

This Bill provides that a person who lingers or loiters in any public place in Charles and Queen Anne's Counties and who fails to obey a policeman's order "to cease such lingering or loitering" is, upon conviction, guilty of a misdemeanor and subject to a fine or imprisonment.

I am informed by the Attorney General that the Bill violates Article 23 of the Maryland Declaration of Rights and violates the Fourteenth Amendment to the United States Constitution. For the reasons given in the attached copy of his opinion, which is to be considered a part of this message, I believe that the measure must be vetoed.

Sincerely,

/s/ MARVIN MANDEL,
Governor.

Letter from State Law Department—H.B. 1435.

April 30, 1969.

Honorable Marvin Mandel
Governor of Maryland
State House
Annapolis, Maryland 21404

RE: House Bill 1435

Dear Governor Mandel:

As requested, we have reviewed House Bill 1435, which has been passed by the General Assembly. We are unable to approve this bill as to constitutionality.

The Bill, in essence, subjects a person who is in a public place or place open to the public and who refuses a policeman's order to stop "lingering" or "loitering" in Charles and Queen Anne's Counties, to a possible fine of \$25.00 and/or six months imprisonment.

The pertinent language of House Bill 1435 is as follows:

"Any person who lingers or loiters in any public place or place open to the public and who fails to obey a policeman's order to cease such lingering or loitering, upon conviction, shall be guilty of a misdemeanor, and may be punished by a fine or not more than twenty-five dollars (\$25.00), nor more than six (6) months in jail, or both. This section shall apply only in Charles and Queen Anne's Counties."

As stated in *Greenwald v. State*, 221 Md. 235, app. dism., 363 U.S. 719, 4 L.ed. 2d 1521, 80 S. Ct. 1596, ". . . [T]here is not the slightest doubt that the Legislature had the power to define what acts shall constitute criminal offenses and what penalties shall be inflicted on offenders, the only limitation being that such enactments shall not infringe on constitutional rights and privileges." The following analysis of House Bill 1435 is made in light of this precept.

In spite of the broad scope of the fundamental right of liberty and the jealous protection by the Constitution of the rights of the individual, liberty is not a right which is uncontrollable or which is absolute under all circumstances and conditions. Although constitutional liberty implies the absence of arbitrary restraint, it does not grant immunity from reasonable regulations and prohibitions