vague, do not constitute an unlawful delegation of power to stewards under federal standards, and do not amount to an invalid delegation of legislative powers in violation of the Maryland Declaration of Rights. Const. Md. Declaration of Rights, art. 8; [U.S.C.A.Const. Amend. 14. Lemberos v. Laurel Racecourse, Inc., 1980, 489 F.Supp. 1376.](#) Constitutional Law ☞ 62(12)

The delegation by the Legislature of legislative powers to Executive Branch agencies does not by itself usually violate Article 8 of the Declaration of Rights if guidelines or safeguards, sufficient under the circumstances, are contained in the pertinent statute or statutes. [Benson v. State, 2005, 887 A.2d 525, 389 Md. 615.](#) Constitutional Law ☞ 62(2)

The Legislature may choose to delegate the discreet power of setting the amount of government charges so approved to an Executive Branch agency or other governmental body without violating the separation of powers explicitly provided by the Constitution because the setting of fees and taxes is a delegable power. [Benson v. State, 2005, 887 A.2d 525, 389 Md. 615.](#) Constitutional Law ☞ 62(13)

Statute regulating dewatering of surface mines in "karst" terrain, by requiring mine operators to replace failed water supplies within zone of dewatering influence unless operator could demonstrate to Department of Natural Resources that dewatering did not cause water supply failure and to compensate property owners for sinkhole damage within zone of dewatering influence if Department determined that damage was caused by surface mine dewatering did not violate constitutional principle of separation of powers by delegating judicial functions to Department. Const.Declaration of Rights, Art. 8; Code, Natural Resources, § 7-6A-10.2(c)(1, 2), (f). [Maryland Aggregates Ass'n, Inc. v. State, 1995, 655 A.2d 886, 337 Md. 658,](#) certiorari denied [115 S.Ct. 1965, 514 U.S. 1111, 131 L.Ed.2d 856.](#) Constitutional Law ☞ 62(8); Mines And Minerals ☞ 123; Waters And Water Courses ☞ 101

Delegations of legislative power to executive branch agencies or officials ordinarily do not violate constitutional separation of powers requirement as long as guidelines or safeguards, sufficient under circumstances, are contained in pertinent statute or statutes. Const.Declaration of Rights, Art. 8. [Christ by Christ v. Maryland Dept. of Natural Resources, 1994, 644 A.2d 34, 335 Md. 427.](#) Constitutional Law ☞ 62(2)

Requirement that delegations of legislative power to executive branch agencies or officials contain guidelines to preserve separation of powers is not absolute in light of complexity of modern conditions with which government must deal. Const.Declaration of Rights, Art. 8. [Christ by Christ v. Maryland Dept. of Natural Resources, 1994, 644 A.2d 34, 335 Md. 427.](#) Constitutional Law ☞ 62(2)

General Assembly's delegation of authority to Department of Natural Resources under State Boat Act to adopt regulations governing operations of any vessels, under which regulation prohibiting operation of personal watercraft by persons under age of 14 was adopted, did not violate separation of powers provision of Maryland Constitution. Const.Declaration of Rights, Art. 8. [Christ by Christ v. Maryland Dept. of Natural Resources, 1994, 644 A.2d 34, 335 Md. 427.](#) Constitutional Law ☞ 62(5.1); Shipping ☞ 4

"Delegation doctrine" prohibits legislature from delegating its law-making function to any other branch of government or entity unless enabling statute provides sufficient safeguards to guide administrative officials; delegation doctrine is corollary to separation of powers doctrine. Const. Declaration of Rights, Art. 8; [U.S.C.A. Const. Art. 3, § 1](#) et seq. [Maryland State Police v. Warwick Supply & Equipment Co., Inc., 1993, 624 A.2d 1238, 330 Md. 474](#), reconsideration denied. Constitutional Law ↪ 62(2)

Ordinarily when legislative authority is delegated to administrative officials, there must be sufficient standards for the guidance of the administrative officials. Const. Declaration of Rights, art. 8. [Governor of Maryland v. Exxon Corp., 1977, 370 A.2d 1102, 279 Md. 410](#), motion denied [372 A.2d 237, 279 Md. 410](#), probable jurisdiction noted [98 S.Ct. 50, 434 U.S. 814, 54 L.Ed.2d 69](#), affirmed [98 S.Ct. 2207, 437 U.S. 117, 57 L.Ed.2d 91](#), rehearing denied [99 S.Ct. 232, 439 U.S. 884, 58 L.Ed.2d 200](#), rehearing denied [99 S.Ct. 233, 439 U.S. 884, 58 L.Ed.2d 200](#). Constitutional Law ↪ 62(2)

Sections of act providing that comptroller may adopt regulations deciding the circumstances in which petroleum producer or refiner temporarily may operate a previously dealer-operated station and may permit reasonable exceptions to divestiture dates were not an unlawful delegation of legislative authority. Code 1957, art. 56, § 157E(g, h); Const. Declaration of Rights, art. 8. [Governor of Maryland v. Exxon Corp., 1977, 370 A.2d 1102, 279 Md. 410](#), motion denied [372 A.2d 237, 279 Md. 410](#), probable jurisdiction noted [98 S.Ct. 50, 434 U.S. 814, 54 L.Ed.2d 69](#), affirmed [98 S.Ct. 2207, 437 U.S. 117, 57 L.Ed.2d 91](#), rehearing denied [99 S.Ct. 232, 439 U.S. 884, 58 L.Ed.2d 200](#), rehearing denied [99 S.Ct. 233, 439 U.S. 884, 58 L.Ed.2d 200](#). Constitutional Law ↪ 62(5.1)

Generally, a statute or ordinance which vests in administrative officials an arbitrary discretion with respect to lawful businesses or professions without prescribing a uniform rule of action is unconstitutional. [Pressman v. Barnes, 1956, 121 A.2d 816, 209 Md. 544](#). Constitutional Law ↪ 62(12); Municipal Corporations ↪ 591

Generally, a statute or ordinance vesting discretion in administrative officials without fixing any standards for guidance is an unconstitutional delegation of legislative power. [Pressman v. Barnes, 1956, 121 A.2d 816, 209 Md. 544](#). Constitutional Law ↪ 62(2); Municipal Corporations ↪ 591

Where discretion, to be exercised by administrative officials, under statute or ordinance vesting discretion in administrative officials, relates to police regulations for the protection of public morals, health, safety, or general welfare, and it is impracticable to fix standards without destroying flexibility necessary to enable the administrative officials to carry out legislative will, legislation delegating such discretion without restrictions may be valid. [Pressman v. Barnes, 1956, 121 A.2d 816, 209 Md. 544](#). Constitutional Law ↪ 62(10); Municipal Corporations ↪ 591

The statute authorizing Governor to extend merit system to employees excepted from or not included in merit system was invalid as delegating to Governor the power to repeal statute excluding from merit system persons holding positions by direct appointment from Governor. Code Pub.Gen.Laws 1924, art. 64A, § 2; Code 1939, art. 64A, § 25; Const. Declaration of Rights, art. 8. [Ahlgren v. Cromwell, 1941, 17 A.2d 134, 179 Md. 243](#). Constitutional Law ↪ 62(5.1); Officers And Public Employees ↪ 9

34. ---- Local authorities, delegation of powers, legislative powers

Interpreting statute to provide that limitations period for filing an action to foreclose right to redeem property sold at tax sale runs from date of certificate of sale and not from the date of sale does not result in illegal delegation of legislative authority. Const. Declaration of Rights, Art. 8; [Code, Tax-Property, § 14-833\(c\)](#). [Gordon Family Partnership v. Gar on Jer, 1997, 702 A.2d 753, 348 Md. 129](#). Constitutional Law ↪ 63(3); Limitation Of Actions ↪ 4(2)

Statutory section providing that any tax imposed by any city, county, or other political subdivision of another state on Maryland insurers is deemed to be imposed by such state for purposes of determining amount of Maryland "retaliatory" premium tax did not constitute an improper legislative delegation and was not unconstitutionally vague. [Code 1957, Art. 48A, § 61\(1\)](#). [Metropolitan Life Ins. Co. v. Insurance Com'r of State of Md., 1984, 473 A.2d 933, 58 Md.App. 457](#), certiorari denied [481 A.2d 239, 300 Md. 795](#). Constitutional Law ↪ 63(2); Insurance ↪ 1171

The principle of separation of powers that the law-making function is assigned exclusively to Legislature is not violated by a municipal corporation being vested with powers of legislation as to matters of local concern. [Pressman v. Barnes, 1956, 121 A.2d 816, 209 Md. 544](#). Constitutional Law ↪ 63(2)

Acts 1910, c. 693, providing for a board of examining moving picture machine operators with power to issue and revoke licenses, is not contrary to Const. Bill of Rights, art. 8. [State v. Loden, 1912, 83 A. 564, 117 Md. 373, Am. Ann. Cas. 1913E, 1300](#). Constitutional Law ↪ 63(2)

35. Encroachment on executive

Portion of Senate Bill regarding the Public Service Commission, which prematurely terminated the terms of Commission's members who had been lawfully appointed to fixed terms by the Governor, violated separation of powers doctrine in the Declaration of Rights of Maryland, and the powers of the Governor, under the Maryland Constitution, to supervise the Executive Branch, to execute the laws, and to terminate officers of the Executive Branch based on incompetency or misconduct, and thus such portion of the Bill was null and void; Commission was an Executive agency, the Legislature, which was unhappy with pending increase in electricity rates, was attempting to control the actions of an Executive Branch agency, and removal of the Commissioners through the use of the Senate Bill constituted a usurpation by one department of the powers of another. (Per Cathell, J., with two judges concurring and one judge concurring in the result). [Schisler v. State, 2006, 907 A.2d 175, 394 Md. 519](#). Public Utilities ↪ 102

When legislature creates an office by statute, separation of power provision of State Declaration of Rights does not of itself prevent legislature from placing power of appointment in hands of someone other than the Governor; legislature can designate by whom, and in what manner person who is to fill office shall be appointed. [Const. Art. 2, § 10](#); Const. Declaration of Rights, Art. 8. [Commission on Medical Discipline v. Stillman, 1981, 435 A.2d 747, 291 Md. 390](#). Constitutional Law ↪ 58

General Assembly may not abrogate common-law powers of Attorney General of Maryland since his powers were the powers of a common-law Attorney General, having been constitutionally stated as those prescribed by law. [Murphy v. Yates, 1975, 348 A.2d 837, 276 Md. 475, 84 A.L.R.3d 1](#). Constitutional Law ↪ 58

Where county road project was authorized by old county council in executive session and new provisions of county code indicated that duly created county executive would have jurisdiction in regard to construction of roads, authorization of project was an executive and not a legislative function. [Const. art. 11-A, § 1](#) et seq., [Code 1957, art. 25A, § 1](#) et seq. [Eggert v. Montgomery County Council, 1971, 282 A.2d 474, 263 Md. 243](#). Constitutional Law ↪ 58

Generally, where Constitution states essential qualifications of official, elective or appointive, created by it, they cannot be varied by Legislature unless authorized by such instrument, although where Constitution is silent, or where office is created by statute, statute may prescribe conditions of eligibility. [Humphreys v. Walls, 1935, 181 A. 735, 169 Md. 292](#). Constitutional Law ↪ 58

Poe's Supp.Code, art. 43, §§ 39-63, authorize the Medical and Chirurgical Faculty of the State of Maryland and the Maryland State Homeopathic Medical Society to each appoint a board of medical examiners. Both the Medical and Chirurgical Faculty of the State of Maryland and the Maryland State Homeopathic Society are Maryland corporations. Held, that the article is not void as committing the execution of the law to a body corporate not an officer or agent of the government, since the legislature may, in its discretion, impose public duties on a private corporation. [Scholle v. State, 1900, 46 A. 326, 90 Md. 729](#). Constitutional Law ↪ 58

Poe's Supp.Code, art. 43, §§ 39-63, authorize the Medical and Chirurgical Faculty of the State of Maryland and the Maryland State Homeopathic Medical Society to each appoint a board of medical examiners. [Const. art. 2, § 10](#) authorizes the governor to appoint all civil and military officers whose appointment or election is not therein otherwise provided for, unless a different mode of appointment be prescribed by the law creating the office. Held, that the article is not void as contravening this constitutional provision by committing the appointment of the boards to persons other than the governor, since the legislature, on creating an office, may designate how and by whose appointment it shall be filled. [Scholle v. State, 1900, 46 A. 326, 90 Md. 729](#). Constitutional Law ↪ 58

Bill of Rights, art. 6, declares "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." Held, that the appointment of commissioners of police in the city of Baltimore is not so conclusively an executive act that the legislative power cannot make it; and hence Acts 1860, c. 7, repealing all former laws and ordinances in relation to the police of such city, and establishing a different system, the details of which are set forth therein, and naming commissioners, on whom every power necessary to carry them out is conferred, is not in conflict therewith. [City of Baltimore v. State, 1860, 15 Md. 376, 74 Am.Dec. 572](#). Constitutional Law ↪ 58

It is not unconstitutional for the legislature to enact that police commissioners may call out the militia, or may order the sheriff to assist them with his posse; there are no exclusive rights of the governor or the sheriff interfered with by this. [City of Baltimore v. State, 1860, 15 Md. 376, 74 Am.Dec. 572](#). Constitutional Law ↪ 58

[Sec. 11 of Art. 2, of the Constitution](#), confers on the executive the appointment of all officers not otherwise provided for, "unless a different mode of appointment be prescribed by the law creating the office," and under this the Legislature may, itself, designate the officers in the law creating the offices. [City of Baltimore v. State, 1860, 15 Md. 376, 74 Am.Dec. 572](#). Constitutional

Law ↪ 58

Under a constitution providing that the election and appointment of all officers, and the filling of all vacancies, not otherwise provided for in this constitution, shall be made in such manner as may be directed by law, but no appointing power shall be exercised by the general assembly, the legislature is authorized not only to prescribe by law how an appointment shall be made, but to make such appointments. [City of Baltimore v. State, 1860, 15 Md. 376, 74 Am.Dec. 572](#). Constitutional Law ↪ 58

Where certain qualifications are specified by the Constitution, as those constituting the right of a party to hold and enjoy an office, and no right is reserved to the Legislature to add to or take away therefrom the enumerated requisites are all that can be insisted upon. [Dowling v. Smith, 1856, 9 Md. 242](#). Constitutional Law ↪ 58

[Const. art. 2, § 11](#), providing that the governor shall appoint all officers whose appointment or election is not otherwise herein provided for, unless a different mode of appointment be prescribed by the law creating the office, invests in the governor the power to fill all offices created by the constitution or by statute, unless otherwise provided for by either the constitution or the statute; and hence Act 1854, c. 200, providing for certain inspectors, permitting persons to qualify as inspectors if called upon, after having taken out a license to act as such in the manner provided, does not invade the executive power of appointment. [Davis v. State, 1854, 7 Md. 151, 61 Am.Dec. 331](#). Constitutional Law ↪ 58

The Act of 1821, ch. 77, created the office of inspector of bank and gave the Governor the power to appoint the officer, and as the legislature has the power to withdraw the authority to appoint from the Governor, the mode provided by the Act of 1854, ch. 200, by which inspectors under that Act are to be designated and qualified, is a constitutional exercise of legislative power. [Davis v. State, 1854, 7 Md. 151, 61 Am.Dec. 331](#). Constitutional Law ↪ 58

Where an office is of legislative creation, the Legislature can modify, control or abolish it; and within these powers is embraced the right to change the mode of appointment to the office. [Davis v. State, 1854, 7 Md. 151, 61 Am.Dec. 331](#). Constitutional Law ↪ 58

The legislature has the power to change the mode of appointment to any office of legislative creation. [Davis v. State, 1854, 7 Md. 151, 61 Am.Dec. 331](#). Constitutional Law ↪ 58

[36](#). Encroachment on judiciary--In general

Legislature is forbidden by state constitution from clothing administrative boards with any judicial authority. [Const. Art. 4, § 1](#). [Ocean City Bd. of Sup'rs of Elections v. Gisriel, 1994, 648 A.2d 1091, 102 Md.App. 136](#), certiorari granted [655 A.2d 400, 337 Md. 641](#), affirmed [693 A.2d 757, 345 Md. 477](#), reconsideration denied, certiorari denied [118 S.Ct. 702, 522 U.S. 1053, 139 L.Ed.2d 645](#). Constitutional Law ↪ 52

Separation of powers doctrine mandates that legislature may not divest judiciary of its inherent powers under State Constitution. Const. Declaration of Rights, Art. 8. [Commission on Medical Discipline v. Stillman, 1981, 435 A.2d 747, 291 Md. 390](#). Constitutional Law ↪ 52

Because reasonable judicial review of decisions of Commission on Medical Discipline was provided for by statute, legislative prohibition against judicial stay of Commission orders revok-

ing medical licenses did not encroach upon judiciary's inherent power to review administrative action for arbitrariness illegality, capriciousness and unreasonableness, in violation of separation of powers provision contained in State Declaration of Rights. Const. Declaration of Rights, Art. 8; Code 1957, Art. 43, § 130(m, p) (Repealed). [Commission on Medical Discipline v. Stillman, 1981, 435 A.2d 747, 291 Md. 390](#). Constitutional Law ☞ 52; Health ☞ 105

Statutory section prohibiting a retired judge who accepts a pension from engaging in practice of law for compensation did not fall within an area of legitimate legislative concern regarding legal profession and its practitioners and therefore its enactment violated separation of powers principle. Code 1957, Art. 73B, § 56(c); Const. Declaration of Rights, Art. 8. [Attorney General of Maryland v. Waldron, 1981, 426 A.2d 929, 289 Md. 683, 17 A.L.R.4th 794](#). Constitutional Law ☞ 52; Judges ☞ 21

Neither the absence of a defined jurisdictional authority nor the express abrogation thereof by the legislature can deprive litigants of the right to raise questions involving their fundamental rights in an appropriate judicial forum; courts cannot be deprived of the right to decide such questions in appropriate proceedings. [State Dept. of Assessments and Taxation v. Clark, 1976, 367 A.2d 69, 34 Md.App. 136](#), certiorari granted 280 Md. 735, reversed [380 A.2d 28, 281 Md. 385](#). Constitutional Law ☞ 52; Constitutional Law ☞ 321

Provisions of statute, which repealed provisions for substantial evidence judicial review of tax court cases in circuit courts and Baltimore city court and which unconstitutionally provided for direct appeals from tax court to Court of Appeals, were not severable; thus, statute was invalid in its entirety. Code 1957, art. 81, §§ 224, 229, 229(i, 1, m); [Code, Courts, and Judicial Proceedings, §§ 12-201, 12-203; Const. art. 4, §§ 1, 14, 14A](#); Declaration of Rights, art. 8. [Shell Oil Co. v. Supervisor of Assessments of Prince George's County, 1975, 343 A.2d 521, 276 Md. 36](#). Statutes ☞ 64(8)

Legislature may not interfere with judicial process by depriving litigants from raising questions involving their fundamental rights in any appropriate judicial manner, nor can it deprive the courts of the right to decide such questions in an appropriate proceeding. [Criminal Injuries Compensation Bd. v. Gould, 1975, 331 A.2d 55, 273 Md. 486](#). Constitutional Law ☞ 52

Legislature cannot divest the courts of inherent power they possess to review and correct actions by administrative agency which are arbitrary, illegal, capricious or unreasonable. [Criminal Injuries Compensation Bd. v. Gould, 1975, 331 A.2d 55, 273 Md. 486](#). Constitutional Law ☞ 52

It is within the province of the Legislature to fix the penalty for the commission of crimes and offenses and thus limit the power of the courts to impose penalties. [Code 1957, art. 27, §§ 300, 306B, 643. Woodfork v. State, 1968, 240 A.2d 314, 3 Md.App. 622](#). Constitutional Law ☞ 52

Provision of statute relating to zoning in Maryland-Washington Regional District, stating that circuit court, on review of district council action, may reverse action if it finds that it was against weight of competent, material and substantial evidence is severable from other provisions stating grounds for reversal, as it is not inseparably connected with them and there is no reason to suppose that General Assembly would not have enacted other provisions if it was invalid. Acts 1957, c. 712; Const. Declaration of Rights, art. 8. [Board of County Com'rs of Prince George's County v. Donohoe, 1959, 152 A.2d 555, 220 Md. 362](#). Statutes ☞ 64(4)

Legislature cannot interfere with judicial process by depriving litigants from raising questions involving their fundamental rights in any appropriate judicial manner, nor can it deprive courts of right to decide such questions in an appropriate proceeding. [Schneider v. Pullen, 1951, 81 A.2d 226, 198 Md. 64.](#) Constitutional Law ↪ 52

Statute respecting appointment of guardian for veterans held not usurpation by Legislature of judicial functions. Uniform Veterans' Guardianship Act, § 56B. Ex parte [Rickell's Estate, 1930, 150 A. 25, 158 Md. 654.](#) Constitutional Law ↪ 52

Legislature cannot make private use public by declaring it so or by authorizing exercise of power of eminent domain for use which courts may determine not to be public. [Webster v. Susquehanna Pole Line Co. of Harford County, 1910, 76 A. 254, 112 Md. 416, 21 Am. Ann. Cas. 357.](#) Constitutional Law ↪ 52; Eminent Domain ↪ 67

Where in the original charter of a Railroad Company the Legislature expressly reserved the power to alter, repeal or annul the charter at pleasure, the question whether a proposed amendment of the charter is wise or consistent with the public interests and with the prosperity of the company, is one which by the charter is made to depend upon the wisdom and discretion of the Legislature, and is not a question to be determined by the courts. [American Coal Co. v. Consolidation Coal Co., 1877, 46 Md. 15.](#) Constitutional Law ↪ 52

If the legislature reserves to itself the power to repeal a charter or franchise, it is the proper judge to determine when the repeal shall be made. [American Coal Co. v. Consolidation Coal Co., 1877, 46 Md. 15.](#) Constitutional Law ↪ 52

The case of the [State v. Dashiell, 6 H. & J. 268,](#) is a decision denying the right of the legislature to curtail the powers of the courts as conferred by the Constitution, but is silent as to the right of the legislature to enlarge those powers. [Jerry v. Townshend, 1852, 2 Md. 274.](#) Constitutional Law ↪ 52

The legislature does not exercise judicial power in passing resolves that certain credits should be entered on certain judgments rendered in favor of the state. In re Green's Estate, 1848, 4 Md.Ch. 349. Constitutional Law ↪ 52

An act which affects or exhausts itself on a particular person, or his rights and privileges, and has no relation to the community in general, is rather a judicial sentence than a law. [Regents of University of Md. v. Williams, 1838, 9 G. & J. 365, 31 Am. Dec. 72.](#) Constitutional Law ↪ 52

[37.](#) ---- Construction of statutes, encroachment on judiciary, legislative powers

Legislature had no power in 1949 to determine proper construction of 1943 statutes. [Montgomery County v. Bigelow, 1950, 77 A.2d 164, 196 Md. 413.](#) Constitutional Law ↪ 53

Unless statute is unambiguous, courts must determine what Legislature meant and intended, since construction of law is judicial function. [West v. Sun Cab Co., 1931, 154 A. 100, 160 Md. 476.](#) Constitutional Law ↪ 53

A mandate of the legislature to the judiciary, directing what construction shall be placed on existing statutes, is an assumption of judicial power, and unconstitutional. [Gough v. Pratt, 1856, 9 Md. 526.](#) Constitutional Law ↪ 53

[38.](#) ---- Disposition of property and adjudication of rights, encroachment on judiciary, legislative powers

Acts 1916, c. 466, authorizing county commissioners to levy a tax to refund a sum paid county by mistake, held violative of Const.Declaration of Rights, art. 8, declaring that legislative, executive, and judicial powers shall be separate, as legislative attempt to exercise judicial power. [Harris v. Commissioners of Allegany County, 1917, 100 A. 733, 130 Md. 488.](#) Constitutional Law ↪ 54

