

While the foregoing authorities clearly apply a recognized principle of constitutional law to an analogous situation, our own Court of Appeals has expressed the principle involved although no case has dealt with a statute like this one. In *Crane v. Meginnis*, 1 G. & J. 463, 476, the Court in discussing Article 8 of the Declaration of Rights, stated that separation of powers required:

“That the legislative department shall never exercise the executive and judicial powers or either of them * * *.”

See also *Harris v. Co. Com'rs of Allegany Co.*, 130 Md. 488, 494; *Ahlgren v. Cromwell*, 179 Md. 243.

It is quite clear from the above authorities that the Bill would be unconstitutional if the action to be taken by the County Delegations is considered an executive function. Nevertheless, even if the setting of an open season on doe shall be construed as a legislative function rather than an executive function, the delegation of authority by the Legislature to a County Delegation to exercise this function, would still be unconstitutional. In *Pressman v. Barnes*, 209 Md. 544 at page 552, the Court of Appeals stated:

“It is a fundamental principle that, except when authorized by the Constitution, the Legislature cannot delegate the power to make laws to any other authority. * * *”

The power to make laws is vested in the Legislature as a whole and cannot be delegated to a lesser group of legislators.

There is another defect in this Bill which would render it unconstitutional in my opinion. In Section 132 (a) of Article 66C, the Game and Inland Fish Commission is authorized to prescribe an open season for antlerless deer by special permit. That section provides, in part:

“* * * and the Commission may consider, among other factors, the deer population surveys, crop damage, kill of previous seasons, car kill, and size, weight, health, age and doe-fawn ratios of deer in the said counties in reaching such decision.”

It should be noted that in the above quoted section, the Legislature has set up certain guides and standards pursuant to which the Commission shall set seasons in various counties. This is in accordance with modern concepts of scientific management of game resources on a State-wide basis utilizing the expertise of the Department's trained biologists. However, in House Bill 1162, there are no standards whatsoever whereby the County Legislative Delegation shall reach its decision as to whether or not to permit an open season on doe.

It is a cardinal principle of constitutional law that where a commission or other subordinate body is required to exercise a certain amount of discretion pursuant to delegation of authority to it by the Legislature, such discretion must be guided and restrained by standards sufficient to protect the citizen against arbitrary or unreasonable exercise of such authority. *Tighe v. Osborne*, 149 Md. 349; *Pressman v. Barnes, supra*. Under this Bill, such standards are lacking.

It should be further noted that deer in their wild state belong to all of the people of the State of Maryland and that hunting in