

rev'd on other grounds, 377 U.S. 656 (1964); State v. Magaha, 182 Md. 122 (1943); Hoke v. Lawson, 175 Md. 246 (1938); Keane v. State, 164 Md. 685 (1933); Mayor and City of Baltimore v. Foster & Kleiser, 46 Md. App. 163 (1980).

Thus, the General Assembly does not have the power to declare its acts or the acts of administrative agencies to be unconstitutional; rather, this power rests with the judicial branch. Whittington v. Polk, 1 Har. & J. 236 (1802); Crane v. Meginnis, 1 Gill & J. 463 (1829). See also Ahlgren v. Cromwell, 179 Md. 243 (1941).

Additionally, the Power of the judiciary to correct arbitrary, capricious, or unreasonable actions by the executive branch is not merely a delegated power; rather it is inherent in the judicial branch. Therefore, it is well settled that:

"The 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, 185 Md. 372, 379 (1945).

The General Assembly itself has, in the Administrative Procedure Act, defined the traditional judicial functions in the context of the review of administrative rules and regulations. Article 41, Section 249 provides:

"(a) The validity of any rule may be determined upon petition for a declaratory judgment thereon addressed to the circuit court of the particular county either where the petitioner resides or has his or its principal place of business, when it appears that the rule, or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the petitioner. The agency shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

"(b) The court shall declare the rule invalid if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rulemaking procedures.

"(c) The provisions of a rule are severable unless the rule expressly states that its provisions are not severable. The finding by a court that a provision of a rule is void or unenforceable does not affect the validity of any other provisions of the rule unless the court finds that the remaining valid provisions alone are incomplete and incapable of being executed in accordance with the regulatory intent."