Acts 1906, p. 824, c. 450, directing the county commissioners of Talbot county to levy, collect, and pay to the county commissioners of Queen Anne's county one-half of \$19,333.55 and interest at 5 per cent. from September 1, 1904, in certain installments, to contribute to the expense of a bridge over Kent Narrows constructed by Queen Anne's county, and to pay to Queen Anne's county \$200 annually in addition for the maintenance of the bridge and payment of a keeper of the draw, was unconstitutional as an exercise of judicial functions by the Legislature, in violation of Declaration of Rights, art. 8, separating the different departments of government; Talbot county being required to pay a specified sum without any judicial inquiry as to the actual cost of the bridge, its availability, etc., or the cost of maintenance. [Commissioners of Queen Anne's County v. Commissioners of Talbot County, 1908, 69 A. 801, 108 Md. 188.](#) Constitutional Law ↪ 54

The fact that the preamble of Act 1906, p. 824, c. 450, requiring Talbot county to contribute to the cost of the construction of a bridge over Kent Narrows, recited that the bridge cost a specified sum, did not constitute a legal ascertainment of the actual cost of the bridge. [Commissioners of Queen Anne's County v. Commissioners of Talbot County, 1908, 69 A. 801, 108 Md. 188.](#) Constitutional Law ↪ 54

[39.](#) ---- Remedies and procedure, encroachment on judiciary, legislative powers

Rules of evidence, being procedural in their nature, are peculiarly discretionary with the law-making authority. [Salsburg v. State of Md., 1954, 74 S.Ct. 280, 346 U.S. 545, 98 L.Ed. 281.](#) Constitutional Law ↪ 55

Statute imposing limitation on personal injury awards for noneconomic damages did not violate separation of powers principles embodied in State Constitution. [Md.Code, Courts and Judicial Proceedings, § 11-108\(b\)](#); Md. Const.Declaration of Rights, Art. 8. [Franklin v. Mazda Motor Corp., 1989, 704 F.Supp. 1325.](#) Constitutional Law ↪ 55; Damages ↪ 127.6

Where Maryland court and Federal court sitting in Maryland had held that action under Fair Labor Standards Act was within Maryland statute of limitations applicable to actions on a specialty, Maryland legislature had right to so amend the law as in effect to recall such decisions. Fair Labor Standards Act of [1938, § 1](#) et seq., [29 U.S.C.A. § 201](#) et seq.; Acts Maryland 1945, c. 518. [Warnick v. Bethlehem-Fairfield Shipyard, 1946, 68 F.Supp. 857.](#) Constitutional Law ↪ 55; Limitation Of Actions ↪ 4(1); States ↪ 18.46

Statutory cap on noneconomic damages in personal injury action does not violate separation of powers doctrine by interfering with constitutional function of the judicial branch through jury trial. Const.Declaration of Rights, Art. 8. [Owens-Corning v. Walatka, 1999, 725 A.2d 579, 125 Md.App. 313,](#) reconsideration denied, certiorari denied [731 A.2d 971, 354 Md. 573.](#) Constitu-

tional Law ↪ 55; Damages ↪ 127.6

"Cap" on noneconomic damages in personal injury cases did not violate separation of powers doctrine, despite contention that cap interfered with jury's function to determine true amount of damages. [Code, Courts and Judicial Proceedings, § 11-108\(b\)](#); Const.Declaration of Rights, Art. 8. [Edmonds v. Murphy, 1990, 573 A.2d 853, 83 Md.App. 133](#), certiorari granted [580 A.2d 1066, 321 Md. 46](#), affirmed [601 A.2d 102, 325 Md. 342](#). Constitutional Law ↪ 55; Damages ↪ 127.6

There can be no question but that the Legislature has the power to impose, within constitutional limits, rational conditions upon the right to turn to the courts for redress of grievances. [Attorney General v. Johnson, 1978, 385 A.2d 57, 282 Md. 274](#), appeal dismissed [99 S.Ct. 60, 439 U.S. 805, 58 L.Ed.2d 97](#). Constitutional Law ↪ 55

Legislature may not divest courts of inherent power to review and correct actions by administrative agency which are arbitrary, illegal, capricious or unreasonable. [Zion Evangelical Lutheran Church of United Church of Christ of Stemmers Run v. State Highway Administration, 1976, 350 A.2d 125, 276 Md. 630](#). Constitutional Law ↪ 55

There is no constitutional impediment to power of Legislature to change common law rules of evidence as to what documents are admissible and weight to be attributed to them. [McCloskey v. Director of Patuxent Institution, 1963, 187 A.2d 833, 230 Md. 635](#), certiorari denied [83 S.Ct. 1917, 374 U.S. 851, 10 L.Ed.2d 1072](#). Constitutional Law ↪ 55

The Legislature does not possess the power under the State Constitution to prevent one from making a defense to a charge brought against him by substituting an irrebuttable presumption of fact. [Const. Declaration of Rights, art. 20. Mahoney v. Byers, 1946, 48 A.2d 600, 187 Md. 81](#). Constitutional Law ↪ 55

A statute that should make evidence conclusive which was not so of its own nature and inherent force and by that means preclude the party from showing the truth would be void. [Const. Declaration of Rights, art. 20. Mahoney v. Byers, 1946, 48 A.2d 600, 187 Md. 81](#). Constitutional Law ↪ 55

A rule of the racing commission that presence of drug in saliva, urine or blood of race horse on day of race shall be conclusive evidence either of trainer's knowledge or carelessness is void. Code 1939, art. 78B, § 1 et seq.; [Const. Declaration of Rights, art. 20. Mahoney v. Byers, 1946, 48 A.2d 600, 187 Md. 81](#). Constitutional Law ↪ 55

The racing commission cannot set up in a rule an irrebuttable presumption and treat it as if it were a prima facie presumption. Code 1939, art. 78B, § 1 et seq.; [Const. Declaration of Rights, art. 20. Mahoney v. Byers, 1946, 48 A.2d 600, 187 Md. 81](#). Constitutional Law ↪ 55

The Legislature cannot make tax deed conclusive evidence of holder's title or of jurisdictional facts which would make out title, but may make deed conclusive evidence of everything except the essentials. [Gathwright v. Mayor and Council of City of Baltimore, 1943, 30 A.2d 252, 181 Md. 362, 145 A.L.R. 590](#). Constitutional Law ↪ 55

The state has the power to prescribe evidence which may be received in the courts. [Hubin v. State, 1942, 23 A.2d 706, 180 Md. 279](#), certiorari denied [62 S.Ct. 1107, 316 U.S. 680, 86 L.Ed.](#)

[1753](#). Constitutional Law ↪ 55

Legislature has no power to abridge constitutional guaranty of right of removal. [Const. art. 4, § 8. State, for Use of *Dunnigan v. Cobourn*, 1935, 179 A. 512, 169 Md. 110.](#) Constitutional Law ↪ 55

Laws 1868, c. 249, provides that where, on petition of infants, by their guardian or next friend, a decree for the sale of their land has been passed, and the sale confirmed, and there was a failure to summon said infants, and have them appear and answer by guardian, etc., the circuit courts may, on petition of the infants by their guardian or next friend, or of any person having an interest in the sale, and after summoning the infants, and their appearance by guardian, and its being shown that the sale was fairly and bona fide made, confirm the same whereupon all proceedings, had under the decree of sale shall be as binding, and confer as good title, as if the decree had been passed in strict conformity to the law. Held, that the act, so far as it authorizes a court to change the effect of decrees, which before its passage became final, is an exercise of judicial power by the legislature, and is unconstitutional. [Roche v. Waters, 1890, 19 A. 535, 72 Md. 264.](#) Constitutional Law ↪ 55

Laws 1868, c. 249, provides that where, on petition of infants, by their guardian or next friend, a decree for the sale of their land has been passed, and the sale confirmed, and there was a failure to summon said infants, and have them appear and answer by guardian, etc., the circuit courts may, on petition of the infants by their guardian or next friend, or of any person having an interest in the sale, and after summoning the infants, and their appearance by guardian, and its being shown that the sale was fairly and bona fide made, confirm the same whereupon all proceedings, had under the decree of sale shall be as binding, and confer as good title, as if the decree had been passed in strict conformity to the law. Held, that the act, so far as it authorizes a court to change the effect of decrees, which before its passage became final, is an exercise of judicial power by the legislature, and is unconstitutional. [Roche v. Waters, 1889, 18 A. 866.](#) Constitutional Law ↪ 55

Act 1872, c. 310, empowering the court of appeals to reopen and rehear certain cases therein enumerated, held to be an exercise of judicial power, and void. [Dorsey's Lessee v. Gary, 1872, 37 Md. 64, 11 Am.Rep. 528.](#) Constitutional Law ↪ 55

Acts 1864, cc. 188, 344, empowering and directing the mayor and council of Baltimore to pay the contractors for the work done and accepted by the city in grading North avenue, and to levy a tax for its payment, is an unconstitutional exercise of judicial power; this court having, before said acts were passed, decided that the work done in grading said avenue, and the assessment for the tax for its payment, were unauthorized. [City of Baltimore v. Horn, 1867, 26 Md. 194.](#) Constitutional Law ↪ 55; Municipal Corporations ↪ 515(1)

An act authorizing the court of appeals to hear and determine appeals in special cases does not infringe the judicial powers of the court. [State v. Northern Cent. Ry. Co., 1862, 18 Md. 193.](#) Constitutional Law ↪ 55

An Act of the Legislature, authorizing a court of equity, upon the application or petition of the defendant in a certain cause, and "upon the establishment of a satisfactory prima facie case, to open any decree or order" which had been passed against him in said cause, to the end that he "may account fully, fairly and equitably for the estate" which had been under his management,

and for a settlement of which the suit was instituted, "provided the said court shall be satisfied that justice will be promoted by opening such decree or order, and provided it be opened upon such terms," as to costs, the nature of the defenses to be relied on, the taking of testimony, etc., "as to the court may seem consistent with equity, it being the design of this Act to remove any legal impediment to the granting of such application and to afford the defendant such redress, upon the principles of justice and equity, as he may show himself entitled to, when relieved from the operation of any technical or rigid rule of law," is constitutional. [Calvert v. Williams, 1857, 10 Md. 478](#). Constitutional Law ↪ 55; Judgment ↪ 379(1)

Act 1854, c. 150, authorizing a court, upon the establishment of a satisfactory prima facie case, to open a certain decree, provided that the court should be satisfied that justice would be promoted by so doing, is not invalid, as an assumption of judiciary power. [Calvert v. Williams, 1857, 10 Md. 478](#). Constitutional Law ↪ 55

During the pendency of a cause in the court of chancery, the legislature (Act 1835, c. 339) authorized any of the parties to the cause to have a transcript of the proceedings transmitted to the court of appeals, for the purpose of taking the opinion of that court touching the validity of certain acts of assembly involved in the said proceedings, and such other points as the parties to the controversy might submit to the said court by agreement; providing, that its opinion in the premises should be certified to the court of chancery, and be binding, in that court, as to the law thereby decided. Under this law, and before a decree had been passed by the chancellor, one of the parties brought the record up, when it was held that no appeal would lie before a decree, and that the legislature could not constitutionally convert the court of appeals into a court of original jurisdiction. [Lawrence v. Hicks, 1836, 8 G. & J. 386](#). Constitutional Law ↪ 55

Act 1816, c. 157, for the relief of M. E. B., was not intended to authorize her to file a bill of review, for the purpose of reversing the decree referred to therein, nor the adoption of any subsequent judicial proceedings to try the validity of the deeds and decrees mentioned in it, but to vacate an annual those deeds and decrees, to divest the title of all others, claiming under them, to the property acted upon thereby, and reinvest the same in M. E. B., as if those deeds and decrees had never existed, subject to the proviso in the act. It was therefore a direct violation of the Maryland declaration of rights, as an exercise of judicial authority. [Berrett v. Oliver, 1835, 7 G. & J. 191](#). Constitutional Law ↪ 55

The legislature cannot annul a judgment. [Berrett v. Oliver, 1835, 7 G. & J. 191](#). Constitutional Law ↪ 55

The legislature passed an act, authorizing and requiring the county court to grant an appeal in a cause heretofore decided in said court; and that the points of law decided, and the instructions given by said court, as set forth and contained in another cause, be set forth and embodied in the record of appeal in the act provided for. Held, that the act was unconstitutional. [Miller v. State, to Use of Fiery, 1849, 8 Gill 145](#). Constitutional Law ↪ 55

While the legislature may pass laws conferring on the court of appeals the right to hear appeals in special cases after the time allowed by general law has passed, yet such a law, to have efficacy, must leave the court untrammelled as to the mode or manner of administering justice in such cases. [Prout v. Berry, 1844, 2 Gill 147](#). Constitutional Law ↪ 55

[40](#). ---- Establishment, organization, and jurisdiction of courts, encroachment on judiciary, le-

gislative powers

The legislature cannot confer original jurisdiction on Court of Appeals nor require it to decide a moot question or an abstract proposition, but Legislature may confer right on the court to hear appeals in special cases provided appellate judicial functions and powers are left untrammelled. [Board of Sup'rs of Elections for Anne Arundel County v. Attorney General, 1967, 229 A.2d 388, 246 Md. 417](#), dissenting opinion [230 A.2d 61](#). Constitutional Law ↪ 56

The Legislature is without power to divest courts of their inherent power to review actions of administrative agencies which are illegal, arbitrary, or unreasonable and which impair personal or property rights. Code Supp.1947, art. 101, §§ 29, 57. [Johnstown Coal & Coke Co. v. Dishong, 1951, 84 A.2d 847, 198 Md. 467](#). Constitutional Law ↪ 56

The Legislature is without authority to divest courts of their inherent power to review the actions of administrative boards in order to determine whether they unlawfully impair personal or property rights. [Heath v. Mayor and City Council of Baltimore, 1946, 49 A.2d 799, 187 Md. 296](#). Constitutional Law ↪ 56

Legislature is without authority to divest the judicial branch of the government of its inherent power to review actions of administrative boards shown to be arbitrary, illegal or capricious and to impair personal or property rights. [Heaps v. Cobb, 1945, 45 A.2d 73, 185 Md. 372](#). Constitutional Law ↪ 56

Under the constitutional provision that the judicial power of the state shall be vested in a Court of Appeals, circuit courts, orphans' courts, such courts for the city of Baltimore as are provided for, and justices of the peace, the Legislature has no power to provide for any other courts. [Const. art. 4, § 1. Woelfel v. State, 1939, 9 A.2d 826, 177 Md. 494](#). Constitutional Law ↪ 56

The statute providing that any civil or criminal action instituted before a justice of the peace, other than a trial magistrate, shall be promptly removed to the nearest trial magistrate for trial, is not invalid as abolishing the office of justice of the peace to such an extent that the statute repeals the various acts providing for the appointment of justices for the election districts of counties or wards of Baltimore City without provision for which by statute there is no authority for appointments at large. Code Pub.Gen.Laws Supp.1935, art. 52, § 93, as added by Acts 1939, c. 720, § 1; [Const. art. 4, §§ 1, 42. Woelfel v. State, 1939, 9 A.2d 826, 177 Md. 494](#). Constitutional Law ↪ 56; Justices Of The Peace ↪ 2

Justice courts exist under authority of the State Constitution and laws passed in pursuance thereof, but no legislative act abolishing them or radically changing their character is valid. [Const. art. 4, §§ 1, 42. Quenstedt v. Wilson, 1937, 194 A. 354, 173 Md. 11](#). Constitutional Law ↪ 56

Only those courts named in constitutional provision designating the courts in which the judicial power of the state shall be vested can be set up or exist in the state. [Const. art. 4, § 1. Quenstedt v. Wilson, 1937, 194 A. 354, 173 Md. 11](#). Constitutional Law ↪ 56

Authority possessed by court to punish contempts may not be destroyed or abridged by legislative enactment. [In re Lee, 1936, 183 A. 560, 170 Md. 43](#), certiorari denied [56 S.Ct. 947, 298 U.S. 680, 80 L.Ed. 1400](#). Constitutional Law ↪ 56

Justices' courts are part of judicial machinery of state by Constitution, and no legislative act abol-

ishing them or radically changing their character is valid. [Const. art. 4, §§ 1, 42. *Humphreys v. Walls, 1935, 181 A. 735, 169 Md. 292.*](#) Constitutional Law ↪ 56

Provisions of act creating peoples' court in Wicomico county, authorizing judge to make rules governing practice and procedure, limiting class of persons eligible to office of judge and forbidding judge from practicing law, held void as inconsistent with constitutional provision respecting justices of the peace, where Legislature had no power to establish new court. Code Pub.Loc.Laws 1930, art. 23, § 97 et seq.; [Const. art. 4, § 1. *Humphreys v. Walls, 1935, 181 A. 735, 169 Md. 292.*](#) Constitutional Law ↪ 56

Constitution vests judicial power of state in designated courts and precludes Legislature from vesting judicial power in any officers not enumerated therein. [Const. art. 4, § 1](#); Acts 1931, c. 195, § 1. [Day v. State, 1932, 159 A. 602, 162 Md. 221.](#) Constitutional Law ↪ 56

Act authorizing appointment of police justice for town situated in two counties, held invalid as creating judicial office unauthorized by Constitution. Acts 1931, c. 195, § 1; [Const. art. 4, § 1. Day v. State, 1932, 159 A. 602, 162 Md. 221.](#) Constitutional Law ↪ 56

Ordinance held not invalid because providing for appeal from zoning commissioner to board of appeals and to Baltimore city court, but not for appeal to Court of Appeals. Ordinance No. 522 of mayor and city council of Baltimore; [Const. art. 4, § 28. Tighe v. Osborne, 1926, 133 A. 465, 150 Md. 452, 46 A.L.R. 80.](#) Constitutional Law ↪ 56

Meat inspection ordinance held not invalid because of provisions for appeal to city court and as to jurisdiction thereof. [City of Baltimore v. Bloecher & Schaff, 1926, 132 A. 160, 149 Md. 648,](#) affirmed [48 S.Ct. 33, 275 U.S. 490, 72 L.Ed. 389.](#) Constitutional Law ↪ 56

[41.](#) ---- Interposition in particular proceedings, encroachment on judiciary, legislative powers

Statute ratifying assessment for sanitary system held not to constitute assumption of judicial function because attempting to overcome deficiency created when assessment was held invalid in prior case. Act 1927, c. 506. [Washington Suburban Sanitary Commission v. Noel, 1928, 142 A. 634, 155 Md. 427,](#) appeal dismissed [49 S.Ct. 94, 278 U.S. 573, 73 L.Ed. 513.](#) Constitutional Law ↪ 57

[III. EXECUTIVE POWERS](#)

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[71.](#) Nature and scope of powers

Administrative agencies are not inferior tribunals in relation to the circuit courts; rather they are independent units of the executive branch of state government. [State v. Maryland State Bd. of](#)

[Contract Appeals, 2001, 773 A.2d 504, 364 Md. 446](#), reconsideration denied. Constitutional Law ↪ 76

"Parole" is an act of executive clemency through which defendant obtains conditional release from prison; it does not involve the sentencing function or any other judicial function. Code 1957, Art. 41, § 110(a) (Repealed). [DeLeon v. State, 1994, 648 A.2d 1053, 102 Md.App. 58](#). Constitutional Law ↪ 76; Constitutional Law ↪ 79; Pardon And Parole ↪ 41

Action of board of trustees of state colleges in authorizing president of state college to eliminate food service department at college and to have department operated and services performed by private independent contractor did not constitute a violation of the "separation of powers" promulgated by Article 8 of the Declaration of Rights of the Maryland Constitution. Code 1957, art. 64A, § 16; Const. Declaration of Rights, art. 8. [Ball v. Board of Trustees of State Colleges, 1968, 248 A.2d 650, 251 Md. 685](#). Constitutional Law ↪ 76

Our form of government in its various changes has never recognized the power of appointment to office as an executive prerogative; the Constitution so far from treating it as an inherent executive power indicates that it belongs where the people choose to place it. [City of Baltimore v. State, 1860, 15 Md. 376, 74 Am.Dec. 572](#). Constitutional Law ↪ 76

The power of appointment to office is not, under our systems of checks and balances in the distributions of powers, where the people are the source and fountain of government, a function intrinsically executive, in the sense that it is inherent in, and necessarily belongs to the executive department. [City of Baltimore v. State, 1860, 15 Md. 376, 74 Am.Dec. 572](#). Constitutional Law ↪ 76

The 11th section of the 2nd Article of the Constitution gives to the Governor the power to fill all offices in the State, whether created by the Constitution or by Act of Assembly, unless otherwise provided by the one or the other. [Davis v. State, 1854, 7 Md. 151, 61 Am.Dec. 331](#). Constitutional Law ↪ 76

72. Encroachment on legislature

Administrative officer empowered to make regulations cannot alter statutes, and may act only within scope of authority. [Fidelity & Deposit Co. of Md. v. U.S., 1932, 55 F.2d 100](#). Constitutional Law ↪ 77

Governor's pronouncement at press conference that he directed Parole Board not to send parole recommendations to him for inmates serving life sentences did not violate separation of powers doctrine by usurping legislatively granted authority of Parole Commission; parole is purely executive function and Governor has the final authority over parole release for inmates serving life sentences. Const. Declaration of Rights, Art. 8; [Code 1957, Art. 41, § 4-516\(d\)](#). [Lomax v. Warden, Maryland Correctional Training Center, 1998, 707 A.2d 395, 120 Md.App. 314](#), reconsideration denied, certiorari granted [711 A.2d 871, 350 Md. 280](#), affirmed [741 A.2d 476, 356 Md. 569](#). Constitutional Law ↪ 77; Pardon And Parole ↪ 41

Executive order did not violate Maryland's constitutional separation of powers doctrine by authorizing limited collective bargaining rights for Executive Branch employees without prior legislative authorization; by statute and under State Constitution, governor had broad power and

authority over Executive Branch employees and their working conditions. [Const. Art. 2, §§ 1, 8, 9](#); [Code, State Government, §§ 3-302, 3-401](#); [Code, State Personnel and Pensions, § 2-201](#). [McCulloch v. Glendening, 1997, 701 A.2d 99, 347 Md. 272](#). Constitutional Law ↪ 77; Labor And Employment ↪ 1104

State Constitution's requirement of separation of powers was not violated by statute permitting delegation to governor of legislative authority to reduce certain budget appropriations by up to 25% if governor deems them unnecessary; limitations on governor's exercise of authority provided sufficient safeguards on delegation. [Code, State Finance and Procurement, § 7-213](#); [Const. Art. 3, § 52](#); Const. Declaration of Rights, Art. 8. [Judy v. Schaefer, 1993, 627 A.2d 1039, 331 Md. 239](#). Constitutional Law ↪ 77

Board of Public Works regulation which deemed agency's failure to act on government contractor's claim as denial of claim, for purposes of beginning time period for contractor to appeal, was consistent with enabling statute and, thus, did not violate separation of powers. Const. Declaration of Rights, Art. 8; [U.S.C.A. Const. Art. 3, § 1](#) et seq. [Maryland State Police v. Warwick Supply & Equipment Co., Inc., 1993, 624 A.2d 1238, 330 Md. 474](#), reconsideration denied. Constitutional Law ↪ 77; States ↪ 107

Legislatively delegated power to make rules and regulations is administrative in nature, and is not and cannot be power to make laws; it is only power to adopt regulations to carry into effect will of legislature as expressed by statute. [Insurance Com'r of State of Md. v. Bankers Independent Ins. Co., 1992, 606 A.2d 1072, 326 Md. 617](#). Constitutional Law ↪ 77

