

keep, rent, use or occupy or knowingly suffer to be used, kept or rented or occupied, any house, building, vessel, grounds or place, or portion of any house, building, vessel, grounds or place, on land or water, within the State of Maryland, for the purpose of betting, wagering or gambling in any manner, or by any means, or making, selling or buying books or pools therein or thereon upon the result of any race or contest or contingency, or by any means or devices whatsoever, to receive, become the depository of, record or register, or forward or purpose, or agree or pretend to forward any money, bet, wager, thing or consideration of value, to be bet, gambled or wagered in any manner, or by any means or device whatsoever, upon the result of any race, contest or contingency, and any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than two hundred dollars nor more than one thousand dollars, one-half of said fine to go to the informer, and shall be subject to imprisonment in jail for not less than six months nor more than one year, or be both fined and imprisoned, in the discretion of the court.

For abolition of informer's fees, see art. 38, sec. 3.

Evidence secured over tapped telephone wires as to violation of this section admissible but only if accused is identified as a party to such telephone conversation; such identification not established in particular case. *Rowan v. State*, Daily Record, Jan. 27, 1939.

The provisions prohibiting book-making and pool-selling not repealed by art. 78B creating Racing Commission. *Nolan v. State*, 157 Md. 332.

This section does not apply to Washington County, as the exemption in sec. 295 applies to secs. 291-295 (decided prior to act of 1935, ch. 390). *O'Connell v. State*, 159 Md. 376.

Appeal from conviction for violation of this section on ground that evidence had been secured contrary to art. 35, sec. 5. See notes thereto. *Baum v. State*, 163 Md. 154.

Indictment charging defendant with keeping a place specified therein for making, selling, etc., pools upon any race, etc., held not defective because it failed to state that he operated the place for that purpose; section provides for two separate offenses. *Miggins v. State*, 170 Md. 455.

This section made applicable to Washington County by Acts of 1935, Ch. 390.

*Miggins v. Mallott*, 169 Md. 435.

Conviction for violation of this section based on illegal search and seizure reversed. *Miller v. State*, 174 Md. 362.

This section applies to those who knowingly permit property owned by them to be used for the selling of books or pools on result of racing, as well as to those who actually engage in such business. *Rowan v. State*, 175 Md. 547.

"Football Pool Tickets" held to be violation of this section, as it is the making of a book or pool on outcome of contest. (Judge Niles, Criminal Court of Baltimore) *State v. Asner & Dolgoff*, Daily Record, Nov. 8, 1939.

Persons indicted for violating this section on evidence obtained under search warrant issued under Sec. 306. (Judge Niles, Criminal Court of Baltimore) *State v. Allen*, Daily Record, Oct. 20, 1939.

Contention that secs. 292-295 being void, the act of 1892, ch. 336, applying to Prince George's County, was still in force, overruled. Implied repeal. Legislature intended sec. 291, *et seq.*, to apply to the whole state, except as to counties expressly excepted by sec. 295. Cases reviewed. *Beall v. So. Md. Agri. Asso.* 136 Md. 307.

This section is valid. When sections of a statute are severable and independent. Object of statutes dealing with horse-racing. *Agri. Soc. Montgomery County v. State*, 130 Md. 476. And see *Beall v. So. Md. Agri. Assn.*, 136 Md. 306.

Under act, 1894, ch. 232, the making of books or pools, etc., is limited to day upon which, and grounds where, the races take place; races may not continue longer than thirty days in any one year; an agricultural association may not use two or more distinct and separate parcels of land for horse races and claim the exemption provided by above act. All indictments must conclude "against the peace, government and dignity of the state." *State v. Dycer*, 85 Md. 249.

When an exception in a criminal statute must be negated in indictment; an indictment under this section held to sufficiently negative exception. Reasonable certainty is required in criminal pleading; duplicity; when a statute employs disjunctive "or," indictment should employ conjunctive "and," or else should use separate counts for each offense. When a prisoner is not "put in jeopardy" and may be retried. *Stearns v. State*, 81 Md. 343 (decided prior to the act of 1898, ch. 285); *Pritchett v. State*, 140 Md. 313.

See notes to sec. 292. And see art. 78B.