General Sachs dated February 8, 1984 to the AELR Committee which, without addressing the terms of the present legislation, concluded that notwithstanding the recent decision of the Supreme Court of the United States in Immigration and Naturalization Service v. Chadha, U.S., 103 S.Ct. 2764 (1983), so-called legislative veto provisions do not "plainly contravene a provision of the [Maryland] Constitution." I am unable to agree with the premises or conclusions of either the 1978 Opinion or the 1984 letter.

The discussion of the constitutionality of the legislative veto in the 1978 Opinion begins by noting origins of this mechanism in the so-called "laying system" for review of administrative regulations utilized by the British Parliament. I am unpersuaded by the proposition that this analogy affords support for the legislation proposed here. The British constitutional system, in addition to being founded on an unwritten constitution, is a system which has at its core the concept of parliamentary supremacy rather than the separate and coordinate branches of government scheme found in the Maryland Constitution. Even more important for present purposes is the fact that the British "laying system", to the extent that it authorizes legislative veto of regulations, does not vest in any committee of either house of Parliament powers remotely analogous to those sought to be vested in the AELR Committee by this bill.

The 1978 Opinion while nothing that "the Attorneys General of several other states, which have either enacted or considered such legislation, have expressed grave concerns about the constitutionality of such statutes" laid little stress upon the pertinent case law in other jurisdictions which overwhelmingly rejects the constitutional validity of provisions such as those contained in House Bill 1255. The validity of such provisions was rejected in an opinion of the Attorney General of Michigan dated December 17, 1953; in an opinion of the Attorney General of Wisconsin, 43 Opinions of the Attorney General of Wisconsin 350; and in the opinion of the New York Court of Appeals, then including among its members Judges Cardozo, Cuthbert, Pound, and Irving Lehman in People v. Tremaine, 252 N.Y. 27, 168 N.E. 817 (1929); see also Moran v. La Guardia, 270 N.Y. 450, 1 N.E. 2n 961 (1936) and in an early opinion of the Supreme Court of California in Mullen v. State, 114 CA 578, 46 P. 670 (1896). Three recent opinions of state Supreme Courts point in the same direction. See State v. Machin, 279 S.E. 2d 622 (W.Va. 1981); State v. Alive Voluntary, 606 Pac. 2d 769 (Alaska 1980); and LRC v. Brown, 664 S.W. 2d 907 (Ky. 1984). Against this body of case law can be set only the Opinion of the Justices, 121 N.H. 522, 431 A. 2d 783 (1981) which distinguishes two earlier contrary opinions of the New Hampshire Supreme Court, and the opinion of the Supreme Court of Colorado in Watrous v. Golden Chamber of Commerce, 121 Colo. 521, 218 Pac. 2d 498 (1950).

In its discussion of constitutional issues, the 1978 Opinion laid heavy stress upon the opinion of the United States Court of