Statute calling for state employees who worked in excess of "normal work week" to receive extra compensation for such work did not establish 35 1/2 hours per week as normal work week such that executive order establishing 40-hour work week for executive branch employees without additional compensation violated doctrine of separation of powers; nothing in statutory language fixed normal work week of state employees at 35 1/2 hours, and personnel regulation defined normal work week as meaning not less than 35 1/2 hours but not more than 40 hours. Code 1957, Art. 100, § 76 (now Art. 89, § 27). [Maryland Classified Employees Ass'n, Inc. v. Schaefer, 1991, 599 A.2d 91, 325 Md. 19](#), certiorari denied [112 S.Ct. 1160, 502 U.S. 1090, 117 L.Ed.2d 407](#). Constitutional Law ↪ 77; States ↪ 60.2

Under the constitutional provision for separation of the legislative, executive and judicial powers of government, the executive has no constitutional power to substitute, by any means, a date for an act to take effect different from that specified by the General Assembly. Const. Declaration of Rights, art. 8. [Robey v. Broersma, 1942, 26 A.2d 820, 181 Md. 325, 146 A.L.R. 687](#), on reargument [29 A.2d 827, 181 Md. 325, 146 A.L.R. 687](#). Constitutional Law ↪ 77

Statute imposing a license fee on the operation of vending machines that was not signed by the Governor until after the date fixed by the terms of the act for it to take effect was invalid, since the Governor had no constitutional authority to exercise quasi legislative powers by thus changing in effect the statute. Code 1939, art. 56, § 73A as added by Acts 1941, c. 209; Const. Declaration of Rights, art. 8. [Robey v. Broersma, 1942, 26 A.2d 820, 181 Md. 325, 146 A.L.R. 687](#), on reargument [29 A.2d 827, 181 Md. 325, 146 A.L.R. 687](#). Statutes ↪ 29

Where statute authorizing the Governor to extend merit system to employees excepted from or not included in merit system was invalid as delegating to Governor the power to repeal statute

excluding from merit system persons holding positions by direct appointment from Governor, executive order taking into merit system State House watchmen who were appointed directly by Governor was also invalid. Code Pub.Gen.Laws 1924, art. 41, § 59; art. 64A, § 2; Code 1939, art. 64A, § 25; Const.Declaration of Rights, art. 8. [Ahlgren v. Cromwell, 1941, 17 A.2d 134, 179 Md. 243](#). Officers And Public Employees ↪ 11.1

Public officers can not be permitted to engraft an extended plan or policy, however desirable or benevolent it may be, upon a statute as the Legislature has passed it. [Hopper v. Jones, 1940, 13 A.2d 621, 178 Md. 429](#). Constitutional Law ↪ 77

Commission cannot extend operation of Compensation Law beyond scope of act. [Gunter v. Sharp & Dohme, 1930, 151 A. 134, 159 Md. 438](#). Constitutional Law ↪ 77

Municipal authorities may not engraft extended plan or policy on statute. [Duncan v. Graham, 1928, 142 A. 593, 155 Md. 507](#). Constitutional Law ↪ 77

Legislature may clothe governmental agency with quasi judicial powers to regulate exercise of corporate privileges affected by public interest. The [President and Commissioners of Port Deposit v. West, 1928, 141 A. 517, 155 Md. 124](#). Constitutional Law ↪ 77; Constitutional Law ↪ 80(2)

73. Encroachment on judiciary

Under basic principles of administrative law, as well as separation of powers requirement, it is not proper function of administrative official or agency in executive branch of government to decide whether plaintiff or potential plaintiff has standing to maintain action in court for judicial review of agency action; although General Assembly may enact legislation affecting standing to bring type of action in court or prescribing criteria for standing to bring such action, determination of whether person has standing to maintain action in court is exclusively judicial rather than administrative function. Const.Declaration of Rights, Art. 8. [Sugarloaf Citizens' Ass'n v. Department of Environment, 1996, 686 A.2d 605, 344 Md. 271](#), reconsideration denied [689 A.2d 58, 344 Md. 570](#). Constitutional Law ↪ 79

Administrative agency may, without violating principle of separation of powers, adjudicate disputes of type that might ordinarily be resolved by court. Const.Declaration of Rights, Art. 8. [Maryland Aggregates Ass'n, Inc. v. State, 1995, 655 A.2d 886, 337 Md. 658](#), certiorari denied [115 S.Ct. 1965, 514 U.S. 1111, 131 L.Ed.2d 856](#). Constitutional Law ↪ 79

Agency in executive branch may ordinarily perform adjudicatory functions in harmony with separation of powers provided that there is opportunity for judicial review of agency's final determination. Const.Declaration of Rights, Art. 8. [Maryland Aggregates Ass'n, Inc. v. State, 1995, 655 A.2d 886, 337 Md. 658](#), certiorari denied [115 S.Ct. 1965, 514 U.S. 1111, 131 L.Ed.2d 856](#). Constitutional Law ↪ 80(1)

Decision of administrative agency is result of discharge of its executive duties, not result of exercise of judicial power. [Const. Art. 4, § 1. Ocean City Bd. of Sup'rs of Elections v. Gisriel, 1994, 648 A.2d 1091, 102 Md.App. 136](#), certiorari granted [655 A.2d 400, 337 Md. 641](#), affirmed [693 A.2d 757, 345 Md. 477](#), reconsideration denied, certiorari denied [118 S.Ct. 702, 522 U.S. 1053, 139 L.Ed.2d 645](#). Constitutional Law ↪ 79

Power granted commissioners of the district court of Maryland to issue a statement of charges is constitutionally authorized and lawfully vested; issuance of statements of charges by commissioners of the district court neither violates principle of separation of powers nor denies due process of law requirement that warrants be issued by a neutral and detached magistrate. [U.S.C.A. Const.Amends. 4, 14](#); Const.Declaration of Rights, Arts. 8, [26](#); [Const. Art. 4, § 41G](#); [Code, Courts and Judicial Proceedings, § 2-607\(c\)\(1-3\)](#); District Rules 701 et seq., 706, 720; [Md.Rule 4- 211\(b\)\(1\)](#). [State v. Smith, 1986, 505 A.2d 511, 305 Md. 489](#), certiorari denied [106 S.Ct. 2925, 476 U.S. 1186, 91 L.Ed.2d 552](#). Constitutional Law ☞ 80(2); Constitutional Law ☞ 261; Criminal Law ☞ 207(1)

Action of director of Health Claims Arbitration Office in sending initial nondecision back to arbitration panel for decision was not usurpation of any judicial function but was merely insistence that panel inform its functions of agreeing upon determination; thus, panel's amended determination was valid. [Code, Courts and Judicial Proceedings, §§ 3-224\(b\)\(1\), 3-2A-01 to 3- 2A-09, 3-2A-03\(b\)\(3\)](#). [Osheroff v. Chestnut Lodge, Inc., 1985, 490 A.2d 720, 62 Md.App. 519](#), certiorari denied [497 A.2d 1163, 304 Md. 163](#). Constitutional Law ☞ 79

Legislature's delegation of authority to election boards to determine that names on candidate's nominating petition are in fact names of registered voters of appropriate jurisdiction did not unconstitutionally vest judicial function in executive branch. [Code 1957, Art. 33, §§ 7-1, 7-1\(b\)\(2\), \(g, 1\)](#); Const.Declaration of Rights, Art. 8. [Burroughs v. Raynor, 1983, 468 A.2d 141, 56 Md.App. 432](#). Constitutional Law ☞ 80(2); Elections ☞ 120

Exercise of quasi-judicial authority by an administrative agency is not unconstitutional usurpation of judicial powers, at least when administrative action is subject to judicial review. [Burroughs v. Raynor, 1983, 468 A.2d 141, 56 Md.App. 432](#). Constitutional Law ☞ 79

The health care malpractice claims statute, which in essence requires that malpractice disputes be submitted to nonbinding arbitration as condition precedent to institution of court action, does not in any fashion impermissibly transgress the separation of powers doctrine, particularly in light of fact that parties are in no way bound by award of arbitration panel and that panel itself cannot enforce its award. Code, Courts and Judicial Proceedings, §§ 3-2A01 to 3-2A09; [Const. art. 4, § 1](#); Const.Declaration of Rights, art. 8. [Attorney General v. Johnson, 1978, 385 A.2d 57, 282 Md. 274](#), appeal dismissed [99 S.Ct. 60, 439 U.S. 805, 58 L.Ed.2d 97](#). Constitutional Law ☞ 80(1); Health ☞ 604

Mere performance by nonjudicial body of a function that would in another context be considered purely judicial, e. g., the determination of facts and the application of legal principles to those facts, cannot alone suffice to support a conclusion that the separation of powers principle has been violated. [Attorney General v. Johnson, 1978, 385 A.2d 57, 282 Md. 274](#), appeal dismissed [99 S.Ct. 60, 439 U.S. 805, 58 L.Ed.2d 97](#). Constitutional Law ☞ 79

An entity does not exercise the sovereign power of the state constitutionally assigned to the judiciary if its decision is in no sense final, binding or enforceable; no power of any meaningful kind, to say nothing of sovereign power, inheres in a decision which need not be accepted and which, if accepted, cannot be enforced by the entity which made it. [Attorney General v. Johnson, 1978, 385 A.2d 57, 282 Md. 274](#), appeal dismissed [99 S.Ct. 60, 439 U.S. 805, 58 L.Ed.2d 97](#). Constitutional Law ☞ 79

Where owners of slot machines and secretary of police commissioner agreed that question of lawfulness of the machines, under statute making lawful the operation of licensed machines operated by balls and plungers and other games dependent on player's skill, should be tested by criminal prosecution, owners were acquitted in the test case and the secretary stated that police department would accept the decision as determinative, owners were not thereby entitled to injunction against interference and confiscation by police, since agreements of administrative officials do not preclude courts in applying the law as the courts find it. Laws 1937, Ex.Sess., c. 11, § 6. [Hoke v. Lawson, 1938, 1 A.2d 77, 175 Md. 246](#). Constitutional Law ↪ 79

Legislature, in creating Public Service Commissions, may not delegate strictly judicial power. The [President and Commissioners of Port Deposit v. West, 1928, 141 A. 517, 155 Md. 124](#). Constitutional Law ↪ 80(2)

Legislature may clothe governmental agency with quasi judicial powers to regulate exercise of corporate privileges affected by public interest. [West v. Philadelphia, B. & W.R. Co., 1928, 141 A. 509, 155 Md. 104](#). Constitutional Law ↪ 80(2)

Legislature, in creating Public Service Commissions, may not delegate strictly judicial power. [West v. Philadelphia, B. & W.R. Co., 1928, 141 A. 509, 155 Md. 104](#). Constitutional Law ↪ 80(2)

Employers' Compensation Act in creating a commission, is not violative of [Const. art. 4, § 1](#), vesting judicial power of state in named courts, or article 8 of Declaration of Rights, declaring that legislative, executive, and judicial powers of government ought to be separate. [Solvuca v. Ryan & Reilly Co., 1917, 101 A. 710, 131 Md. 265](#). Constitutional Law ↪ 80(2)

Acts 1904, p. 954, c. 560, vesting in jury commissioners appointed by the Governor the power previously possessed by the sheriff of a certain county to select jurors, is not an unconstitutional infringement of the prerogatives of the judiciary. [State v. McNay, 1905, 60 A. 273, 100 Md. 622](#). Constitutional Law ↪ 80(2)

The Mayor of Hagerstown has, under the charter and ordinances of that city, authority to try and fine disorderly persons and lewd women, found within its corporate limits, and the exercise of such authority is but the exertion of the police power, as contradistinguished from the regular judiciary powers, and is, therefore, no infraction of that part of the Constitution of the State which appertains to the administration of the judicial power, strictly as such. [Shafer v. Mumma, 1861, 17 Md. 331, 79 Am.Dec. 656](#). Constitutional Law ↪ 80(3)

It has always been understood that under the police power, persons disturbing the public peace, persons guilty of a nuisance, or obstructing the public highways, and the like offenses, may be summarily arrested and fined, without any infraction of that part of the Constitution which appertains to the administration of the judicial power, strictly as such. [Shafer v. Mumma, 1861, 17 Md. 331, 79 Am.Dec. 656](#). Constitutional Law ↪ 80(3)

A mayor, who in no sense belongs to the judiciary, may be authorized to arrest and fine lewd and disorderly women. In so doing he but exercises the police power, which in this respect has always been well distinguished from the judicial power, both here and in England. [Shafer v. Mumma, 1861, 17 Md. 331, 79 Am.Dec. 656](#). Constitutional Law ↪ 80(3)

In no case is the power of removal of any officer discharging judicial functions conferred upon the governor, except by article 30 of the bill of rights, and [sections 4 and 9 of article 4 of the constitution](#), upon an address of the general assembly. [Cantwell v. Owens, 1859, 14 Md. 215](#). Constitutional Law ↪ 80(1); Judges ↪ 11(1)

[74. Executive privilege](#)

Doctrine of executive privilege has a basis in the constitutional separation of powers principle. Const. Declaration of Rights, Art. 8. [Hamilton v. Verdow, 1980, 414 A.2d 914, 287 Md. 544, 10 A.L.R.4th 333](#). Witnesses ↪ 216(1)

[75. Administrative agencies](#)

In determining whether state administrative agency is authorized to act in particular manner, statutes, legislative background and policies pertinent to that agency are controlling. [Lussier v. Maryland Racing Com'n, 1996, 684 A.2d 804, 343 Md. 681](#). Administrative Law And Procedure ↪ 305

With regard to validity of regulation promulgated by administrative agency, governing standard is whether regulation is consistent with letter and spirit of law under which agency acts. [Lussier v. Maryland Racing Com'n, 1996, 684 A.2d 804, 343 Md. 681](#). Administrative Law And Procedure ↪ 390.1

Although sentencing court has authority under [Code 1957, Art. 27, § 640\(b, c\); Art. 27A, § 7](#), to order restitution to victim and reimbursement of public defender's fees as condition of probation, sentencing court has no authority to order such restitution and reimbursement as condition of parole; sole authority over parole conditions rests with Parole Commission, although sentencing court may make suggestions for appropriate parole conditions. Code 1957, Art. 41, § 110(a); Const. Declaration of Rights, Art. 8. [Simms v. State, 1986, 501 A.2d 1338, 65 Md.App. 685](#). Parole And Pardon ↪ 54

Adjudicatory determinations by administrative agency are not "judgments" or "Decrees". [Const. art. 4, § 1](#); Const. Declaration of Rights, art. 8. [Attorney General v. Johnson, 1978, 385 A.2d 57, 282 Md. 274](#), appeal dismissed [99 S.Ct. 60, 439 U.S. 805, 58 L.Ed.2d 97](#). Administrative Law And Procedure ↪ 442

While administrative agencies perform activities which are legislative in nature, they also are frequently called upon to make factual determinations and thus adjudicate and this dual role has long been accepted as constitutionally permissible. [Const. art. 4, § 1](#); Const. Declaration of Rights, art. 8. [Attorney General v. Johnson, 1978, 385 A.2d 57, 282 Md. 274](#), appeal dismissed [99 S.Ct. 60, 439 U.S. 805, 58 L.Ed.2d 97](#). Administrative Law And Procedure ↪ 445

Dual role which administrative agencies play in performing some activities which are legislative in nature and in making factual determinations is constitutionally permissible. Const. Declaration of Rights, art. 8. [Department of Natural Resources v. Linchester Sand & Gravel Corp., 1975, 334 A.2d 514, 274 Md. 211](#). Administrative Law And Procedure ↪ 106; Administrative Law And Procedure ↪ 107

[76. Encroachment on judicial powers by administrative agencies](#)

That an administrative 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. [Const. art. 4, § 1](#); Const. Declaration of Rights, art. 8. [Attorney General v. Johnson, 1978, 385 A.2d 57, 282 Md. 274](#), appeal dismissed [99 S.Ct. 60, 439 U.S. 805, 58 L.Ed.2d 97](#). Constitutional Law ↪ 79

While administrative agencies, in proper performance of duties which legislature permissibly delegates to them, may use discretion to formulate policy, promulgate rules and adjudicate in order to determine specific questions of fact, they, nevertheless, in doing so are performing nonjudicial functions. Const. Declaration of Rights, art. 8; [Const. art. 4, § 1. Department of Natural Resources v. Linchester Sand & Gravel Corp., 1975, 334 A.2d 514, 274 Md. 211](#). Administrative Law And Procedure ↪ 107

[77](#). Judicial review of administrative decisions

General Assembly is ordinarily precluded from overturning a final judgment of the judiciary. [Burch v. United Cable Television of Baltimore Ltd. Partnership, 2006, 895 A.2d 980, 391 Md. 687](#). Constitutional Law ↪ 57

Judicial review of adjudicatory administrative decisions may not constitutionally be precluded if those decisions impair personal or property rights. [Const. Art. 4, § 1 State v. Board of Educ. of Montgomery County, 1997, 697 A.2d 1334, 346 Md. 633](#), reconsideration denied. Administrative Law And Procedure ↪ 652

General Assembly, in providing for administrative resolution of intra-governmental disputes, may validly preclude ordinary judicial review of final administrative decision. [State v. Board of Educ. of Montgomery County, 1997, 697 A.2d 1334, 346 Md. 633](#), reconsideration denied. Administrative Law And Procedure ↪ 654.1

In order to determine whether administrative agency's adjudication in order to determine specific questions of fact have been performed within confines of traditional standards of procedural and substantive fair play, courts may be provided with specific authorization to do so by legislature through statutory provision, but even absent such authority, judiciary has undeniable constitutionally inherent power to review, within limits, decisions of these administrative agencies. Const. Declaration of Rights, art. 8; [Const. art. 4, § 1. Department of Natural Resources v. Linchester Sand & Gravel Corp., 1975, 334 A.2d 514, 274 Md. 211](#). Administrative Law And Procedure ↪ 656

Court, in reviewing legislative actions or decisions of administrative agency, may apply weight of evidence test to factual findings of agency without exercising nonjudicial functions in violation of Declaration of Rights of the State Constitution providing that legislative and judicial functions must be and remain separate. Const. Declaration of Rights, art. 8. [State Ins. Commissioner v. National Bureau of Cas. Underwriters, 1967, 236 A.2d 282, 248 Md. 292](#). Administrative Law And Procedure ↪ 793; Constitutional Law ↪ 72

A taxpayer may invoke the aid of the court of equity to restrain action of public official or administrative agency when such action is illegal or ultra vires and may injuriously affect taxpayer's rights and property. [Pressman v. Barnes, 1956, 121 A.2d 816, 209 Md. 544](#). Administrative Law And Procedure ↪ 661; Injunction ↪ 74

IV. JUDICIAL POWERS

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[101](#). Nature and scope of powers

Suit by Maryland legislators against various Maryland officials challenging action of General Assembly Compensation Commission setting lower legislator salaries for those legislators who are public employees on several federal constitutional grounds warranted abstention by federal court since the federal constitutional questions were entangled in a skein of state laws which must be untangled before federal case could proceed and application of Maryland constitutional provisions might obviate need to meet federal constitutional questions. Const.Md. Declaration of Rights, art. 8; [Const.Md. art. 3, §§ 7, 15\(2, 3\)](#); [28 U.S.C.A. §§ 1253, 1331, 1343](#); [42 U.S.C.A. § 1983](#). [Blount v. Mandel, 1975, 400 F.Supp. 1190](#). Federal Courts ↪ 58

Statutory provisions for appeals to Court of Appeals and Court of Special Appeals from tax court decisions were unconstitutional, in that tax court did not exercise a judicial function and thus a

review of its decision was an exercise of original rather than appellate judicial jurisdiction. Code 1957, art. 81, §§ 224, 229(i, l, m); [Code, Courts and Judicial Proceedings, §§ 12-201, 12-203, 12-308\(b\)](#); [Const. art. 4, §§ 1, 14A](#); Declaration of Rights, art. 8. [Shell Oil Co. v. Supervisor of Assessments of Prince George's County, 1975, 343 A.2d 521, 276 Md. 36](#). Constitutional Law ↪ 67; Courts ↪ 206(7.2)

Any attempt by legislature to impose judicial functions on tax court would not result in exercise of original jurisdiction by such agency so as to render a court's review of such agency's decisions an exercise of appellate jurisdiction, rather, such an attempt would violate separation of powers requirement of State Constitution and would violate constitutional limitation that only courts enumerated in Constitution can exercise judicial power. [Const. art. 4, § 1](#); Declaration of Rights, art. 8. [Shell Oil Co. v. Supervisor of Assessments of Prince George's County, 1975, 343 A.2d 521, 276 Md. 36](#). Constitutional Law ↪ 67

Legislature, in delegating to tax court certain duties the performance of which required it to make factual determinations and adjudicate disputes, has not delegated a judicial function or judicial authority to tax court in violation of State Constitution. [Const. art. 4, § 1](#); Declaration of Rights, art. 8. [Shell Oil Co. v. Supervisor of Assessments of Prince George's County, 1975, 343 A.2d 521, 276 Md. 36](#). Constitutional Law ↪ 67

Construing statutes in connection with applying statutory provisions to specific cases is a large and essential part of the judicial process and it is one of the principal functions which courts were created to perform. Const. Declaration of Rights, art. 8. [Mangum v. Maryland State Bd. of Censors, 1974, 328 A.2d 283, 273 Md. 176](#). Statutes ↪ 176

If the State does not have the right to appeal from the imposition of an illegal sentence, the Court of Appeals would not hesitate to act by issuance of the writ of prohibition. [State ex rel. Sonner v. Shearin, 1974, 325 A.2d 573, 272 Md. 502, 73 A.L.R.3d 454](#). Courts ↪ 207.5

Making of distinctions between one group of facts and another in deciding legal rules, and classification of relationships in light of principles of justice, history and social welfare and the determination of rights and liabilities according to status and general circumstances is a necessary part of judicial function and violates no principle of separation of powers, for traditionally and as an inherent part of our system of government their formulation is a necessary part of judicial duty. [Deems v. Western Maryland Ry. Co., 1967, 231 A.2d 514, 247 Md. 95](#). Constitutional Law ↪ 67

Chancellor had no jurisdiction to enjoin and prohibit the Secretary of State from transmitting house bill, which had been vetoed by the Governor, to the House of the General Assembly where the house bill originated, as required by the Constitution, on ground that the house bill, if passed over the Governor's veto, would be void. Code 1951, art. 16, §§ 238, 239; Acts 1927, c. 448; [Const. art. 2, § 17](#); [art. 3, § 28](#); Declaration of Rights, art. 8. [Maryland-National Capital Park and Planning Commission v. Randall, 1956, 120 A.2d 195, 209 Md. 18](#). Injunction ↪ 75

Statute prescribing form for certifying exceptions on appeal held valid. Acts 1927, c. 224; [Const. art. 4, § 18](#); and Declaration of Rights, art. 8. [Savage Mfg. Co. v. Magne, 1927, 139 A. 570, 154 Md. 46](#). Constitutional Law ↪ 55; Appeal And Error ↪ 2

Under Declaration of Rights, art. 8, it is not left to the discretion of judicial officers whether they

will or will not perform nonjudicial duties, but they are not permitted to do so. [Close v. Southern Maryland Agricultural Ass'n, 1919, 108 A. 209, 134 Md. 629](#). Constitutional Law ↪ 67

Code (vol. 3) art. 27, §§ 218-221, authorizing the licensing of betting and bookmaking at and on horse races within the grounds of an agricultural association, etc., on license by the circuit court, held violative of Declaration of Rights, art. 8, as involving the exercise of nonjudicial functions, ministerial and legislative, by the circuit court, particularly in view of section 217. [Close v. Southern Maryland Agricultural Ass'n, 1919, 108 A. 209, 134 Md. 629](#). Constitutional Law ↪ 67

If action of circuit court, in granting agricultural association license to make and permit betting, pool selling, and bookmaking on the result of horse races, was prohibited by Declaration of Rights, art. 8, because not a judicial act, the circuit court had no jurisdiction to grant the license, and the Court of Appeals can entertain an appeal from its action, having jurisdiction to review the circuit court acting without jurisdiction either on appeal, writ of error, or of its own motion, even though the question of jurisdiction was not raised below, as Code, art. 5, § 9, does not apply to such question. [Close v. Southern Maryland Agricultural Ass'n, 1919, 108 A. 209, 134 Md. 629](#). Appeal And Error ↪ 185(1)

