

High Court Rules in Mandel Case

Justices Reject Suit Against Ex-Gov.'s Alleged Conspirators

BY LAURIE ASSEO

Associated Press

The U.S. Supreme Court yesterday refused to reinstate a lawsuit that accused seven men of illegally conspiring with former Maryland Gov. Marvin Mandel over racetrack legislation in the early 1970s.

The court, without comment, rejected the argument in *O'Hara v. Kovens*, 92-1154, that even though Mandel is immune from being sued, his actions and motives may still be scrutinized in the case against the other seven men.

The constitutional separation of powers doctrine generally bars courts from looking into a governor's reasons for signing or vetoing legislation, a Maryland appeals court said in dismissing the lawsuit last year.

The suit was filed in 1978 by two stockholders in the Marlboro Racetrack in Prince George's County.

They accused Mandel and seven other men of conspiring to depress the racetrack's value until the seven secretly bought a controlling share of the track, and then to raise its value.

According to the lawsuit, Mandel vetoed legislation to give the track addi-

tional racing days. After the seven men won control of the track, the lawsuit said, they and Mandel worked for a legislative override of his veto and other legislation to aid the track.

Mandel and five of the seven defendants in the suit were convicted in 1977 of criminal fraud and racketeering charges. Mandel served 19 months in prison, but

the convictions were thrown out after the Supreme Court limited the federal mail fraud law used in the case.

Two of the seven defendants have died, and their estates were being sued.

A Maryland court ruled in 1990 that Mandel was immune from being sued over his actions in the alleged scheme.

The following year, a judge dismissed the case against the seven other defendants. An appeals court upheld the dismissal, saying that courts could not look into Mandel's actions even in a case where he was not a defendant.

In the appeal acted on yesterday, the two Marlboro stockholders said the ruling was a "perversion" of the constitutional separation of the executive and judicial branches.

According to the lawsuit, Mandel vetoed legislation to give the track additional racing days.

~

Daily Record 2-23-93