102. Construction of statutes

In interpreting statute, court is constrained to look first to the language of the statute and attempt, insofar as possible, to glean the legislative intent in its enactment. [Owens Corning v. Bauman, 1999, 726 A.2d 745, 125 Md.App. 454](#), modified on clarification, certiorari denied [731 A.2d 970, 354 Md. 572](#). Statutes ↪ 181(1); Statutes ↪ 188

If words of statute are of doubtful or ambiguous meaning, a proper course of construction is to adopt meaning of words which best harmonizes with the context and promotes the policy and objects of the Legislature. [Pressman v. Barnes, 1956, 121 A.2d 816, 209 Md. 544](#). Statutes ↪ 184; Statutes ↪ 208

103. Delegation of powers

Exercise of trial judge's discretion in maintaining courtroom security may not be delegated to courtroom security personnel. [Lovell v. State, 1997, 702 A.2d 261, 347 Md. 623](#). Constitutional Law ↪ 75

Decision as to whether accused should wear leg cuffs or shackles to maintain courtroom security must be made by judge personally, and may not be delegated to courtroom security personnel. [Whittlesey v. State, 1995, 665 A.2d 223, 340 Md. 30](#), certiorari denied [116 S.Ct. 1021, 516 U.S. 1148, 134 L.Ed.2d 100](#), denial of habeas corpus affirmed [301 F.3d 213](#), certiorari denied [123 S.Ct. 1584, 538 U.S. 930, 155 L.Ed.2d 326](#), rehearing denied [123 S.Ct. 2127, 538 U.S. 1054, 155 L.Ed.2d 1102](#). Constitutional Law ↪ 75

While trial court has broad discretion in matters of courtroom security, court may not delegate that discretion to third party. [Hunt v. State, 1990, 583 A.2d 218, 321 Md. 387](#), certiorari denied [112 S.Ct. 117, 502 U.S. 835, 116 L.Ed.2d 86](#). Constitutional Law ↪ 75

Trial court's decision to change level of courtroom security, from enhanced security to even greater security by ordering defendant to wear leg irons did not constitute improper delegation of

discretion concerning courtroom security to third party; it was not mere acquiescence in recommendation by chair of court's security committee, but was mature reflection on not only chair's testimony, but also on additional information contained in presentence report. [Hunt v. State, 1990, 583 A.2d 218, 321 Md. 387](#), certiorari denied [112 S.Ct. 117, 502 U.S. 835, 116 L.Ed.2d 86](#). Constitutional Law ↪ 75

[103.5](#). Administrative agencies

Even if an ordinance by a chartered county failed to provide for judicial review of an adjudicatory administrative decision, such review, by a mandamus, certiorari, or declaratory judgment action, would ordinarily be guaranteed by the Maryland Declaration of Rights and the Maryland Constitution. [Edwards Systems Technology v. Corbin, 2004, 841 A.2d 845, 379 Md. 278](#). Counties ↪ 58

[104](#). Political questions

Courts' role in making certain, upon complaint, that boards of canvassers follow Legislature's explicit directions in how to collect and count votes, does not trample upon textually demonstrable commitment of issue to coordinate political department. [Const. Art. 1, § 3; Art. 3, § 19](#); Const.Declaration of Rights, Art. 8. [Lamb v. Hammond, 1987, 518 A.2d 1057, 308 Md. 286](#). Constitutional Law ↪ 68(1)

[105](#). Advisory opinions

Court of Appeals is not constitutionally barred from rendering "advisory opinion" in a case in which, because the action is moot or collusive, there is no controversy between the parties before the court. [Code, Courts and Judicial Proceedings, §§ 3-401 to 3-415, 3-409](#); U.S.C.A.Const. art. 3, § 2; [Const. art. 4, §§ 1 et seq., 14](#); Const. Declaration of Rights, art. 8. [Reyes v. Prince George's County, 1977, 380 A.2d 12, 281 Md. 279](#). Constitutional Law ↪ 69

[106](#). Election law

In area of underlying area of justiciability of dispute as to whether absentee ballot should be counted in election for seat in House of Delegates, courts' power to inquire is necessarily broader than the power to act. [Const. Art. 1, § 3; Art. 3, § 19](#); Const.Declaration of Rights, Art. 8. [Lamb v. Hammond, 1987, 518 A.2d 1057, 308 Md. 286](#). Elections ↪ 275

Provision of the Corrupt Practices Act providing for civil remedy, but imposing a nonjudicial function upon judiciary, violated the Maryland Declaration of Rights and, consequently, superior court had no jurisdiction to entertain petition under the Act challenging primary election for office of register of wills. Const.Declaration of Rights, Art. 8; Code 1957, Art. 33, § 26- 18(d). [Duffy v. Conaway, 1983, 455 A.2d 955, 295 Md. 242](#). Elections ↪ 311

[107](#). Judicial encroachment on legislature--In general

A court decision subsequent to enactment of a statute does not ordinarily alter its original meaning, nor is a general act of Congress to be considered in the nature of a private contract which courts should nullify upon a showing of partial or total failure of consideration. [Adams v. State of Md., 1954, 74 S.Ct. 442, 347 U.S. 179, 98 L.Ed. 608](#). Constitutional Law ↪ 70.1(1)

Determination of fair value for rate-making purposes is judicial function which calls for reasonable judgment based on proper consideration of all relevant facts including amounts arrived at by varying methods of valuation. [Chesapeake & Potomac Telephone Co. of Baltimore City v. West, 1934, 7 F.Supp. 214, affirmed 55 S.Ct. 894, 295 U.S. 662, 79 L.Ed. 1640, rehearing denied 56 S.Ct. 82, 296 U.S. 661, 80 L.Ed. 471.](#) Constitutional Law ↪ 70.1(7.1)

Courts, at all levels, are enjoined not to substitute their judgment for that of the coordinate branch of government to whom such judgment has been, in our scheme of divided government, primarily entrusted. [People's Counsel for Baltimore County v. Beachwood I Ltd. Partnership, 1995, 670 A.2d 484, 107 Md.App. 627,](#) reconsideration denied, certiorari denied [677 A.2d 565, 342 Md. 472.](#) Constitutional Law ↪ 70.1(1); Constitutional Law ↪ 72

Measure of workers' compensation to be appropriately awarded is not for court to create or change. [Mayor and City Council of Baltimore v. Oros, 1984, 483 A.2d 748, 301 Md. 460.](#) Constitutional Law ↪ 70.1(7.1)

Court of Appeals need not be convinced that reasons for statutory distinctions are good ones; that is question for the legislature; rather, Court need only find that there is some rational relationship between the legislature's goal and the means chosen to achieve it. [Department of Transp., Motor Vehicle Admin. v. Armacost, 1984, 474 A.2d 191, 299 Md. 392.](#) Constitutional Law ↪ 70.1(1)

Common-law terminable-at-will doctrine is subject to modification by judicial decision where Court of Appeals finds that it is no longer suitable to circumstances of people. [Adler v. American Standard Corp., 1981, 432 A.2d 464, 291 Md. 31.](#) Constitutional Law ↪ 70.1(7.1)

Principles behind the constitutional separation of powers of the Maryland Declaration of Rights place limits on the 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. Const. Declaration of Rights, Art. 8. [Hamilton v. Verdow, 1980, 414 A.2d 914, 287 Md. 544, 10 A.L.R.4th 333.](#) Constitutional Law ↪ 70.1(1); Constitutional Law ↪ 72

Weighing the degree of burden on landlords against need for regulations is legislative and administrative matter, not a judicial one. [Montgomery County v. Fields Road Corp., 1978, 386 A.2d 344, 282 Md. 575.](#) Constitutional Law ↪ 70.1(7.1); Constitutional Law ↪ 72

When reviewing legislation dealing with a serious problem in a new and untried fashion, courts are under a special duty to respect the legislative judgment as to the proper means of solving the problem. [Const. art. 3, § 40;](#) Declaration of Rights, arts. 8, [23;](#) [U.S.C.A.Const. art. 1, § 8, cl. 3;](#) [Amends. 5, 14.](#) [Governor of Maryland v. Exxon Corp., 1977, 370 A.2d 1102, 279 Md. 410,](#) motion denied [372 A.2d 237, 279 Md. 410,](#) probable jurisdiction noted [98 S.Ct. 50, 434 U.S. 814, 54 L.Ed.2d 69,](#) affirmed [98 S.Ct. 2207, 437 U.S. 117, 57 L.Ed.2d 91,](#) rehearing denied [99 S.Ct. 232, 439 U.S. 884, 58 L.Ed.2d 200,](#) rehearing denied [99 S.Ct. 233, 439 U.S. 884, 58 L.Ed.2d 200.](#) Constitutional Law ↪ 70.1(1)

Judicial deference to legislative judgment is appropriate when reviewing legislation dealing with economic problems. [Const. art. 3, § 40;](#) Declaration of Rights, arts. 8, [23;](#) [U.S.C.A.Const. Amends. 5, 14.](#) [Governor of Maryland v. Exxon Corp., 1977, 370 A.2d 1102, 279 Md. 410,](#) motion denied [372 A.2d 237, 279 Md. 410,](#) probable jurisdiction noted [98 S.Ct. 50, 434 U.S. 814, 54 L.Ed.2d 69,](#) affirmed [98 S.Ct. 2207, 437 U.S. 117, 57 L.Ed.2d 91,](#) rehearing denied [99 S.Ct.](#)

[232, 439 U.S. 884, 58 L.Ed.2d 200](#), rehearing denied [99 S.Ct. 233, 439 U.S. 884, 58 L.Ed.2d 200](#). Constitutional Law ↪ 70.1(7.1)

Although circuit court is vested with jurisdiction upon allegations of arbitrary or illegal actions, it cannot be exercised for petitioner's benefit unless he can carry the heavy burden of proving such arbitrariness; court, in the exercise of its inherent power, must take care not to interfere with the legislative prerogative or the exercise of the sound administrative discretion. [State Dept. of Assessments and Taxation v. Clark, 1976, 367 A.2d 69, 34 Md.App. 136](#), certiorari granted 280 Md. 735, reversed [380 A.2d 28, 281 Md. 385](#). Constitutional Law ↪ 70.1(1); Constitutional Law ↪ 72

If authority to order repeated reevaluations to determine delinquency is to be granted in defective delinquency proceeding, legislature, not courts, should provide it. [Code 1957, art. 31B, § 6. Wilson v. State, 1976, 355 A.2d 752, 31 Md.App. 255](#). Constitutional Law ↪ 70.1(7.1)

Courts are under a special duty to respect the legislative judgment where legislature is attempting to solve a serious problem in a manner which has not had an opportunity to prove its worth. [Bowie Inn, Inc. v. City of Bowie, 1975, 335 A.2d 679, 274 Md. 230, 73 A.L.R.3d 1079](#). Constitutional Law ↪ 70.1(1)

Court of Appeals' actions in construing the term "obscene" as used in censorship statute, and in interpreting the term to encompass such sexual matters in films as may be constitutionally proscribed, did not amount to judicial legislation in violation of separation of powers article of the Declaration of Rights. Const. Declaration of Rights, art. 8. [Mangum v. Maryland State Bd. of Censors, 1974, 328 A.2d 283, 273 Md. 176](#). Constitutional Law ↪ 70.1(7.1)

Provision of safeguards to protect subsequent injury fund from invasion by unwarranted awards, is within province of legislature and not the courts. Code 1957, art. 101, § 66. [Subsequent Injury Fund v. Pack, 1968, 242 A.2d 506, 250 Md. 306](#). Constitutional Law ↪ 70.1(7.1)

A judicial determination of arbitrariness, oppressiveness and unreasonableness must be made in light of broad discretion given Legislature in exercise of its police power and cannot be substitution of court's judgment for that of legislative body. [A. & H. Transp., Inc. v. Mayor and City Council of Baltimore, 1968, 240 A.2d 601, 249 Md. 518](#). Constitutional Law ↪ 70.1(1)

Legislative findings that unification at a single, centrally located site, of servicing functions and activities connected with waterborne commerce and trade had single object of preserving economic well-being of state and was in public interest, were entitled to substantial weight. Code 1957 and Supp. art. 62B, §§ 1-25, 4, 10 and (d), 12. [Lerch v. Maryland Port Authority, 1965, 214 A.2d 761, 240 Md. 438](#). Constitutional Law ↪ 70.1(7.1)

Courts will not substitute their judgment for that of a legislative body where question involved is fairly debatable, and action taken by legislative body in such circumstances is not arbitrary, capricious, discriminatory, or illegal. [Marcus v. Montgomery County Council, 1964, 201 A.2d 777, 235 Md. 535](#). Constitutional Law ↪ 70.1(1)

Much of the making and interpreting of law is the drawing of lines, and legislative body must often do the drawing. [Maryland Dept. of Employment Sec. v. Werner, 1963, 190 A.2d 786, 231 Md. 474](#). Constitutional Law ↪ 70.1(1)

The admission of a resident of Maryland to practice law is a legislative, not a judicial function in that the right may constitutionally be regulated by statute. [Bastian v. Watkins, 1963, 187 A.2d 304, 230 Md. 325](#). Constitutional Law ↪ 70.1(7.1)

Question whether Maryland Public Service Commission should authorize a common carrier to enter into a field having an established system of transportation is a legislative, not a judicial, question, unless the decision of the Commission is shown to be arbitrary or unreasonable. [Clark v. Public Service Commission, 1956, 120 A.2d 363, 209 Md. 121](#). Constitutional Law ↪ 70.1(7.1)

The duty of courts not to substitute their judgment for judgment of legislative or administrative authorities, acting within their powers, is no more imperative than the power and duty to set aside any purported exercise of such power which is in fact arbitrary, capricious or confiscatory. [Maryland Advertising Co. v. Mayor and City Council of Baltimore, 1952, 86 A.2d 169, 199 Md. 214](#). Constitutional Law ↪ 70.1(1)

Where statute did not delegate authority to comptroller of treasury to fix prices of liquor horizontally, but delegated authority to fix prices vertically, even if omission to delegate such authority had been inadvertent, omission could only be supplied by legislative enactment. Code Supp.1947, art. 2B, §§ 94, 157, 158. [Dundalk Liquor Co. v. Tawes, 1951, 79 A.2d 525, 197 Md. 446](#). Constitutional Law ↪ 70.1(7.1)

Enjoining submission of a proposed charter which is invalid is not an interference with the legislative process. [Schneider v. Lansdale, 1948, 61 A.2d 671, 191 Md. 317](#). Constitutional Law ↪ 70.1(1)

Whether competition should be permitted between common carriers of passengers by motor vehicle is a legislative question, not one for the judiciary, unless the decision is shown to be unreasonable or arbitrary. Code 1939, art. 23, § 419. [Bosley v. Quigley, 1948, 56 A.2d 835, 189 Md. 493](#), certiorari denied [68 S.Ct. 1339, 334 U.S. 828, 92 L.Ed. 1756](#). Constitutional Law ↪ 70.1(7.1)

The court is not at liberty to construe the negative words in the general policy section 2 of the Unemployment Compensation Act that unemployment reserves are to be used for persons unemployed "through no fault of their own" as an affirmative disqualification for "fault" without regard to the express provisions of [section 5\(d\)](#) disqualifying individuals for benefits in specified circumstances since any incongruity between the two sections may be eliminated only by the Legislature. Code Supp.1943, art. 95A, §§ 2, 5(d). [Tucker v. American Smelting & Refining Co., 1947, 55 A.2d 692, 189 Md. 250](#). Constitutional Law ↪ 70.1(7.1)

Court of Appeals has duty to construe the Workmen's Compensation Act, not to revise it. Code 1939, art. 101, § 35, as amended by Laws 1945, c. 528. [Bata Shoe Co. v. Chvojan, 1947, 52 A.2d 105, 188 Md. 153](#). Constitutional Law ↪ 70.1(7.1)

The distinction between governmental and proprietary functions of a municipality cannot be judicially altered but may be done only by authority of statute. [Cox v. Board of Com'rs of Anne Arundel County, 1943, 31 A.2d 179, 181 Md. 428](#). Constitutional Law ↪ 70.1(7.1)

A "temporary total disability," a "permanent total disability," a "temporary partial disability" and

a "permanent partial disability" are four different compensable results, and the measure of compensation to be appropriately awarded for each result is not for the court to create nor to change, but rather the court must declare the legislative intention as expressed by the compensation statute. Code Pub.Gen.Laws Supp. [1935, art. 101, § 36\(2, 3\)](#), amended Acts 1937, c. 329. [Gorman v. Atlantic Gulf & Pacific Co., 1940, 12 A.2d 525, 178 Md. 71](#). Constitutional Law ↪ 70.1(7.1)

Where legislative power of state in regard to building of wharves at city harbor had been given expression in city ordinances establishing pierhead line, court would not amend ordinances by judicial power by compelling city officials to issue to riparian owner permit to build wharf beyond established pierhead line. Code Pub.Gen.Laws 1924, art. 54, §§ 46-48; Code Pub.Loc.Laws 1930, [art. 4, § 6\(8\)](#). [Cahill v. Mayor and City Council of Baltimore, 1938, 196 A. 305, 173 Md. 450](#). Constitutional Law ↪ 70.1(7.1)

Court has no power to erect or interpolate other qualifications than those stated in statute relating to proposal for reorganization of banking institution. Code Pub.Gen.Laws 1924, art. 11, § 52, and § 9C, as added by Acts 1933, c. 529, § 2. [State v. Title Guarantee & Trust Co., 1935, 177 A. 617, 168 Md. 376, 99 A.L.R. 1204](#). Constitutional Law ↪ 70.1(7.1)

As respects determination of relation of motor vehicles as common carriers among themselves and with other common carriers, courts have no jurisdiction except to determine legality or unreasonableness of action of Public Service Commission, since questions involved are legislative and administrative rather than judicial. [West v. Williams, 1934, 173 A. 259, 167 Md. 316](#). Constitutional Law ↪ 70.1(7.1); Constitutional Law ↪ 72

Court of Appeals cannot create remedy where none exists; its function being to discover and apply existing law. [Keane v. State, 1933, 166 A. 410, 164 Md. 685](#). Constitutional Law ↪ 70.1(1)

Courts should be governed by plain language of compensation statute, not by strained construction making Legislature say something it did not say. Code Pub.Gen.Laws 1924, art. 101, § 1 et seq. [Cambridge Mfg. Co. v. Johnson, 1931, 153 A. 283, 160 Md. 248](#). Constitutional Law ↪ 70.1(7.1)

Court cannot extend operation of Compensation Law beyond scope of act. [Gunter v. Sharp & Dohme, 1930, 151 A. 134, 159 Md. 438](#). Constitutional Law ↪ 70.1(7.1)

Valid privilege granted by Legislature may not be withdrawn or circumscribed by judicial construction. [Public Service Commission, 1927, 138 A. 404, 153 Md. 464](#). Constitutional Law ↪ 70.1(7.1)

Workmen's Compensation Law, Code Pub.Gen.Laws 1924, art. 101, must be construed in accordance with its language. [Sea Gull Specialty Co. v. Snyder, 1926, 134 A. 133, 151 Md. 78](#). Constitutional Law ↪ 70.1(7.1)

City's remedy for action of Public Service Commission in refusing permit to extend and construct new electric power plant, claimed arbitrary, held to be in courts and not in Legislature. [Littleton v. City of Hagerstown, 1926, 132 A. 773, 150 Md. 163](#). Constitutional Law ↪ 70.1(7.1)

[108](#). ---- Making, interpretation, and application of laws, judicial encroachment on legislature,

judicial powers

Court may not insert or omit words to make statute express intention which is not evidenced in its original form. [Management Personnel Services, Inc. v. Sandefur](#), 1984, 478 A.2d 310, 300 Md. 332; [Erwin and Shafer, Inc. v. Pabst Brewing Co., Inc.](#), 1985, 498 A.2d 1188, 304 Md. 302; [Mayor and City Council of Baltimore v. Hackley](#), 1984, 477 A.2d 1174, 300 Md. 277; [Allgood v. Somerville](#), 1979, 403 A.2d 837, 43 Md.App. 187; [Cummings v. Wildman](#), 1911, 81 A. 610, 116 Md. 307; [Hill v. State](#), 2000, 759 A.2d 1164, 134 Md.App. 327, certiorari denied 763 A.2d 735, 362 Md. 188; [ST Systems Corp. v. Maryland Nat. Bank](#), 1996, 684 A.2d 32, 112 Md.App. 20; [In re Patrick A.](#), 1987, 520 A.2d 743, 70 Md.App. 191, certiorari granted 526 A.2d 610, 309 Md. 706, affirmed 540 A.2d 810, 312 Md. 482; [Collier v. Connolley](#), 1979, 400 A.2d 1107, 285 Md. 123; [Department of Natural Resources v. Adams](#), 1977, 377 A.2d 500, 37 Md.App. 165; [Todd v. Weikle](#), 1977, 376 A.2d 104, 36 Md.App. 663; [Gray v. Anne Arundel County](#), 1987, 533 A.2d 1325, 73 Md.App. 301.

Courts must be governed by intention of Legislature if that can be ascertained from the statute, but cannot legislate for it simply because they may think it ought to have said something else. [Bartlett v. Ligon](#), 1920, 109 A. 473, 135 Md. 620; [In re Rubin](#), 1992, 154 B.R. 897; [McCance v. Lindau](#), 1985, 492 A.2d 1352, 63 Md.App. 504; [Brown v. Doug Griffith Dodge City, Inc.](#), 1982, 452 A.2d 984, 52 Md.App. 687, certiorari denied 295 Md. 440.

Court may not surmise legislative intention contrary to words and letters of statute, or insert or delete words with view of making statute express intention which is different from plain meaning. [Taylor v. Mayor and City Council of Baltimore](#), 1982, 443 A.2d 657, 51 Md.App. 435; [Maryland Indus. Development Financing Authority v. Meadow-Croft](#), 1966, 221 A.2d 632, 243 Md. 515; [Bosley v. Dorsey](#), 1948, 60 A.2d 691, 191 Md. 229; [Celanese Corp. of America v. Davis](#), 1946, 47 A.2d 379, 186 Md. 463; [Roach v. Jurchak](#), 1944, 35 A.2d 817, 182 Md. 646.

Where the Legislature has not specifically instructed the courts to expand the scope of a penal statute, the rule of lenity dictates that they limit such laws to that which can be construed clearly from the statute. [Deville v. State](#), 2004, 858 A.2d 484, 383 Md. 217. Statutes ⚡ 241(1)

Generally, Court of Special Appeals may not read into a statute a meaning that is not expressly stated or clearly implied. [Allfirst Bank v. Department of Health and Mental Hygiene](#), 2001, 780 A.2d 440, 140 Md.App. 334. Constitutional Law ⚡ 70.1(2)

In construing statute, court may not read a meaning into statute that is not expressly stated or clearly implied, nor may it embellish statute to expand its meaning. [Rouse-Fairwood Ltd. Partnership v. Supervisor of Assessments of Prince George's County](#), 1998, 708 A.2d 19, 120 Md.App. 667. Constitutional Law ⚡ 70.1(2)

Court may not read into statute meaning that is not expressly stated or clearly implied, nor may court embellish statutory provision so as to enlarge its meaning. [Abington Center Associates Ltd. Partnership v. Baltimore County](#), 1997, 694 A.2d 165, 115 Md.App. 580. Constitutional Law ⚡ 70.1(2)

Court may not substitute its judgment for that of Legislature and rewrite legislation even if it disagrees with it, and is not free to amend statute under guise of statutory construction; if court believes there is problem with particular legislation, it is limited to calling Legislature's attention to

it. [Linkus v. Maryland State Bd. of Heating Ventilation, Air-Conditioning and Refrigeration Contractors, 1997, 689 A.2d 1254, 114 Md.App. 262](#). Constitutional Law ↪ 70.1(2)

Where legislature has mandated insurance coverage, Court of Appeals will not create exclusions that are not specifically set out in statute. [Code, Transportation, §§ 18-102\(b\), 18-106. Enterprise Leasing Co. v. Allstate Ins. Co., 1996, 671 A.2d 509, 341 Md. 541](#). Constitutional Law ↪ 70.1(2); Insurance ↪ 2093

Language of statute must be interpreted in context and given full effect, neither adding nor deleting words to obtain meaning not otherwise intended, as evidenced by words actually used. [Haupt v. State, 1995, 667 A.2d 179, 340 Md. 462](#). Constitutional Law ↪ 70.1(2); Statutes ↪ 208

In its task of construing statute, court is no more free to interpolate a word that the legislature has removed by amendment than it would have been warranted in ignoring that word before the amendment was made; this is especially true if word removed has history of judicially established significance. [Edsall v. Anne Arundel County, 1993, 632 A.2d 763, 332 Md. 502](#). Constitutional Law ↪ 70.1(2)

Court of Appeals will not inferentially manufacture additional components of statute that do not exist. [Fairbanks v. McCarter, 1993, 622 A.2d 121, 330 Md. 39](#). Constitutional Law ↪ 70.1(2)

When analyzing words of statute, court should not insert or delete words when language is plain and free from ambiguity. [Doneski v. Comptroller of Treasury, 1992, 605 A.2d 649, 91 Md.App. 614](#), certiorari denied [610 A.2d 796, 327 Md. 523](#), certiorari denied [113 S.Ct. 981, 506 U.S. 1054, 122 L.Ed.2d 134](#). Constitutional Law ↪ 70.1(2)

Courts should avoid creating ambiguity where none exists in statute and be wary of inserting words with view toward making statute express an intention which is different from its plain meaning. [Gray v. Anne Arundel County, 1987, 533 A.2d 1325, 73 Md.App. 301](#). Constitutional Law ↪ 70.1(2)

Where legislature was aware of defect in statute and took step to remedy it, court cannot circumvent clear expression of their intent by inserting words or phrases into statute. [Creighton v. State, 1987, 520 A.2d 382, 70 Md.App. 124](#). Constitutional Law ↪ 70.1(2)

Courts will not, under guise of construction, remedy defect in statute or insert exception not made by legislature. [Davis v. State, 1982, 451 A.2d 107, 294 Md. 370](#). Constitutional Law ↪ 70.1(2)

Courts will not, under guise of statutory construction, supply omissions or remedy possible defects in a statute, or insert exceptions not made by legislature. [Employment Sec. Administration v. Browning-Ferris, Inc., 1982, 438 A.2d 1356, 292 Md. 515](#). Constitutional Law ↪ 70.1(2)

Court of Special Appeals may not judicially extend legislative pronouncement beyond its clear language. [Erman v. State, 1981, 434 A.2d 1030, 49 Md.App. 605](#), certiorari denied 292 Md. 13, certiorari denied [102 S.Ct. 1756, 456 U.S. 908, 72 L.Ed.2d 165](#). Constitutional Law ↪ 70.1(2)

Court may not add to statute by judicial construction or lightly read into statute by implication provision which legislature did not see fit to include. [Erman v. State, 1981, 434 A.2d 1030, 49 Md.App. 605](#), certiorari denied 292 Md. 13, certiorari denied [102 S.Ct. 1756, 456 U.S. 908, 72](#)

[L.Ed.2d 165](#). Constitutional Law ↪ 70.1(2)

Courts may not, under guise of statutory construction, remedy possible defects in a statute or insert exceptions not made by the legislature, and such principle is also applicable in regard to administrative agencies. [Mauzy v. Hornbeck, 1979, 400 A.2d 1091, 285 Md. 84](#). Constitutional Law ↪ 70.1(2); Constitutional Law ↪ 72

To supply omissions in a statute transcends judicial function. [Allen v. State, 1973, 307 A.2d 493, 18 Md.App. 459](#). Constitutional Law ↪ 70.1(2)

An appellate court's function is one of interpretation of statutes and does not include power of amendment under guise of interpretation. [Allen v. State, 1973, 307 A.2d 493, 18 Md.App. 459](#). Constitutional Law ↪ 70.1(2)

A statute should not be added to by judicial construction. [Barrett v. Charlson, 1973, 305 A.2d 166, 18 Md.App. 80](#). Constitutional Law ↪ 70.1(2)

To supply omissions in statutes transcends judicial function. [Amalgamated Cas. Ins. Co. v. Helms, 1965, 212 A.2d 311, 239 Md. 529](#). Constitutional Law ↪ 70.1(2)

Whether statute should be amended is for Legislature, not court. Code 1957, art. 63, §§ 1, 13. [Giles & Ransome, Inc. v. First Nat. Realty Corp., 1965, 208 A.2d 582, 238 Md. 203](#). Constitutional Law ↪ 70.1(2)

Interpolation of words, in order to make a statute include matter which legislature did not expressly include, invades the function of the legislature. [Bosley v. Dorsey, 1948, 60 A.2d 691, 191 Md. 229](#). Constitutional Law ↪ 70.1(2)

Interpolation of words to make a statute include matters which the legislature did not expressly include invades the legislative function, irrespective of the plausibility of the conjecture that such matters were within the legislative purview. [Rogan v. Baltimore & O. R. Co., 1947, 52 A.2d 261, 188 Md. 44](#). Constitutional Law ↪ 70.1(2)

The court may not add to the language of a statute a provision within its obvious purpose or plan and apparently omitted through inadvertence, but must hold that the omission was intentional. [Rogan v. Baltimore & O. R. Co., 1947, 52 A.2d 261, 188 Md. 44](#). Constitutional Law ↪ 70.1(2)

Where context of a statute does not require that words thereof be given a different meaning so as to include a given case the court may not extend the statute to include it, unless the case so clearly falls within the reason of the statute as to warrant the inference that it was not expressly mentioned only because it was deemed unnecessary. [Rogan v. Baltimore & O. R. Co., 1947, 52 A.2d 261, 188 Md. 44](#). Constitutional Law ↪ 70.1(2)

Where a case is omitted from a statute because not foreseen or contemplated, it is a casus omisus, and may not be supplied by the court, even though statute cannot be complied with without additional provisions. [Rogan v. Baltimore & O. R. Co., 1947, 52 A.2d 261, 188 Md. 44](#). Constitutional Law ↪ 70.1(2)

Court of Appeals has no authority, where Legislature has spoken, to distort the Legislature's

words and usurp the functions of the legislative branch of the government by making judicial law. [Clark v. Tawes, 1946, 49 A.2d 463, 187 Md. 195](#). Constitutional Law ↪ 70.1(2)

The interpretation of an act is a judicial and not a legislative function. [Ryan v. Herbert, 1946, 47 A.2d 360, 186 Md. 453](#). Constitutional Law ↪ 70.1(2)

A judge has no power to mould statute in accordance with his notions of justice, and court is not at liberty to surmise legislative intention contrary to letter of statute or to insert or omit words therein with view to making statute express intention not evidenced in its original form. [Schmeizl v. Schmeizl, 1946, 46 A.2d 619, 186 Md. 371](#). Constitutional Law ↪ 70.1(2); Constitutional Law ↪ 70.3(5)

The Court of Appeals cannot amend a law adopted by the Legislature. [Robey v. Broersma, 1943, 29 A.2d 827, 181 Md. 325, 146 A.L.R. 687](#). Constitutional Law ↪ 70.1(2)

Where statute in question was invalid, Court of Appeals could not express opinion as to how a law could be framed to overcome the objection; such being a matter for the Legislature. [Blaustein v. Levin, 1939, 4 A.2d 861, 176 Md. 423](#). Constitutional Law ↪ 70.1(2)

Courts may not ingraft extended plan or policy on statute. [Duncan v. Graham, 1928, 142 A. 593, 155 Md. 507](#). Constitutional Law ↪ 70.1(2)

Courts cannot make law, but must apply law as found to each case, regardless of apparent hardship. [Farmers' & Merchants' Nat. Bank of Cambridge v. Harper, 1926, 137 A. 702, 151 Md. 358, 153 Md. 128](#). Constitutional Law ↪ 70.1(2)

Courts have no power to limit the exercise of legislative power, or the mode in which it shall be exercised, further than a just and reasonable interpretation of constitutional inhibitions and requirements will justify. [Washington County Com'rs v. Franklin R. Co., 1871, 34 Md. 159](#). Constitutional Law ↪ 70.1(2)

109. ---- Invalidation, annulment, or repeal of statutes, judicial encroachment on legislature, judicial powers

Court may not invalidate a properly enacted statute by adopting interpretation devoid of any legal or practical support. [ST Systems Corp. v. Maryland Nat. Bank, 1996, 684 A.2d 32, 112 Md.App. 20](#). Constitutional Law ↪ 70.1(3)

Where law is unambiguous, free from all objections on constitutional grounds and enacted in area clearly within province of legislature, courts have no power to set aside or evade its operation by forced or unreasonable construction. [Erman v. State, 1981, 434 A.2d 1030, 49 Md.App. 605](#), certiorari denied 292 Md. 13, certiorari denied [102 S.Ct. 1756, 456 U.S. 908, 72 L.Ed.2d 165](#). Constitutional Law ↪ 70.1(3)

Absent some constitutional infirmity, court has no power to declare void an act of General Assembly. [Mayor and City Council of Baltimore v. State, 1977, 378 A.2d 1326, 281 Md. 217](#). Constitutional Law ↪ 70.1(3)

Where law is unambiguous, free from all objections on constitutional grounds and enacted in area clearly within province of Legislature, courts have no power to set aside or evade its opera-

tion by forced or unreasonable construction. [Department of Natural Resources v. Adams, 1977, 377 A.2d 500, 37 Md.App. 165.](#) Constitutional Law ↪ 70.1(3)

Court must determine upon challenge whether legislature has exceeded its powers; neither judiciary nor legislature is superior but rather they are coordinate branches of government, and former must exercise its duty and authority to determine what law is in order to ensure viability of separation of powers provision of the State Constitution. Const. Declaration of Rights, art. 8. [Perkins v. Eskridge, 1976, 366 A.2d 21, 278 Md. 619.](#) Constitutional Law ↪ 70.1(3)

Actions of legislative branch are entitled to consideration and respect but they are not controlling in determination of direct and specific constitutional attack on individual statute. [Horace Mann League of U. S. of America, Inc. v. Board of Public Works, 1966, 220 A.2d 51, 242 Md. 645,](#) appeal dismissed, certiorari denied [87 S.Ct. 317, 385 U.S. 97, 17 L.Ed.2d 195.](#) Constitutional Law ↪ 70.1(3)

Where a court finds a provision of a proposed charter, drafted by a charter board, invalid, court cannot delete the invalid part and submit the remainder to the voters. Const. art. 11A, § 1 et seq. [Schneider v. Lansdale, 1948, 61 A.2d 671, 191 Md. 317.](#) Constitutional Law ↪ 70.1(3)

110. ---- Determination of facts, judicial encroachment on legislature, judicial powers

Government's burden of justifying its legislative enactment against facial challenge may be carried by pointing to enactment itself and its legislative history, and those are "legislative facts," the substance of which cannot be trumped by the fact finding apparatus of a single court; while party challenging ordinance can point to other factors not considered by legislature to demonstrate that it acted irrationally, it cannot subject legislative findings themselves to judicial review under clearly erroneous standard or otherwise. [U.S.C.A. Const.Amend. 1. Anheuser-Busch, Inc. v. Schموke, 1995, 63 F.3d 1305,](#) vacated [116 S.Ct. 1821, 517 U.S. 1206, 134 L.Ed.2d 927,](#) on remand [101 F.3d 325.](#) Constitutional Law ↪ 70.1(4)

Provision of county code which purported to allow court to void legislation or other local government action taken by official or employee with conflict of interest if court deems voiding of action to be in best interest of public was impermissible attempt to vest in court nonjudicial power in violation of separation of powers doctrine, and was invalid. Const.Declaration of Rights, Art. 8. [Sugarloaf Citizens Ass'n, Inc. v. Gudis, 1990, 573 A.2d 1325, 319 Md. 558.](#) Constitutional Law ↪ 70.1(4)

Although courts can invalidate legislation on grounds of unconstitutionality and can invalidate certain local action if enacting body failed to comply with enabling legislation requirements or otherwise acted ultra vires, courts cannot invalidate legislation because judge thinks that to void the legislation is, in some fashion, in best interest of public, and to permit court to act on that basis is to permit it to perform nonjudicial function in violation of separation of powers doctrine. Const.Declaration of Rights, Art. 8. [Sugarloaf Citizens Ass'n, Inc. v. Gudis, 1990, 573 A.2d 1325, 319 Md. 558.](#) Constitutional Law ↪ 70.1(4)

Legislature has primary responsibility for determining whether particular revenue measure serves public purpose as required by state constitutional provision. [Const.Declaration of Rights, Art. 15. Ogrinz v. James, 1987, 524 A.2d 77, 309 Md. 381.](#) Constitutional Law ↪ 70.1(4)

Legislative body is primarily entrusted with ensuring that public purpose requirement is fulfilled, and courts have no duty unless and until a perversion of public funds to private purposes is obvious. [Snowden v. Anne Arundel County, 1983, 456 A.2d 380, 295 Md. 429](#). Constitutional Law ↪ 70.1(4)

A legislative determination of emergency is conclusive and not reviewable. [Biggs v. Maryland-National Capital Park and Planning Commission, 1973, 306 A.2d 220, 269 Md. 352](#). Constitutional Law ↪ 70.1(4)

Legislative declaration of emergency is conclusive and not reviewable. [Potts v. Governor of Md., 1969, 258 A.2d 180, 255 Md. 445](#). Constitutional Law ↪ 70.1(4)

Question whether an emergency in fact exists is for the Legislature, and its determination in that regard is final and not reviewable by the courts. [Heaton v. City of Baltimore, 1969, 255 A.2d 310, 254 Md. 605](#). Constitutional Law ↪ 70.1(4)

111. ---- Determination of propriety of classification, judicial encroachment on legislature, judicial powers

Question of means of taxation to be employed is legislative function and if means is not discriminatory or arbitrary in its classification of taxpayers, court cannot reject it. [Foley v. Comptroller of Treasury, 1970, 269 A.2d 807, 259 Md. 330](#), certiorari denied [91 S.Ct. 1202, 401 U.S. 977, 28 L.Ed.2d 327](#). Constitutional Law ↪ 70.1(5)

112. ---- Police power, judicial encroachment on legislature, judicial powers

Exercise by legislature of police power is subject to review by the courts, but exercise of such power will not be interfered with unless it is shown to be misused or abused, or where it is shown to be exercised arbitrarily, oppressively or unreasonably. [Aero Motors, Inc. v. Administrator, Motor Vehicle Administration, 1975, 337 A.2d 685, 274 Md. 567](#); [Supermarkets General Corp. v. State, 1979, 409 A.2d 250, 286 Md. 611](#), appeal dismissed [101 S.Ct. 45, 449 U.S. 801, 66 L.Ed.2d 5](#); [Bowie Inn, Inc. v. City of Bowie, 1975, 335 A.2d 679, 274 Md. 230, 73 A.L.R.3d 1079](#).

Statutes enacted in exercise of state's police power need only bear real and substantial relationship to public health, morals, safety and welfare of citizens of state, and exercise of police power will not be interfered with unless it is shown to be exercised arbitrarily, oppressively, or unreasonably. [Steuart Petroleum Co. v. Board of County Com'rs of St. Mary's County, 1975, 347 A.2d 854, 276 Md. 435](#). Constitutional Law ↪ 70.1(6); Constitutional Law ↪ 81

Exercise of police power is largely within discretion of legislative bodies, and courts will not interfere except to correct misuse or an abuse of power. [McBriety v. City of Baltimore, 1959, 148 A.2d 408, 219 Md. 223](#). Constitutional Law ↪ 70.1(6)

Where relation of regulation to police power is fairly shown, court will not ordinarily intervene. [McBriety v. City of Baltimore, 1959, 148 A.2d 408, 219 Md. 223](#). Constitutional Law ↪ 70.1(6)

The decision of the legislature as to what is a proper exercise of its police power is not final or conclusive but is subject to review by the courts. [Maryland Coal & Realty Co. v. Bureau of](#)

[Mines of State, 1949, 69 A.2d 471, 193 Md. 627](#). Constitutional Law ↪ 70.1(6)

113. ---- Property rights, judicial encroachment on legislature, judicial powers

Statutes applicable to motor vehicles are responsibility of the legislature and not of the courts. [Shriner v. Mullhausen, 1956, 122 A.2d 570, 210 Md. 104](#), dissenting opinion [122 A.2d 821, 210 Md. 104](#). Constitutional Law ↪ 70.1(8)

Provision of statute requiring signals to be lighted when vehicle or its lighting equipment is disabled when lighted lamps must be displayed on vehicle, and vehicle cannot immediately be removed from main traveled portion of highway outside business or residence district, which provision limits statute to disabled vehicles or disabled lights, cannot be abrogated by courts. Code Supp.1947, art. 66 1/2 , § 240(b). [Emery, to Use of Calvert Ins. Co., Inc. v. F.P. Asher, Jr., & Sons, Inc., 1950, 75 A.2d 333, 196 Md. 1](#). Constitutional Law ↪ 70.1(8)

114. ---- Contracts and torts, judicial encroachment on legislature, judicial powers

Creation of causes of action arising out of statutory schemes of regulations and inspections is matter of policy and should be addressed by legislature, not judiciary. [Willow Tree Learning Center, Inc. v. Prince George's County, Md., 1991, 584 A.2d 157, 85 Md.App. 508](#). Constitutional Law ↪ 70.1(9)

Exclusion of motor torts from parent-child immunity involves fundamental and basic public policy considerations properly to be addressed by legislature, not by Court of Appeals. [Frye v. Frye, 1986, 505 A.2d 826, 305 Md. 542](#). Constitutional Law ↪ 70.1(9)

Doctrine of contributory negligence would not be judicially abrogated; decision as to whether to abandon doctrine of contributory negligence in favor of comparative negligence involves fundamental and basic public policy considerations properly to be addressed by the legislature. [Harrison v. Montgomery County Bd. of Educ., 1983, 456 A.2d 894, 295 Md. 442](#). Constitutional Law ↪ 70.1(9); Negligence ↪ 547

Mother could not maintain cause of action against daughter for injuries sustained in accident occurring when mother was passenger in car driven by such 17-year-old daughter, though daughter was emancipated before the suit was brought and state law required insurance coverage for the car; any change in the rule precluding parent from maintaining such a cause of action against a child could not be made by Court of Special Appeals, but, rather, could only be made by Court of Appeals or General Assembly. [Kirtz v. Kirtz, 1982, 447 A.2d 492, 52 Md.App. 136](#), certiorari denied 294 Md. 544. Constitutional Law ↪ 70.1(9); Parent And Child ↪ 11

The general rule regarding the standard of conduct applied under decisions of the Court of Appeals to measure contributory negligence does not supersede a prescription of conduct by the legislature. [Schweitzer v. Brewer, 1977, 374 A.2d 347, 280 Md. 430](#). Constitutional Law ↪ 70.1(9)

It is legislature's business to change "boulevard rule" and not the duty of the courts. Code 1957, art. 66 1/2 , §§ 1-101 et seq., 11-401 to 11-404. [Tippett v. Quade, 1973, 309 A.2d 481, 19 Md.App. 49](#). Constitutional Law ↪ 70.1(9)

115. ---- Crimes, judicial encroachment on legislature, judicial powers

Court of Appeals would not abrogate, by judicial action, the common law distinctions between principals and accessories; abrogating doctrine of accessoryship was best left to legislative body. [State v. Sowell, 1999, 728 A.2d 712, 353 Md. 713](#). Constitutional Law ↪ 70.1(10); Criminal Law ↪ 59(1); Criminal Law ↪ 69

It is for legislature and not the courts to define criminal offenses and their punishments. [Ghajari v. State, 1996, 673 A.2d 709, 108 Md.App. 586](#), certiorari granted [679 A.2d 539, 342 Md. 633](#), affirmed [695 A.2d 143, 346 Md. 101](#). Constitutional Law ↪ 70.1(10)

When, where and why immunity is to be conferred upon perpetrators of criminal acts is matter for legislature to determine. [In re Criminal Investigation No. 1-162 in Circuit Court for Anne Arundel County, 1986, 503 A.2d 1363, 66 Md.App. 315](#), certiorari granted [507 A.2d 184, 306 Md. 71](#), vacated [516 A.2d 976, 307 Md. 674](#). Constitutional Law ↪ 70.1(10)

There is no right under Constitution to judicially determined sentence, as opposed to judicially imposed sentence; legislature, not court, is empowered to fix minimum and maximum terms of confinement for given offense. [Teeter v. State, 1985, 499 A.2d 503, 65 Md.App. 105](#), certiorari denied [503 A.2d 253, 305 Md. 245](#). Constitutional Law ↪ 70.1(10)

Abrogation of common-law rule of "year and a day," which bars prosecution for murder when victim dies more than a year and a day after being injured is more appropriately addressed by the legislature; thus, the Court of Appeals would not abrogate the common-law rule and defendant could not be indicted on charge of murder where victim died one year and 87 days after shooting. [State v. Minster, 1985, 486 A.2d 1197, 302 Md. 240](#). Constitutional Law ↪ 70.1(10); Homicide ↪ 510

Since legislature, reflecting community morals, had by its definition of criminal insanity already determined which states of mental disorder ought to relieve one from criminal responsibility, Court of Appeals was without authority to impose its views even if they differed. Code 1957, Art. 59, §§ 3(f), 9(a), 25(a). [Johnson v. State, 1982, 439 A.2d 542, 292 Md. 405](#). Constitutional Law ↪ 70.1(10)

When the legislature chooses to criminalize conduct, the Court of Special Appeals is not free to enlarge upon or restrict that which has been enacted. [In re John R., 1978, 394 A.2d 818, 41 Md.App. 22](#). Constitutional Law ↪ 70.1(10)

It is not for the judiciary to rewrite forgery statute to cover the making of false entries. [Code 1957, art. 27, § 44. State v. Reese, 1978, 388 A.2d 122, 283 Md. 86](#). Constitutional Law ↪ 70.1(10)

If any change is to be made in the common-law "year and a day rule" it is a matter for the General Assembly. [State v. Brown, 1974, 318 A.2d 257, 21 Md.App. 91](#). Constitutional Law ↪ 70.1(10)

Examination of principal-accessory relationship in criminal law, which involves consideration and determination of such procedural questions as where an accessory may be tried and under what circumstances, should trial, conviction and punishment of an accessory be authorized even if principal cannot be taken so as to be prosecuted and punished, or whether his principal has or has not been convicted, or has been pardoned, or is dead, or has been acquitted, is properly a le-

gislative function. [State v. Magliano, 1969, 255 A.2d 470, 7 Md.App. 286](#). Constitutional Law ↪ 70.1(10)

Court is without authority to insert ingredient or element into statute pertaining to storehouse breaking which was never intended by general assembly to be there. Const. Declaration of Rights, art. 8. [Ball v. State, 1969, 254 A.2d 367, 7 Md.App. 219](#), certiorari denied 256 Md. 743. Constitutional Law ↪ 70.1(10)

Claim of defendant that, had he been charged with less serious crime, physician's findings would have been conclusive of his sanity but that because he was charged with crime punishable by death, his sanity vel non was required to be decided by jury, or court sitting without jury, on evidence presented at trial was matter for legislature and not courts. Code Supp. art. 59, § 11. [Robinson v. State, 1968, 238 A.2d 875, 249 Md. 200](#), certiorari denied [89 S.Ct. 259, 393 U.S. 928, 21 L.Ed.2d 265](#). Constitutional Law ↪ 70.1(10)

Any modification of McNaughten-Spencer test of insanity is prerogative of legislature and not of courts. [Bergin v. State, 1967, 227 A.2d 357, 1 Md.App. 74](#). Constitutional Law ↪ 70.1(10)

The Court of Appeals will not oppose judicial power against legislative power to define crimes and fix their punishment, except where the power of the Legislature encounters in its exercise a constitutional prohibition, and in such case an imperative duty is invoked. [Delnegro v. State, 1951, 81 A.2d 241, 198 Md. 80](#). Constitutional Law ↪ 70.1(10)

Legislature had power to define crime of unlawfully burning property and designated it by such name or title as it deemed appropriate, and Court of Appeals is bound by language of statute defining such crime as arson. Code Pub.Gen.Laws Supp. [1935, art. 27, § 6. Wimpling v. State, 1937, 189 A. 248, 171 Md. 362](#). Constitutional Law ↪ 70.1(10)

Courts will not extend scope of criminal statute to cases not plainly within language used. [State v. Page, 1932, 163 A. 493, 163 Md. 505](#). Constitutional Law ↪ 70.1(10)

116. ---- Remedies and procedure, judicial encroachment on legislature, judicial powers

Decision to grant an individual the right to trial by jury before he may be confined because of his insanity is properly a legislative determination; if other important procedural safeguards are granted an insanity acquittee, such as effective representation by counsel and a meaningful hearing, denial of right to a jury trial will not impair his interest in a fair and accurate proceeding. Code Md.1957, art. 59, §§ 27, 28; [U.S.C.A.Const. Amend. 14. Dorsey v. Solomon, 1977, 435 F.Supp. 725](#). Constitutional Law ↪ 70.1(11)

Creation of "tender years" hearsay exception for out-of-court assertions by children who have been victims of sexual abuse is for legislature. [Cassidy v. State, 1988, 536 A.2d 666, 74 Md.App. 1](#), certiorari denied [541 A.2d 965, 312 Md. 602](#). Constitutional Law ↪ 70.1(11)

Legislature has not preempted the field of product liability law. [Phipps v. General Motors Corp., 1976, 363 A.2d 955, 278 Md. 337](#). Constitutional Law ↪ 70.1(11)

Whether law should be changed to recognize doctrine of comparative rectitude in divorce actions is matter for legislature and not for courts. [Matakieff v. Matakieff, 1967, 226 A.2d 887, 246 Md. 23](#). Constitutional Law ↪ 70.1(11)

Where statute, regarding incompetency of witnesses to testify as to transactions with deceased, had been enforced in many decisions, the doctrine of "stare decisis" as well as constitutional limitations on respective powers of legislative and judicial branches of government precluded court from changing the decisions. Code 1939, art. 35, § 3. [O'Connor v. Estevez, 1943, 35 A.2d 148, 182 Md. 541](#). Constitutional Law ↪ 70.1(11); Courts ↪ 90(4)

Under [Const. art. 3, § 40](#), forbidding the taking of private property for public use without just compensation agreed upon or awarded by a jury, and Acts 1912, c. 117, providing for the appointment of appraisers by the court, held, that the act did not impose a nonjudicial duty upon the court. [Ridgely v. City of Baltimore, 1913, 87 A. 909, 119 Md. 567](#). Constitutional Law ↪ 70.1(11); Constitutional Law ↪ 74

Where the exclusive and sole right to decide upon a question has been confided to any tribunal, and no appeal allowed from its decision in the premises, such conclusion is final and conclusive, no matter what may have been the reasons which induced such decision. [State v. Jarrett, 1861, 17 Md. 309](#). Constitutional Law ↪ 70.1(11)

[117](#). ---- Government, judicial encroachment on legislature, judicial powers

While authority of states to impair contract must be constrained in somewhat meaningful way, the Contract Clause does not require courts to sit as superlegislatures, even where public contracts have been impaired. [U.S.C.A. Const. Art. 1, § 10, cl. 1. Baltimore Teachers Union, American Federation of Teachers Local 340, AFL-CIO v. Mayor and City Council of Baltimore, 1993, 6 F.3d 1012](#), rehearing and rehearing in banc denied, certiorari denied [114 S.Ct. 1127, 510 U.S. 1141, 127 L.Ed.2d 435](#), certiorari denied [114 S.Ct. 1127, 510 U.S. 1141, 127 L.Ed.2d 435](#). Constitutional Law ↪ 70.1(12)

However desirable a change in constitutional policy may be, that question is one that appropriately should be addressed to others than the judiciary. [Wyley v. Warden, Md. Penitentiary, 1967, 372 F.2d 742](#), certiorari denied [88 S.Ct. 121, 389 U.S. 863, 19 L.Ed.2d 131](#), rehearing denied [88 S.Ct. 484, 389 U.S. 997, 19 L.Ed.2d 500](#). Constitutional Law ↪ 70.1(12)

In exercising its equitable powers to fashion relief for violation of Voting Rights Act, district court should give appropriate legislative body the first opportunity to provide plan that remedies violations; if legislative body fails to respond or responds with proposed remedy that is a violation, then court must fashion an appropriate plan. Voting Rights Act of 1965, §§ 2, 2(b), as amended, [42 U.S.C.A. §§ 1973, 1973\(b\). Cane v. Worcester County, Md., 1994, 840 F.Supp. 1081](#). Constitutional Law ↪ 70.1(12); Elections ↪ 12(9.1)

Whether a state has power under federal constitution to segregate races with respect to facilities afforded by it for its citizens is for the courts, but whether segregation should be required is for legislative departments operating under legislative authority. [Boyer v. Garrett, 1949, 88 F.Supp. 353](#), affirmed [183 F.2d 582](#), certiorari denied [71 S.Ct. 293, 340 U.S. 912, 95 L.Ed. 659](#). Constitutional Law ↪ 70.1(12)

The constitutional principle of separation of powers prohibits the courts from performing non-judicial functions and prohibits administrative agencies from performing judicial functions. [Consolidated Const. Services, Inc. v. Simpson, 2002, 813 A.2d 260, 372 Md. 434](#). Constitutional Law ↪ 67; Constitutional Law ↪ 79

In any particular area of legislative concern, whether there should be broad general delegation of regulatory authority to administrators, or more specific delegation, is choice for General Assembly. [Christ by Christ v. Maryland Dept. of Natural Resources, 1994, 644 A.2d 34, 335 Md. 427.](#) Constitutional Law ↪ 70.1(12)

In view of statute codifying prior case law and specifically directing that tax exemption statutes are to be strictly construed, courts are not at liberty to broaden application of tax exemptions to include property not specifically enumerated in tax exemption statute. Code 1957, Art. 81, § 9(a, c, d). [Supervisor of Assessments of Baltimore County v. Trustees of Bosley Methodist Church Graveyard, 1982, 443 A.2d 91, 293 Md. 208.](#) Constitutional Law ↪ 70.1(12); Taxation ↪ 2309

In view of adherence by the Court of Appeals to position that any change in law of sovereign immunity in tort actions must be made by legislative fiat, the Court of Special Appeals would decline to disturb doctrine of governmental immunity for tort in absence of legislative action. [Mayor and City Council of Baltimore v. Austin, 1978, 392 A.2d 1140, 40 Md.App. 557,](#) certiorari granted 284 Md. 741, affirmed [405 A.2d 255, 286 Md. 51.](#) Constitutional Law ↪ 70.1(12)

Remedy for sovereign immunity lay not with judiciary but with General Assembly. [Code 1957, art. 78A, § 8\(1, 2\). Calvert Associates Ltd. Partnership v. Department of Employment and Social Services, Employment Sec. Administration, 1976, 357 A.2d 839, 277 Md. 372.](#) Constitutional Law ↪ 70.1(12)

If doctrine of sovereign immunity is to be changed or abolished, it is matter for legislature and not for courts. [Wiggins v. State, 1974, 324 A.2d 172, 22 Md.App. 291,](#) certiorari granted 272 Md. 750, affirmed [344 A.2d 80, 275 Md. 689.](#) Constitutional Law ↪ 70.1(12)

Merely because the genesis of the doctrine of sovereign immunity may be found in early decisions of the courts of common law does not mean that the doctrine should be abolished by judicial decision, without regard to the desires of the representatives of the people concerning its elimination, modification or retention. [Ramsey v. Prince George's County, 1973, 308 A.2d 217, 18 Md.App. 385,](#) certiorari denied 269 Md. 765. Constitutional Law ↪ 70.1(12)

If the doctrine of governmental immunity is to be discarded or modified it will have to be done by the general assembly; the courts are not the proper instrumentality to effect such a profound change in the common law. [Ramsey v. Prince George's County, 1973, 308 A.2d 217, 18 Md.App. 385,](#) certiorari denied 269 Md. 765. Constitutional Law ↪ 70.1(12)

It was not for court to decide what was best for school system and taxpayers, and court's function was limited to determining how legislature had resolved question. [Board of Ed. of Montgomery County v. Montgomery County, 1964, 205 A.2d 202, 237 Md. 191.](#) Constitutional Law ↪ 70.1(12)

It is for Legislature, and not courts, to determine whether emergency exists such as would authorize emergency statute. [Const. art. 16, § 2. First Continental Sav. & Loan Ass'n v. Director, State Dept. of Assessments and Taxation, 1962, 183 A.2d 347, 229 Md. 293.](#) Constitutional Law ↪ 70.1(12)

In suit to enjoin the holding of a special election for the choosing of the first county council to

serve under a county charter, prayers for relief which in effect asked the court to pass or amend a law would not lie in view of the doctrine of separation of powers. Const. art. 11A, and § 1. [Connor v. Board of Election Sup'rs of Baltimore County, 1957, 129 A.2d 396, 212 Md. 379](#). Constitutional Law ☞ 70.1(12)

Where legislature has fixed assessment, courts will ordinarily enforce it and matter is usually considered one for exercise of legislative discretion, and if full legislative power in such matters has been conferred upon municipal corporation, same rule applies as if determination had been made by legislature itself. [Silver Spring Memorial Post No. 2562, Veterans of Foreign Wars v. Montgomery County, 1955, 115 A.2d 249, 207 Md. 442](#). Constitutional Law ☞ 70.1(12); Municipal Corporations ☞ 70

Changes in election laws cannot be made by court but only by legislature. [Nutwell v. Board of Sup'rs of Elections of Anne Arundel County, 1954, 108 A.2d 149, 205 Md. 338](#). Constitutional Law ☞ 70.1(12)

Legislative declaration of an emergency contained in an act and not the actual existence of an emergency has the effect of putting such act in force at once and where act contains such declaration, courts have no jurisdiction to determine whether an emergency exists within meaning of referendum amendment to the Constitution permitting emergency laws to go into effect at once. [Const. art. 16, § 2. Washington Suburban Sanitary Commission v. Buckley, 1951, 78 A.2d 638, 197 Md. 203](#). Constitutional Law ☞ 70.1(12); Statutes ☞ 251

Constitutional amendment authorizing general assembly at short sessions in even-numbered years to consider only enumerated matters, including legislation dealing with an "acute emergency" means that legislation adopted at short session can be upheld as legislation dealing with an acute emergency only if an acute emergency actually exists, and the existence of such emergency, notwithstanding legislative declaration to that effect, is a question to be determined by the court. [Const. art. 3, § 15](#), as amended in 1947. [Washington Suburban Sanitary Commission v. Buckley, 1951, 78 A.2d 638, 197 Md. 203](#). Constitutional Law ☞ 70.1(12); Statutes ☞ 5

Whether an acute emergency existed so that act adopted by general assembly at short session in 1950 requiring Washington Suburban Sanitary Commission to make all water and sewer house connections to property lines could be upheld as legislation dealing with an acute emergency was a question to be determined by the court, notwithstanding provision in act declaring it to be an acute emergency measure. Laws 1950, c. 93, and § 3; [Const. art. 3, § 15](#), as amended in 1947. [Washington Suburban Sanitary Commission v. Buckley, 1951, 78 A.2d 638, 197 Md. 203](#). Constitutional Law ☞ 70.1(12)

When Legislature has prescribed two requirements for validity of a summons, court cannot usurp legislative prerogative by declaring in any particular case that one of the requirements will be sufficient. [North v. Town Real Estate Corp., 1948, 60 A.2d 665, 191 Md. 212](#). Constitutional Law ☞ 70.1(12)

Under constitutional provision that no measure granting any franchise or special privilege shall be enacted as emergency law, legislature alone can determine whether emergency contemplated by the provision exists and legislature's determination of such question is not judicially reviewable. [Const. art. 16, § 2. Gebhart v. Hill, 1947, 54 A.2d 315, 189 Md. 135](#). Constitutional Law ☞ 70.1(12)

Peremptory requirement of election laws that ballots be initialed by election judge would not be changed or abolished by Court of Appeals. Code 1939, art. 33, §§ 68, 73, as added by Laws 1945, c. 934. [Hammond v. Love, 1946, 49 A.2d 75, 187 Md. 138](#). Constitutional Law ↻ 70.1(12)

A legislative finding, that the necessity for immediate use of voting machines in Baltimore City is an "emergency" within meaning of Constitution, would not be disturbed, where there was no proof to contrary other than conclusions of pleader seeking to have act declared unconstitutional and ordinance for issuance of obligations to finance voting machines declared invalid. Acts 1937, c. 94; [Const. art. 11, § 7](#), as amended. [Norris v. Mayor and City Council of Baltimore, 1937, 192 A. 531, 172 Md. 667](#). Constitutional Law ↻ 70.1(12)

Legislature's determination that emergency exists is final and not subject to judicial review as respects statutes governed by referendum provision on Constitution. Const. art. 16. [Culp v. Commissioners of Chestertown, 1928, 141 A. 410, 154 Md. 620](#). Constitutional Law ↻ 70.1(12)

The fact that the senate, by refusing to take action on a nomination submitted to it by the governor for its concurrence, might obstruct the making of appointments to office, will not authorize the judicial branch of the government to compel it to take action. [Watkins v. Watkins, 1852, 2 Md. 341](#). Constitutional Law ↻ 70.1(12)

118. Judicial inquiry into legislation--In general

An argument resting simply on an evaluation of the economic wisdom of Maryland law prohibiting producers or refiners of petroleum products from operating retail service stations within Maryland could not override the state's authority to legislate against injurious practices in internal commercial and business affairs. Code Md.1957, art. 56, § 157E. [Exxon Corp. v. Governor of Maryland, 1978, 98 S.Ct. 2207, 437 U.S. 117, 57 L.Ed.2d 91](#), rehearing denied [99 S.Ct. 232, 439 U.S. 884, 58 L.Ed.2d 200](#), rehearing denied [99 S.Ct. 233, 439 U.S. 884, 58 L.Ed.2d 200](#). Constitutional Law ↻ 70.3(9.1)

The formidable doctrine of separation of powers demands that the courts remain in the sphere that belongs uniquely to the judiciary--that of interpreting, but not creating, the statutory law. [Stearman v. State Farm Mut. Auto. Ins. Co., 2004, 849 A.2d 539, 381 Md. 436](#). Constitutional Law ↻ 70.1(2)

Legislature is law-making branch of government, and court is not permitted to be concerned with wisdom or appropriateness of, or need for, legislation as long as it is within constitutional limitations. [Linkus v. Maryland State Bd. of Heating Ventilation, Air-Conditioning and Refrigeration Contractors, 1997, 689 A.2d 1254, 114 Md.App. 262](#). Constitutional Law ↻ 70.3(1); Constitutional Law ↻ 70.3(4); Constitutional Law ↻ 70.3(6)

Argument that film which had been found to be obscene would do no harm if shown to adults and should be permitted to be shown was one properly to be made to the legislature and not to the courts. [Code 1957, art. 66A, § 1](#) et seq. [Mangum v. Maryland State Bd. of Censors, 1974, 328 A.2d 283, 273 Md. 176](#). Constitutional Law ↻ 70.3(9.1)

Reviewing court would not pass upon wisdom of legislature in totally prohibiting dredging of state wetlands of Charles County rather than using permit procedure of previous legislation.

Code 1957, art. 66C, §§ 718 et seq., 721; Acts 1971, c. 792, § 1 et seq. [Potomac Sand & Gravel Co. v. Governor of Md., 1972, 293 A.2d 241, 266 Md. 358](#), certiorari denied [93 S.Ct. 525, 409 U.S. 1040, 34 L.Ed.2d 490](#). Constitutional Law ↪ 70.3(9.1)

Legislative intent expressed in clear and unambiguous language will be carried into effect by court even if court is of opinion that legislative policy is unwise, harsh, or unjust, if constitutional guarantees are not impaired. [Atlantic, Gulf & Pac. Co. v. State Dept. of Assessments and Taxation, 1969, 249 A.2d 180, 252 Md. 173](#). Constitutional Law ↪ 70.3(1)

Adequacy of legislative scheme is for the legislature to determine. [Gino's of Maryland, Inc. v. City of Baltimore, 1968, 244 A.2d 218, 250 Md. 621](#). Constitutional Law ↪ 70.3(1)

Whether proposed objectives of Defective Delinquent Act were sufficiently implemented in its actual administration to support its categorization as civil procedure and justified the elimination of conventional criminal procedural safeguards was matter of legislative concern and not a judicial function. [Code Supp. art. 31B, § 1](#) et seq. [Director of Patuxent Institution v. Daniels, 1966, 221 A.2d 397, 243 Md. 16](#), certiorari denied [87 S.Ct. 307, 385 U.S. 940, 17 L.Ed.2d 219](#). Constitutional Law ↪ 70.3(9.1); Constitutional Law ↪ 70.3(12)

If legislative intent is expressed in clear and unambiguous language in statute, court will carry such into effect even if it is of opinion that legislative policy is unwise, or even harsh or unjust, if no constitutional guarantees are impaired by legislation. [Maryland Medical Service, Inc. v. Carver, 1965, 209 A.2d 582, 238 Md. 466](#). Constitutional Law ↪ 70.3(1)

The wisdom of legislation prohibiting corporations from conducting business of funeral directing is for the Legislature to determine, and courts' concern is only with Legislature's power to adopt it. Code 1957, art. 43, § 360. [Brooks v. State Bd. of Funeral Directors and Embalmers, 1963, 195 A.2d 728, 233 Md. 98](#). Constitutional Law ↪ 70.3(9.1)

A married woman has no common-law right to sue her husband for injuries suffered by her as a result of his negligence, and such right has not been granted to her by statute, and if it is desirable to permit a married woman, under certain circumstances, to sue her husband in tort, such authorization would have to emanate from the legislature and not from the courts. [Ennis v. Donovan, 1960, 161 A.2d 698, 222 Md. 536](#). Constitutional Law ↪ 70.3(9.1); Husband And Wife ↪ 205(2)

Whether further amelioration of the disabilities imposed upon illegitimates should be made is a problem which is to be determined by the Legislature. [Penman v. Ayers, 1959, 156 A.2d 638, 221 Md. 154](#). Constitutional Law ↪ 70.3(9.1)

Extent of competition between common carriers and selection of competitors is for legislative branch and not for judiciary, absent arbitrary action. [Barton v. Public Service Commission of Md., 1957, 135 A.2d 442, 214 Md. 359](#). Constitutional Law ↪ 70.3(9.1)

Under the doctrine of separation of powers between the executive, legislative, and judicial branches, it is not the function of the courts to consider or determine whether legislation is well or ill conceived or to pass upon the expediency or policy of the laws. [Connor v. Board of Election Sup'rs of Baltimore County, 1957, 129 A.2d 396, 212 Md. 379](#). Constitutional Law ↪ 70.3(1)

An invalid act cannot be made valid by preface of generalities in the form of a legislative declaration of purpose, but, if a legislative declaration is not demonstrably untrue or meaningless and, if true, would support validity of the act, the courts must accept the legislature's judgment. [Dundalk Liquor Co. v. Tawes, 1952, 92 A.2d 560, 201 Md. 58.](#) Constitutional Law ↪ 70.3(1)

Strictly legislative action by a legislative body as distinguished from action by a body exercising delegated quasi legislative and quasi judicial power, which affects private rights in the public interest, is not invalid because it is taken without investigation or public hearing, since the Legislature, acting within its sphere, is presumed to know the needs of the people. [Chissell v. Mayor & City Council of Baltimore, 1949, 69 A.2d 53, 193 Md. 535.](#) Constitutional Law ↪ 70.3(1)

Unworkability or confusion in application of statute is matter for consideration by legislature, not Court of Appeals, which can only find what legislature meant by what statute says. [Caryl, to Use of Merchants Mut. Cas. Co. v. Baltimore Transit Co., 1948, 58 A.2d 239, 190 Md. 162.](#) Constitutional Law ↪ 70.3(1)

Any inequities in Workmen's Compensation Act are for Legislature and not for court to rectify unless some basic right is infringed. Code 1939, art. 101, § 1 et seq. [Howard Contracting Co. v. Yeager, 1945, 41 A.2d 494, 184 Md. 503.](#) Constitutional Law ↪ 70.3(9.1)

It is not province of courts to denounce as invalid an act of Assembly merely because it is inequitable or absurd. [State v. Clay, 1944, 35 A.2d 821, 182 Md. 639.](#) Constitutional Law ↪ 70.3(1)

The court is not concerned with policy or wisdom of statute, as such questions are for the Legislature. [Anne Arundel County Com'rs v. English, 1943, 35 A.2d 135, 182 Md. 514, 150 A.L.R. 842.](#) Constitutional Law ↪ 70.3(1)

State's established policy, declared in Constitution and statutes, to impose double liability for trust company's debts on stockholders, can be changed only by people and Legislature, not courts, if economically unsound, harsh and inequitable in operation, and imposing onerous exactions on innocent persons. Code Pub.Gen.Laws 1924, art. 11, § 72; [Const. art. 3, § 39.](#) [Robinson v. Hospelhorn, 1935, 184 A. 903, 169 Md. 117.](#) Constitutional Law ↪ 70.3(9.1)

State's established policy, declared in Constitution and statutes, to impose double liability for trust company's debts on stockholders, can be changed only by people and Legislature, not courts, if economically unsound, harsh and inequitable in operation, and imposing onerous exactions on innocent persons. Code Pub.Gen.Laws 1924, art. 11, § 72; [Const. art. 3, § 39.](#) [Robinson v. Hospelhorn, 1935, 179 A. 515, 169 Md. 117, 103 A.L.R. 740.](#) Constitutional Law ↪ 70.3(9.1)

In construing statute, true meaning of language should be considered, rather than court's opinion as to what Legislature should have said. [American-Stewart Distillery v. Stewart Distilling Co., 1935, 177 A. 473, 168 Md. 212.](#) Constitutional Law ↪ 70.3(1)

Existing steam or electric lines do not have franchise which is exclusive of later form of transportation by motor vehicles, but policy of regulation is for state or its duly constituted agency and not for courts. [West v. Williams, 1934, 173 A. 259, 167 Md. 316.](#) Constitutional Law ↪ 70.3(9.1)

What consequences may follow Interstate Commerce Act, § 20a, as added by Transportation Act Feb. 28, 1920, § 439, 49 U.S.C.A. § 20a, giving Interstate Commerce Commission power to regulate and control issuance of securities by interstate carriers, must be dealt with by Legislature, and, so long as Legislature acts within its constitutional powers, wisdom of its acts cannot be reviewed by the courts. [Whitman v. Northern Cent. Ry. Co., 1924, 127 A. 112, 146 Md. 580](#). Constitutional Law ↪ 70.3(9.1)

Courts have nothing to do with the justice, wisdom, policy, or expediency of a law. These are matters purely of legislative deliberation and cognizance. [Leonard v. Wiseman, 1869, 31 Md. 201](#). Constitutional Law ↪ 70.3(1)

The power given the House of Delegates is not a special or limited jurisdiction, nor are its decisions liable to the reasoning applicable to judgments of such tribunals; its jurisdiction is the only entire and absolute one in such cases, and there is no other tribunal which can review it. [State v. Jarrett, 1861, 17 Md. 309](#). Constitutional Law ↪ 70.3(1)

[119](#). ---- Motive, judicial inquiry into legislation, judicial powers

In prosecution of governor for mail fraud in which the governor's position on certain legislation was at issue, testimony concerning beliefs of various members of the Senate as to the governor's position and other evidence of the governor's position on the legislation did not constitute an impermissible inquiry into legislative action as the questions before the court were the actions that the governor had taken with respect to the legislation and his motive for those actions, not the motive of the legislature. [U.S. v. Mandel, 1979, 591 F.2d 1347](#), on rehearing [602 F.2d 653](#), rehearing denied [609 F.2d 1076](#), certiorari denied [100 S.Ct. 1647, 445 U.S. 961, 64 L.Ed.2d 236](#). Constitutional Law ↪ 70.3(2)

Otherwise constitutional statute will not be struck down on basis of alleged illicit legislative motive. [U.S.C.A. Const.Amend. 1, Chesapeake B & M, Inc. v. Harford County, Md., 1993, 831 F.Supp. 1241](#), reversed in part, vacated in part [58 F.3d 1005](#), certiorari denied [116 S.Ct. 567, 516 U.S. 1010, 133 L.Ed.2d 492](#). Constitutional Law ↪ 70.3(2)

When judiciary reviews statute or other governmental enactment, either for validity or to determine legal effect of enactment in particular situation, judiciary is ordinarily not concerned with whatever may have motivated legislative body or other governmental actor. [Workers' Compensation Com'n v. Driver, 1994, 647 A.2d 96, 336 Md. 105](#), certiorari denied [115 S.Ct. 906, 513 U.S. 1113, 130 L.Ed.2d 789](#). Constitutional Law ↪ 70.3(2)

Ordinarily no common-law remedy permits invalidation of legislative action because of legislator's improper motivation; courts usually do not inquire into legislative motivation as basis for setting aside legislation. [Sugarloaf Citizens Ass'n, Inc. v. Gudis, 1990, 573 A.2d 1325, 319 Md. 558](#). Constitutional Law ↪ 70.3(2)

Alleged wrongful motives or improper purposes are no basis for striking down otherwise constitutional statute. [Mears v. Town of Oxford, 1982, 449 A.2d 1165, 52 Md.App. 407](#), certiorari denied 294 Md. 652. Constitutional Law ↪ 70.3(2)

Judicial branch cannot institute inquiry into motives of legislature in enactment of laws. [County Council for Montgomery County v. District Land Corp., 1975, 337 A.2d 712, 274 Md. 691](#). Con-

stitutional Law ↪ 70.3(2)

120. ---- Policy, judicial inquiry into legislation, judicial powers

It is not function of court to determine whether public policy finding expression in legislation is well or ill conceived. [Williams v. Mayor and City Council of Baltimore, 1933, 53 S.Ct. 431, 289 U.S. 36, 77 L.Ed. 1015.](#) Constitutional Law ↪ 70.3(3)

In applying equal protection principles, court is not empowered to decide pure questions of policy but may decide only whether permissible policy has been pursued. [Wood v. Putterman, 1970, 316 F.Supp. 646,](#) affirmed [91 S.Ct. 104, 400 U.S. 859, 27 L.Ed.2d 99.](#) Constitutional Law ↪ 70.3(3)

Policy considerations are precisely domain of legislature; court is confined by words of statute. [Facello v. Department of Economic and Employment Development, 1995, 657 A.2d 363, 104 Md.App. 575.](#) Constitutional Law ↪ 70.3(3)

Unguided discretion involving questions of policy and expediency, is legislative, not judicial, discretion, and may not, consistent with separation of powers doctrine, be vested in court. Const.Declaration of Rights, Art. 8. [Sugarloaf Citizens Ass'n, Inc. v. Gudis, 1990, 573 A.2d 1325, 319 Md. 558.](#) Constitutional Law ↪ 70.3(3); Constitutional Law ↪ 70.3(7)

Declaration of public policy of the state is normally function of the legislative branch of the government; in discerning that policy, courts consider, as a primary source, statutory and constitutional provisions. [Jones v. Malinowski, 1984, 473 A.2d 429, 299 Md. 257.](#) Constitutional Law ↪ 70.3(3)

The Court of Special Appeals is not the policy-making arm of city government; its function is to interpret and apply law correctly and to make certain that other instruments of government do likewise. [Mayor and City Council of Baltimore v. Foster & Kleiser, 1980, 416 A.2d 762, 46 Md.App. 163.](#) Constitutional Law ↪ 70.3(3)

In construing a statute, intent of legislature, discerned from words employed, absent an ambiguity or obscurity, must be discovered and carried out; and this is so, in absence of a constitutional defect, even if court believes policy of statute to be unwise, harsh or unjust. [Greenbelt Consumer Services, Inc. v. Acme Markets, Inc., 1974, 322 A.2d 521, 272 Md. 222.](#) Constitutional Law ↪ 70.3(3); Statutes ↪ 181(1)

Where language of statute is ambiguous, court has no power to evade it by unreasonable construction in order to assert its own ideas of policy or morals. [Bosley v. Dorsey, 1948, 60 A.2d 691, 191 Md. 229.](#) Constitutional Law ↪ 70.3(3)

The legislative intent should be sought in the first instance in the words of statute, and, where such language is clear, court has no jurisdiction to evade it by forced and unreasonable construction in order to assert its own idea of policy or morals. [Smith v. Higinbotham, 1946, 48 A.2d 754, 187 Md. 115.](#) Constitutional Law ↪ 70.3(3); Statutes ↪ 181(1); Statutes ↪ 190

The power to determine what is salutary for people of state resides in Legislature, and court cannot adopt public policy contrary to plain provisions of statute or determine whether public policy expressed therein is well or ill conceived. [Schmeizl v. Schmeizl, 1946, 46 A.2d 619, 186 Md.](#)

371. Constitutional Law ↪ 70.3(3)

The Court of Appeals is not concerned with the policy of the law, and if the intention of the Legislature is clear and the validity of its act is not questioned, it must prevail. [Miller v. State, 1938, 198 A. 710, 174 Md. 362.](#) Constitutional Law ↪ 70.3(3)

121. ---- Wisdom, judicial inquiry into legislation, judicial powers

The due process clause does not empower the judiciary to sit as a superlegislature to weigh the wisdom of legislation. [U.S.C.A.Const. Amends. 5, 14. Exxon Corp. v. Governor of Maryland, 1978, 98 S.Ct. 2207, 437 U.S. 117, 57 L.Ed.2d 91,](#) rehearing denied [99 S.Ct. 232, 439 U.S. 884, 58 L.Ed.2d 200,](#) rehearing denied [99 S.Ct. 233, 439 U.S. 884, 58 L.Ed.2d 200.](#) Constitutional Law ↪ 70.3(4)

It is not a judicial function to write amendments into a law to accord with a court's ideas of wisdom and appropriateness. [Corsa v. Tawes, 1957, 149 F.Supp. 771,](#) affirmed [78 S.Ct. 116, 355 U.S. 37, 2 L.Ed.2d 70.](#) Constitutional Law ↪ 70.3(4)

Courts do not pass upon wisdom of statutes nor approve or disapprove of them, but rather, function of courts, if and when question is raised, is to ascertain whether statute exceeds constitutional limits. [State v. Wyand, 1985, 501 A.2d 43, 304 Md. 721,](#) certiorari denied [106 S.Ct. 1492, 475 U.S. 1095, 89 L.Ed.2d 893.](#) Constitutional Law ↪ 70.3(4)

The due process clause does not empower the judiciary to sit as a superlegislature to weigh the wisdom of legislation. [U.S.C.A.Const. Amend. 14. Robert T. Foley Co. v. Washington Suburban Sanitary Commission, 1978, 389 A.2d 350, 283 Md. 140.](#) Constitutional Law ↪ 70.3(4)

Wisdom or expediency of a law adopted in the exercise of the police power of the state is not subject to judicial review; such a statute would not be held void if there are any considerations relating to the public welfare by which it can be supported. [Maryland Bd. of Pharmacy v. Sav-A-Lot, Inc., 1973, 311 A.2d 242, 270 Md. 103.](#) Constitutional Law ↪ 70.3(4); Constitutional Law ↪ 70.3(7)

Courts cannot review wisdom of projects which elected bodies undertake, nor can they substitute their judgment for the judgment of the people and authority who make the decisions. [City of Bowie v. Board of County Com'rs for Prince George's County, 1970, 271 A.2d 657, 260 Md. 116.](#) Constitutional Law ↪ 70.3(4)

So long as legislation has a substantial relation to public welfare and can fairly be said to serve a public purpose, it is not the function of courts to strike it down, merely because of fear that it may lead to unwise or unfortunate results. [Lerch v. Maryland Port Authority, 1965, 214 A.2d 761, 240 Md. 438.](#) Constitutional Law ↪ 70.3(4)

The wisdom of a statute is not before court passing on the constitutionality of a statute. [Home Utilities Co. v. Revere Copper & Brass, Inc., 1956, 122 A.2d 109, 209 Md. 610.](#) Constitutional Law ↪ 70.3(4)

Courts are concerned with the construction of legislation, but not with the wisdom thereof. [Dodrer v. Dodrer, 1944, 37 A.2d 919, 183 Md. 413.](#) Constitutional Law ↪ 70.3(4)

The wisdom of statute is question for legislature to determine, and courts have nothing to do with it except to say whether it violates any constitutional rights. [Munsell v. Hennegan, 1943, 31 A.2d 640, 182 Md. 15, 146 A.L.R. 660](#). Constitutional Law ↪ 70.3(4)

122. ---- Justice, judicial inquiry into legislation, judicial powers

To be able to find fault with the law is not to demonstrate its invalidity; it may seem unjust, yet be free from judicial interference. [Edgewood Nursing Home v. Maxwell, 1978, 384 A.2d 748, 282 Md. 422](#). Constitutional Law ↪ 70.3(5)

Court cannot substitute considerations of fairness and equity for definite legislative directions on matters within legislative control. [Weinberg v. Safe Deposit & Trust Co. of Baltimore, 1951, 85 A.2d 50, 198 Md. 539, 37 A.L.R.2d 188](#). Constitutional Law ↪ 70.3(5)

Where provisions of statute are ambiguous or Legislature's intention is doubtful, court may look to consequences in construing statute, but where language thereof is clear and explicit and expresses definite and sensible meaning, court cannot disregard Legislature's mandate and insert exception not made by Legislature for sake of relieving against hardship or injustice. [Schmeizl v. Schmeizl, 1946, 46 A.2d 619, 186 Md. 371](#). Constitutional Law ↪ 70.3(5); Statutes ↪ 190

123. ---- Necessity or desirability, judicial inquiry into legislation, judicial powers

Complete deference to legislative assessments of reasonableness and necessity for modifying public contracts, as opposed to private contracts, is not appropriate, but at least some deference to legislative policy decisions to modify public contracts in public interest must be accorded. [U.S.C.A. Const. Art. 1, § 10, cl. 1. Baltimore Teachers Union, American Federation of Teachers Local 340, AFL-CIO v. Mayor and City Council of Baltimore, 1993, 6 F.3d 1012](#), rehearing and rehearing in banc denied, certiorari denied [114 S.Ct. 1127, 510 U.S. 1141, 127 L.Ed.2d 435](#), certiorari denied [114 S.Ct. 1127, 510 U.S. 1141, 127 L.Ed.2d 435](#). Constitutional Law ↪ 70.3(6)

124. ---- Reasonableness and expediency, judicial inquiry into legislation, judicial powers

Where language of statute is free from doubt, court has no power to evade it by forced and unreasonable construction or to pass on expediency of statute. [State Tax Commission v. Chesapeake & Potomac Tel. Co. of Baltimore City, 1949, 66 A.2d 477, 193 Md. 222](#). Constitutional Law ↪ 70.3(7); Statutes ↪ 190

If enactment is within the power of Legislature, courts are not concerned with its wisdom or reasonableness. [Engle v. Mayor and City Council of Cumberland, 1942, 25 A.2d 446, 180 Md. 465](#). Constitutional Law ↪ 70.3(7)

With regard to the policy of an Ordinance of a Municipal Corporation, whether expedient of inexpedient, just or unjust, courts have nothing to do. If passed by a corporation within the scope of its delegated powers, it is valid and must be so declared. [Clark v. Mayor of Baltimore, 1868, 29 Md. 277](#). Constitutional Law ↪ 70.3(7)

125. ---- Police power, judicial inquiry into legislation, judicial powers

Wisdom or expediency of law adopted in exercise of state's police power is not subject to judicial review, and such a statute will not be held void if there are any considerations relating to

public welfare by which it can be supported. [Raynor v. Maryland Dept. of Health and Mental Hygiene, 1996, 676 A.2d 978, 110 Md.App. 165](#), certiorari denied [684 A.2d 454, 343 Md. 679](#), certiorari denied [117 S.Ct. 1428, 520 U.S. 1166, 137 L.Ed.2d 537](#). Constitutional Law ↪ 70.3(8)

Wisdom or expediency of law adopted in exercise of police power of a state is not subject to judicial review, and law will not be held void if there are any considerations relating to public welfare by which it can be supported. [Commission on Medical Discipline v. Stillman, 1981, 435 A.2d 747, 291 Md. 390](#). Constitutional Law ↪ 70.3(8)

The wisdom or expediency of a law adopted in the exercise of the state's police power is not subject to judicial review and such a statute will not be held void if there are any considerations relating to the public welfare by which it can be supported. [Edgewood Nursing Home v. Maxwell, 1978, 384 A.2d 748, 282 Md. 422](#). Constitutional Law ↪ 70.3(8)

Wisdom or expediency of valid law adopted in exercise of State's police power is not subject to judicial review. [Goldsborough v. Department of Transp., 1977, 367 A.2d 522, 279 Md. 36](#). Constitutional Law ↪ 70.3(8)

Wisdom or expediency of law adopted in exercise of police power of state is not subject to judicial review, and such statute will not be held void if there are any considerations relating to public welfare by which it can be supported. [Westchester West No. 2 Ltd. Partnership v. Montgomery County, 1975, 348 A.2d 856, 276 Md. 448](#). Constitutional Law ↪ 70.3(8)

Wisdom or expediency of a law adopted in exercise of police power of the state is not subject to judicial review and such a statute will not be held void if there are any considerations relating to the public welfare by which it can be supported. [Aero Motors, Inc. v. Administrator, Motor Vehicle Administration, 1975, 337 A.2d 685, 274 Md. 567](#). Constitutional Law ↪ 70.3(8)

The wisdom or expediency of a law adopted in exercise of the police power of a state is not subject to judicial review, and the law will not be held void if there are any considerations relating to the public welfare by which it can be supported. [Bowie Inn, Inc. v. City of Bowie, 1975, 335 A.2d 679, 274 Md. 230, 73 A.L.R.3d 1079](#). Constitutional Law ↪ 70.3(8)

Wisdom or expediency of a law adopted in exercise of police power of state is not subject to judicial review, and such a statute will not be held void if there are any considerations relating to public welfare by which it can be supported. [Maryland State Bd. of Barber Examiners v. Kuhn, 1973, 312 A.2d 216, 270 Md. 496](#). Constitutional Law ↪ 70.3(8); Constitutional Law ↪ 81

Wisdom or expediency of a law adopted in exercise of police power of the state is not subject to judicial review and such a statute will not be held void if there are any considerations relating to the public welfare by which it can be supported. [Salisbury Beauty Schools v. State Bd. of Cosmetologists, 1973, 300 A.2d 367, 268 Md. 32](#). Constitutional Law ↪ 70.3(8)

The wisdom or expediency of regulations adopted in exercise of police power is not subject to judicial review. [Davis v. State, 1944, 37 A.2d 880, 183 Md. 385](#). Constitutional Law ↪ 70.3(8)

Power to decide whether use of property imperils public order, security, health, or morals is vested in Legislature. [Tighe v. Osborne, 1925, 131 A. 801, 149 Md. 349, 43 A.L.R. 819](#). Constitutional Law ↪ 70.3(8)

Whether legislation is within police power is for court to decide. [Tighe v. Osborne, 1925, 131 A. 801, 149 Md. 349, 43 A.L.R. 819](#). Constitutional Law ↪ 70.3(8)

The court, when exercising its revisory jurisdiction over police enactments, is confined to the inquiry whether the act has a real and substantial relation to the police power, and, if it has, then no matter how unreasonable nor how unwise the measure itself may be, it is not for the courts to avoid it upon these grounds. [Hiller v. State, 1914, 92 A. 842, 124 Md. 385](#). Constitutional Law ↪ 70.3(8)

Where laws are passed arbitrarily, under the guise of protecting the public welfare, which have no relation to that object, the courts will determine whether there was a proper exercise of the police power; but, unless the Legislature plainly and beyond all question exceeds such power, there should be no judicial interference, although the court may disagree as to the propriety of the legislation. [State v. Gurry, 1913, 88 A. 546, 121 Md. 534, Am. Ann. Cas. 1915B, 957](#). Constitutional Law ↪ 70.3(8)

The court, when exercising its revisory jurisdiction over police enactments, is confined to the inquiry whether the act has a real and substantial relation to the police power, and, if it has, then no matter how unreasonable nor how unwise the measure itself may be, it is not for the courts to avoid it upon these grounds. [Schultz v. State, 1910, 76 A. 592, 112 Md. 211](#). Constitutional Law ↪ 70.3(8)

[126](#). ---- Property, judicial inquiry into legislation, judicial powers

Conflicts over whether particular regulatory provisions have the desired result upon fish populations and the social policy that the state should follow in management of its resources are peculiarly matters for the Legislature and not within the judicial sphere. [Corsa v. Tawes, 1957, 149 F.Supp. 771](#), affirmed [78 S.Ct. 116, 355 U.S. 37, 2 L.Ed.2d 70](#). Constitutional Law ↪ 70.3(10)

Decision as to whether a state's interest requires a prohibition of all purse netting in the tidal waters of the state in order to protect sports fishing which itself supports a considerable industry is a legislative prerogative. Code Md.1951, art. 66C, §§ 258, 259. [Corsa v. Tawes, 1957, 149 F.Supp. 771](#), affirmed [78 S.Ct. 116, 355 U.S. 37, 2 L.Ed.2d 70](#). Constitutional Law ↪ 70.3(10)

It is within the legislature's power to decide whether statute which provides forfeiture of any conveyance used in narcotics traffic is desirable. [Code 1957, art. 27, § 297. Prince George's County v. Blue Bird Cab Co., 1971, 284 A.2d 203, 263 Md. 655](#). Constitutional Law ↪ 70.3(10)

If change in manner of operation of apartment house to the co-operative plan as permitted under Housing and Rent Act of 1947 contributes to economic evils of inflation, the remedy must lie with the Legislature and not with the courts. Housing and Rent Act of 1947, § 209(a)(3), 50 U.S.C.A.Appendix, § 1899(a)(3). [Tudor Arms Apartments v. Shaffer, 1948, 62 A.2d 346, 191 Md. 342](#). Constitutional Law ↪ 70.3(10)

The policy of Acts 1914, c. 265, respecting the use and disposition of oyster grounds, is a question solely for the Legislature, with which the court has no concern. [Cox v. Revelle, 1915, 94 A. 203, 125 Md. 579](#). Constitutional Law ↪ 70.3(10)

[127](#). ---- Contracts and torts, judicial inquiry into legislation, judicial powers

Whether rule relative to doctrine of comparative rectitude should be changed would be matter for legislative, rather than judicial, consideration. [Wardrop v. Wardrop, 1956, 124 A.2d 576, 211 Md. 14](#). Constitutional Law ↪ 70.3(11)

If operation of statute permitting manufacturer to retain lien on motor truck, sold to dealer under conditional sales agreement, may result in loss to innocent purchaser for value, it must be corrected by Legislature, not courts. [Finance & Guaranty Co. v. Defiance Motor Truck Co., 1924, 125 A. 585, 145 Md. 94](#). Constitutional Law ↪ 70.3(11)

128. ---- Crimes, judicial inquiry into legislation, judicial powers

Question whether, although an accused is found to be a responsible agent, he should be relieved of responsibility for a crime if it is further found that the unlawful act was a product of a mental disease or mental defect is for the legislature. [Cole v. State, 1957, 128 A.2d 437, 212 Md. 55](#). Constitutional Law ↪ 70.3(12)

129. ---- Remedies, judicial inquiry into legislation, judicial powers

Whether the policy underlying a statute authorizing divorce by reason of voluntary separation should be extended to cases for divorces sought on a culpatory ground or whether the doctrine of recrimination should be extended into non-culpatory divorce cases are questions of policy for legislative determination. [Matysek v. Matysek, 1957, 128 A.2d 627, 212 Md. 44](#). Constitutional Law ↪ 70.3(13)

Determination of causes for divorce is matter for Legislature. Code 1951, art. 16, §§ 31, 33, 35. [Bowersock v. Bowersock, 1956, 123 A.2d 909, 210 Md. 427](#). Constitutional Law ↪ 70.3(13)

Where the consequences of error, on a close question of law on an application for a search warrant, might be deemed out of proportion to the error, the matter is for Legislature and not for the court. [Code 1939, art. 27, § 306](#); art. 35, § 5. [Wood v. State, 1945, 44 A.2d 859, 185 Md. 280](#). Constitutional Law ↪ 70.3(13)

Whether operation of statute of limitations shall be suspended by payment of interest on or principal of debt or both is for Legislature, not courts, to determine. Code 1939, art. 57, § 3. [McMahon v. Dorchester Fertilizer Co., 1944, 40 A.2d 313, 184 Md. 155](#). Constitutional Law ↪ 70.3(13)

The determination of causes for which divorce may be granted is a matter for Legislature. [Dodrer v. Dodrer, 1944, 37 A.2d 919, 183 Md. 413](#). Constitutional Law ↪ 70.3(13)

Court was not concerned with reasons prompting modification of statute relating to searches and seizures. Code Pub.Gen.Laws Supp.1935, art. 35, § 4a. [Sugarman v. State, 1937, 195 A. 324, 173 Md. 52](#). Constitutional Law ↪ 70.3(13)

130. ---- Government, judicial inquiry into legislation, judicial powers

Collateral litigation of motives of county council in enacting zoning legislation is not permissible since it would subordinate role of legislative branch of government. [Ligon v. State of Md., 1977, 448 F.Supp. 935](#). Constitutional Law ↪ 70.3(14)

If legislative enactments otherwise establish themselves as valid revenue measures, Court of Appeals does not examine motives of legislators who voted for them, even assuming that regulation was their objective. [Montgomery County v. Maryland Soft Drink Ass'n, Inc., 1977, 377 A.2d 486, 281 Md. 116](#). Constitutional Law ↪ 70.3(14)

Wisdom of a county imposing upon its officials and employees financial disclosure requirements is a matter for legislative, rather than judicial judgment. [Montgomery County v. Walsh, 1975, 336 A.2d 97, 274 Md. 502](#), appeal dismissed [96 S.Ct. 1091, 424 U.S. 901, 47 L.Ed.2d 306](#). Constitutional Law ↪ 70.3(14)

Under established rule, hospital was not liable for injuries to patient caused by negligence of its physician in course of his duties; and court would not change rule, since to do so would be "judicial legislation" of a very invidious nature, not only withdrawing immunity that court had repeatedly said existed without affording any opportunity to those affected to indemnify themselves against loss but also impinging legislative policy established by statute. [Code 1957, art. 48A, § 85. Cornelius v. Sinai Hospital of Baltimore, Inc., 1959, 148 A.2d 567, 219 Md. 116](#). Constitutional Law ↪ 70.3(14); Health ↪ 768

The question whether a proposed highway is required by public necessity is ordinarily a legislative rather than a judicial matter. [Jewell v. State Roads Commission of Md., 1957, 131 A.2d 727, 213 Md. 269](#). Constitutional Law ↪ 70.3(14)

Argument of counsel for defendant in cases brought by city for condemnation of property for redevelopment purposes, that theory of redevelopment was at variance with other activities of city, aimed at renovating obsolete or deteriorated sections of city by strict enforcement of health and nuisance laws, and stimulation of neighborhood repair and improvement, related to matters of policy and was of no concern to court. [Code 1951, art. 33A](#); Const. art. 11B. [Herzinger v. Mayor & City Council of Baltimore, 1953, 98 A.2d 87, 203 Md. 49](#). Constitutional Law ↪ 70.3(14)

Whether failure of city charter to provide for notice and hearing on subdivision plan is a contravention of spirit of sound planning, is not concern of courts, and omission of provision for notice and hearing could not be supplied by court. [Feldman v. Star Homes, Inc., 1951, 84 A.2d 903, 199 Md. 1](#). Constitutional Law ↪ 70.3(14)

If an act authorizing establishment of a public market authority was constitutional, Court of Appeals could not usurp province of legislature by deciding that some more common method of dealing with situation would be better. [Castle Farms Dairy Stores v. Lexington Market Authority, 1949, 67 A.2d 490, 193 Md. 472](#). Constitutional Law ↪ 70.3(14)

That under statutes relating to jurisdiction of court to determine custody of minors, a disappointed party in habeas corpus relating to custody of a minor may try another judge and obtain a different conclusion and thereby shift child's custody from one set of custodians to another during minority, presents a situation, the remedy for which lies with the Legislature, not the Courts. Code 1939, art. 16, §§ 41, 85; art. 42, §§ 19-21. [De Angelis v. Kelley, 1944, 40 A.2d 332, 184 Md. 183](#). Constitutional Law ↪ 70.3(14)

Courts have nothing to do with the necessities or reasonableness of the means adopted by a city to protect the health, welfare, and morals of the community, unless the legislation enacted is arbitrary, oppressive or capricious. [Liberto v. Mayor and Council of City of Baltimore, 1941, 23](#)

[A.2d 43, 180 Md. 105.](#) Constitutional Law ↪ 70.3(14)

In determining whether the issuance of bridge construction bonds payable exclusively from tolls would amount to contracting a debt without annual taxation to meet the debt in violation of Constitution, the Court of Appeals would assume that objections to the policy of resorting to self-liquidating improvements had been duly considered by the General Assembly. Laws 1937, c. 356; [Const. art. 3, § 34. Wyatt v. Beall, 1938, 1 A.2d 619, 175 Md. 258.](#) Constitutional Law ↪ 70.3(14)

Objections to policy of constructing self-liquidating improvements are to be weighed and disposed of by the legislative branch of the government in the exercise of its plenary power, and not by courts which can only deal with argued limitations on that power, to be found in some provision of the Constitution. [Wyatt v. Beall, 1938, 1 A.2d 619, 175 Md. 258.](#) Constitutional Law ↪ 70.3(14)

Legislature must determine wisdom and fairness of a 1 per cent. emergency gross receipts tax on retail sellers for revenue to provide unemployment relief and old age pensions, since it is only when license fee is exacted as a police regulation that court can consider whether it is so unreasonable as to amount to a prohibition. Code Pub.Gen.Laws 1924, art. 56, § 72B, as added by Laws 1935, c. 188. [Jones v. Gordy, 1935, 180 A. 272, 169 Md. 173.](#) Constitutional Law ↪ 70.3(14)

Change of policy against granting divorces except for serious and weighty causes, firmly established and understood, is legislative, not judicial function. [Crumlick v. Crumlick, 1933, 165 A. 189, 164 Md. 381.](#) Constitutional Law ↪ 70.3(14)

If the Legislature had power to pass an act extending the limits of Baltimore city without a referendum, and in the form it was passed, the Court of Appeals has no right to question the wisdom or even the justice of the act. [McGraw v. Merryman, 1918, 104 A. 540, 133 Md. 247.](#) Constitutional Law ↪ 70.3(14)

The wisdom of a tax exemption is within the discretion of the Legislature and not subject to control by the courts. [City of Baltimore v. German-American Fire Ins. Co. of Baltimore City, 1918, 103 A. 980, 132 Md. 380.](#) Constitutional Law ↪ 70.3(14)

The court is not concerned with the wisdom, expediency, or policy of the law, or whether it is any improvement upon the former condemnation procedure; those being political questions exclusively committed by the Constitution to the judgment of the Legislature. [Ridgely v. City of Baltimore, 1913, 87 A. 909, 119 Md. 567.](#) Constitutional Law ↪ 70.3(14)

Taxation is a legislative power with the wisdom or policy of which the judicial authority has nothing to do. [Appeal Tax Court of Baltimore City v. Patterson, 1879, 50 Md. 354,](#) affirmed [104 U.S. 592, 14 Otto 592, 26 L.Ed. 845.](#) Constitutional Law ↪ 70.3(14)

[131.](#) ---- Membership, organization, and procedure of legislature, judicial inquiry into legislation, judicial powers

Making a record of a passage of a bill as required by the constitution rests with the legislature and not with the judiciary. [Const. art. 3, § 28. Redwood v. Lane, 1949, 69 A.2d 907, 194 Md. 91.](#) Constitutional Law ↪ 70.4

The constitution provided that the legislature should make provision for cases of contested elections for certain offices. A statute provided that all contested elections for one of those offices should be decided by the house. Held, that the decision of the house was final. [State v. Jarrett, 1861, 17 Md. 309](#). Constitutional Law ↪ 70.4

[132](#). Encroachment on executive--In general

While courts will not hesitate in setting aside school board actions that penalized teachers for exercise of First Amendment rights, the court will not second guess such bodies on matters within their discretion that do not rise to level of constitutional deprivation. [U.S.C.A.Const. Amends. 1, 14. Shaw v. Board of Trustees of Frederick Community College, 1976, 549 F.2d 929](#). Constitutional Law ↪ 72

Where administrative officer acts outside authority or attempts to alter statutes by regulations, courts do not hesitate to assume jurisdiction. [Fidelity & Deposit Co. of Md. v. U.S., 1932, 55 F.2d 100](#). Constitutional Law ↪ 72

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 the Declaration of Rights of the Maryland Constitution. [Sadler v. Dimensions Healthcare Corp., 2003, 836 A.2d 655, 378 Md. 509](#). Constitutional Law ↪ 72

Circuit courts do not exercise appellate or oversight jurisdiction in regard to administrative agencies, as oversight of state administrative agencies is generally vested in the executive branch of government. [State v. Maryland State Bd. of Contract Appeals, 2001, 773 A.2d 504, 364 Md. 446](#), reconsideration denied. Constitutional Law ↪ 72

Juvenile court lacked authority under Juvenile Causes Act or separation of powers doctrine to order that county board of education, that was nonparty to delinquency proceeding, provide educational services to juvenile while he was placed in children's institute. [Code, Courts and Judicial Proceedings, § 3- 820. In re Nicholas B., 2001, 768 A.2d 735, 137 Md.App. 396](#). Constitutional Law ↪ 72; Infants ↪ 221

"Miscellaneous bargain" between defendant and state--i.e., any bargain which is not grant of immunity or plea bargain--is not judicially enforceable if it involves acts within the unfettered control of defendant or the state; no matter how egregious the state's breach, the judicial branch may not become involved in the enforcement of such agreements. [Jackson v. State, 1998, 706 A.2d 156, 120 Md.App. 113](#), certiorari granted [711 A.2d 871, 350 Md. 280](#), reversed [747 A.2d 1199, 358 Md. 259](#). Constitutional Law ↪ 72

Regulating eligibility for parole is not an inherent part of judicial sentencing function; rather, except in those limited circumstances when legislature has expressly empowered courts to impose no-parole provisions under very specifically designated circumstances, parole function is exclusively within the control of the executive branch of government. [DeLeon v. State, 1994, 648 A.2d 1053, 102 Md.App. 58](#). Constitutional Law ↪ 72; Constitutional Law ↪ 76

Separation of powers doctrine barred judicial inquiry into former governor's motive for veto of legislation to provide additional racing dates for Maryland race track. Const.Declaration of Rights, Art. 8; [Const. Art. 2, § 17. O'Hara v. Kovens, 1992, 606 A.2d 286, 92 Md.App. 9](#), certi-

orari denied [612 A.2d 1316](#), [328 Md. 93](#), certiorari denied [113 S.Ct. 1282](#), [507 U.S. 920](#), [122 L.Ed.2d 675](#). Constitutional Law ↪ 72

If allegation that child has committed delinquent act has been proved beyond reasonable doubt, court may commit child to custody of Department of Juvenile Services (DJS), and, in doing so, may designate type of facility where child is to be accommodated; court may not, however, designate specific facility, as such designation is prerogative of DJS. [Code, Courts and Judicial Proceedings, §§ 3-819\(b\)\(1\), 3-820](#); Md.Rule 914, subd. e, par. 1. [In re Demetrius J., 1991, 583 A.2d 258, 321 Md. 468](#). Constitutional Law ↪ 72; Infants ↪ 223.1

Court's review of factual findings of administrative agency and the application of law to the facts are constitutionally circumscribed because such agencies are considered arms of legislature. Code 1957, Art. 89, §§ 38, 38(a). [United Steelworkers of America, AFL-CIO, Local 2610 v. Bethlehem Steel Corp., 1983, 454 A.2d 850, 53 Md.App. 366](#), certiorari granted 295 Md. 691, vacated [472 A.2d 62, 298 Md. 665](#). Constitutional Law ↪ 72

Courts' power to appoint personnel when situation mandates it for smooth and efficient running of judicial system does not authorize court to assume state's attorney's constitutional power to determine when and if to prosecute, nor does it allow state's attorney to abrogate his constitutionally prescribed duty by simple acquiescence. [Code, Courts and Judicial Proceedings, § 2-102\(a\)](#); Const.Declaration of Rights, Art. 8. [Babbitt v. State, 1982, 448 A.2d 930, 294 Md. 134](#). Constitutional Law ↪ 72; District And Prosecuting Attorneys ↪ 8

One limitation on principle that judiciary should defer to executive branch of federal government in certain matters involving foreign governments is when Congress has acted with respect to a particular matter and issues in litigation concern authority of Congress to so act and the interpretation of scope of the legislative enactment, judiciary should resolve those issues. [Traore v. State, 1981, 431 A.2d 96, 290 Md. 585](#). Constitutional Law ↪ 72

Constitution does not allow courts to usurp discretionary functions of the executive, and administrative departments of that branch, whose duties and powers have been properly delegated by the legislature. [Maryland State Dept. of Health and Mental Hygiene v. Prince George's County Dept. of Social Services, 1980, 423 A.2d 589, 47 Md.App. 436](#), certiorari denied 290 Md. 714, certiorari denied 290 Md. 723. Constitutional Law ↪ 72

Order of juvenile court directing Department of Health and Mental Hygiene to shoulder financial responsibility for care and treatment of child in need of assistance at private institution invaded province of executive and legislative branches by directing a payout of money for purpose not funded by legislature nor requested by executive. [Const. Art. 3, § 52\(3\)](#). [Maryland State Dept. of Health and Mental Hygiene v. Prince George's County Dept. of Social Services, 1980, 423 A.2d 589, 47 Md.App. 436](#), certiorari denied 290 Md. 714, certiorari denied 290 Md. 723. Constitutional Law ↪ 72

Judiciary has no authority to control governor's discretion and require him to include more funds in budget bill to implement statute pertaining to foster care program administered by social services administration and providing that monthly rate shall not be less than monthly rate for care purchased in single-family home by juvenile services administration. [Const. art. 3, § 52](#); Code 1957, art. 88A, § 60B(b). [Maryland Action for Foster Children, Inc. v. State, 1977, 367 A.2d 491, 279 Md. 133](#). Constitutional Law ↪ 72

Trial court by mandating that state's attorney prosecute all violations of building and electrical codes of Baltimore City improperly interfered with discretion vested in state's attorney. [Code 1957, art. 53, § 44. State's Attorney of Baltimore City v. City of Baltimore, 1975, 337 A.2d 92, 274 Md. 597.](#) Constitutional Law ↪ 74

Courts may not formulate criteria for Insurance Commissioner to follow in considering whether proposed cancellation or nonrenewal of automobile liability policy is justified. [Code 1957, art. 48A, §§ 234A, 240AA, 240AA\(f\), 240F. Government Employees Ins. Co. v. Insurance Com'r, 1975, 330 A.2d 653, 273 Md. 467.](#) Constitutional Law ↪ 72

Section of Insurance Code requiring court to determine whether decision of Insurance Commissioner is supported by preponderance of the evidence on consideration of the record as a whole does not impose nonjudicial duties on court in violation of article of Declaration of Rights of the State Constitution providing that legislative and judicial functions must be and remain separate. [Code 1957, art. 48A, § 245; Const. Declaration of Rights, art. 8. State Ins. Commissioner v. National Bureau of Cas. Underwriters, 1967, 236 A.2d 282, 248 Md. 292.](#) Constitutional Law ↪ 72; Insurance ↪ 1070

Chancellor lacked judicial power to designate location or site of sewage plant which Board of Health sought to compel city to erect. [Mayor and City Council of Havre de Grace v. State Bd. of Health, 1964, 198 A.2d 732, 234 Md. 222.](#) Constitutional Law ↪ 72

Exercise of power to call General Assembly into extraordinary session lies entirely within discretion of Governor, and courts cannot direct him to exercise such power. [Maryland Committee for Fair Representation v. Tawes, 1962, 180 A.2d 656, 228 Md. 412.](#) Constitutional Law ↪ 72

The judiciary has no authority to control members of executive department in carrying out their duties so long as there is no plain violation of constitution or law. [Duvall v. Lacy, 1950, 73 A.2d 26, 195 Md. 138.](#) Constitutional Law ↪ 72

Acts 1902, p. 670, c. 455, places the courthouse and grounds of Upper Marlboro, Prince George's County, in the care, custody, and control of the crier of the circuit court of that county. [Const. art. 4, § 9,](#) provides that the judges of any court may appoint the necessary court officers, etc. Declaration of Rights, art. 8, declares that no person exercising judicial functions shall discharge duties of another character. Held, that the statute is violative of the Constitution in that it indirectly imposes on the judges--who appoint the crier--nonjudicial functions, and interferes with the court by requiring its officer to discharge other duties than those pertaining to his office as crier. [Prince George's County Com'rs v. Mitchell, 1903, 55 A. 673, 97 Md. 330.](#) Constitutional Law ↪ 74

Acts 1901, c. 15, giving the control of the jail of Anne Arundel county to a board of visitors appointed by the judges of the circuit court, is an attempt to confer the nonjudicial power of appointment on the judges, in violation of Declaration of Rights, art. 8, declaring that a person exercising the function of either the executive, legislative, or judicial branch of the government shall not exercise any function of any other department. [Beasley v. Ridout, 1902, 52 A. 61, 94 Md. 641.](#) Constitutional Law ↪ 74

Under Baltimore City Charter, § 170, providing that the determination of the Baltimore city court refusing a decision of the appeal tax court as to the revaluation of the property may be appealed to the court of appeals, and that the latter court shall hear and determine the question involved in

the appeal, where the city appeals from a decision of the city court, the only question involved being the propriety of the amount of the valuation, the question cannot be reviewed, as such court can only be required to discharge its official duties, and hence cannot be directed by the general assembly to sit in judgment on such a valuation, because such a valuation is not the result of the exercise of any judicial duty. [City of Baltimore v. Bonaparte, 1901, 48 A. 735, 93 Md. 156.](#) Constitutional Law ↪ 74

Acts 1894, c. 6, § 7, providing that, where objections are filed to an application for a liquor license in Carroll county, both the application and objections shall be referred to the circuit judge, who shall, on notice, determine whether the license applied for shall be issued or not, imposes a judicial duty on the circuit judge, and hence is not repugnant to Bill of Rights, art. 8, providing that the legislative, executive, and judicial powers of the government shall forever be separate and distinct, and that no person exercising the functions of one of said departments shall discharge the duties of any other, and article 33, providing that no judge shall hold any other office or political trust. [McCrea v. Roberts, 1899, 43 A. 39, 89 Md. 238.](#) Constitutional Law ↪ 74

[133.](#) ---- Interference with executive action, encroachment on executive, judicial powers

Court of Special Appeals lacked authority to directly review actions of the public defender, in murder prosecution in which defendant claimed that refusal of public defender to provide him with an expert DNA witness violated his constitutional rights and the Public Defender Statute; Public Defender was an executive agency, and Court did not directly review its discretionary decisions, as to do so would be an exercise of original jurisdiction outside scope of Court's authority. [Moore v. State, 2004, 841 A.2d 31, 154 Md.App. 578,](#) certiorari granted [851 A.2d 593, 381 Md. 674,](#) affirmed but criticized [889 A.2d 325, 390 Md. 343,](#) reconsideration denied, petition for certiorari filed [2006 WL 1232501.](#) Criminal Law ↪ 1023(3)

Reduction of legislature's budget appropriations by governor and Board of Public Works was quasi-legislative, and thus Court of Appeals' review was limited to assessing whether actions were within legal boundaries. [Code, State Finance and Procurement, § 7-213; Const. Art. 3, § 52. Judy v. Schaefer, 1993, 627 A.2d 1039, 331 Md. 239.](#) Constitutional Law ↪ 73; States ↪ 43; States ↪ 129.1

Election to seek death penalty is prerogative resting exclusively with State's Attorney's Office, with which judicial branch has no authority to interfere. [Cirincione v. State, 1988, 540 A.2d 1151, 75 Md.App. 166,](#) certiorari denied [547 A.2d 188, 313 Md. 611,](#) denial of post-conviction relief affirmed [705 A.2d 96, 119 Md.App. 471,](#) certiorari denied [711 A.2d 868, 350 Md. 275.](#) Constitutional Law ↪ 73

Although it was said in the case of [Miles v. Bradford, 24 Md.,](#) that "the Governor bears the same relation to the State that the President does to the United States, and in the discharge of his political duties, is entitled to the same immunities, privileges and exemptions,"--it is nowhere said, that the President or Governor, in the discharge of mere ministerial duties, would be exempt from judicial process. [Magruder v. Swann, 1866, 25 Md. 173.](#) Constitutional Law ↪ 73

The courts may compel an executive officer to perform a mere ministerial act. [Magruder v. Swann, 1866, 25 Md. 173.](#) Constitutional Law ↪ 73; Mandamus ↪ 71

The courts have no power to compel, by mandamus, the governor of a state to perform any act

which it may be his duty to perform in his political capacity, or which he officially, is required to perform by the constitution or laws of the state. [Miles v. Bradford, 1864, 22 Md. 170, 85 Am.Dec. 643](#). Constitutional Law ☞ 73; Mandamus ☞ 64

The judiciary has no power by mandamus to control the governor in the exercise of his duties. [Miles v. Bradford, 1864, 22 Md. 170, 85 Am.Dec. 643](#). Constitutional Law ☞ 73

The courts have no power to compel, by mandamus, an executive officer to perform an act which is discretionary with him. [Green v. Purnell, 1858, 12 Md. 329](#). Constitutional Law ☞ 73; Mandamus ☞ 72

[134](#). ---- Powers, duties, and acts under legislative authority, encroachment on executive, judicial powers

Circuit Court's order remanding unemployment compensation case to Department of Labor, Licensing, and Regulation (DLLR) infringed on DLLR's legislatively granted power to manage its docket in orderly manner. [Department of Labor, Licensing and Regulation v. Woodie, 1999, 738 A.2d 334, 128 Md.App. 398](#). Constitutional Law ☞ 74

Question of transgression of limits on powers of governmental agencies under housing statutes is one for judicial determination. Acts 1937, cc. 517, 518; [42 U.S.C.A. § 1401](#) et seq. [Matthaei v. Housing Authority of Baltimore City, 1939, 9 A.2d 835, 177 Md. 506](#). Constitutional Law ☞ 74

Determination of local authority under slum clearance laws of what are incomes too low for decent, safe and sanitary housing is final unless so oppressive, arbitrary, or unreasonable as to suggest bad faith, and courts are not empowered merely to oppose their judgment to that of determining authority. Acts 1937, c. 517, § 3(i, j). [Matthaei v. Housing Authority of Baltimore City, 1939, 9 A.2d 835, 177 Md. 506](#). Constitutional Law ☞ 74

Bank Commissioners rejecting bank charter in exercise of judgment applied to information obtained by proper investigation is not subject to judicial review. Code Pub.Gen.Laws 1924, art. 11, § 22. [Weer v. Page, 1928, 141 A. 518, 155 Md. 86](#). Constitutional Law ☞ 74

On application to restrain execution of order of Public Service Commission fixing railroad rates, power of court can only determine whether rates fixed are unreasonable or unlawful, which must clearly appear before it may restrain execution of order. [Pennsylvania R. Co. v. Towers, 1915, 94 A. 330, 126 Md. 59, Am. Ann. Cas. 1917B, 1144](#), affirmed [38 S.Ct. 2, 245 U.S. 6, 62 L.Ed. 117](#). Constitutional Law ☞ 74; Public Utilities ☞ 183

Act 1896, p. 314, c. 195, providing, as a condition precedent to the submission of the question of the sale of intoxicating liquors as beverages in W. county, that a petition shall be presented to the circuit court, which is required to count the names on the petition, and ascertain whether such names are the names of persons who voted at the last election for Governor, and thereupon to order an election, is void as imposing on the court nonjudicial duties in violation of the Constitution. [Board of Sup'rs of Election for Wicomico County v. Todd, 1903, 54 A. 963, 97 Md. 247, 99 Am.St.Rep. 438](#). Constitutional Law ☞ 74

A judge is under no legal obligation to perform duties of a nonjudicial nature which may be imposed upon him by statute after his appointment to office. [State v. Chase, 1821, 5 H. & J. 297](#).

Constitutional Law ↪ 74

135. Immunity

Doctrine of parent-child immunity from suit in tort is constitutional and does not violate equal protection. Const. Declaration of Rights, arts. 8, [19](#); [U.S.C.A.Const. Amends. 1, 4, 5, 14](#). [Latz v. Latz, 1971, 272 A.2d 435, 10 Md.App. 720](#), certiorari denied 261 Md. 726. Constitutional Law ↪ 243.2

136. Compensation of judges

Under constitutional provision prohibiting the reduction of a judge's salary during his continuance in office and other provisions stabilizing the tenure of judges, the salary of an incumbent judge was not subject to state income tax, since imposition of tax would in effect diminish the compensation of judge during his period of service. Acts 1937, Ex.Sess. c. 11; Const.Declaration of Rights, arts. 8, [33](#); art. 4, §§ 3-6, 14, 19, 21, 24, 27, 31; [Const. art. 3, § 52](#) amended in 1891. [Gordy v. Dennis, 1939, 5 A.2d 69, 176 Md. 106](#). Judges ↪ 22(7)

137. Mandamus

Generally, mandamus may issue where reviewing court is vested by the Constitution with superintending control. [State ex rel. Sonner v. Shearin, 1974, 325 A.2d 573, 272 Md. 502, 73 A.L.R.3d 454](#). Courts ↪ 207.4(1.1)

138. Review

Writ of certiorari was improperly applied by circuit court to review district court's determination that adoption of regulation promulgated by Department of Natural Resources concerning operation of power vessels on water violated separation of powers and its dismissal of misdemeanor charge based on violation of that regulation. [Code, Natural Resources, §§ 8-704\(b-1\), 8-1501\(c\); Const. Art. 4, §§ 1, 41A](#); Const.Declaration of Rights, Art. 8; [Code, Courts and Judicial Proceedings, § 12-401](#). [Howard v. State, 1988, 545 A.2d 705, 76 Md.App. 447](#), certiorari denied [550 A.2d 381, 314 Md. 193](#). Criminal Law ↪ 1011

MD Constitution, Declaration of Rights, Art. 8, MD CONST DECL OF RIGHTS, Art. 8

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