

not more than \$100.00 18 months, or both fined and imprisoned...". The amendment to Section 467 (dealing with receipt of such stolen goods) correctly and clearly specifies that the punishment for that crime shall be a fine of not more than \$100.00 or imprisonment for not more than 18 months or both.

One could certainly argue that in light of the stated intention of the bill (as set forth in the title) to provide consistent penalties for the two offenses, and in light of the retention of the reference to "18 months" and to the option of imposing both a fine and imprisonment, a judge would be authorized to impose a prison term of not more than 18 months even though there is no reference to imprisonment preceding "18 months". Alternatively, it may be that in light of the discrepancy between a title indicating conformance of two penalty provisions and a text which may be interpreted as not allowing a prison term in one instance, the entire bill would be held invalid and the present law would remain in effect. If this bill did not involve a criminal offense (and a fairly common one at that) it might well be feasible to sign the measure and correct the matter at the next session of the General Assembly.

However, it is our view that because of the inadvertent deletion of the phrase "or imprisoned for not more than" prior to the "18 months" reference, it can be strongly argued that no prison sentence whatsoever may be imposed for a violation of Section 341. While we certainly cannot say that every trial judge in the State, when confronted with such an argument, would agree, it is our view that this argument would probably be successful in a significant number of cases and that, accordingly, the intended sentencing options would not be available. In addition, defendants who are unable to convince a trial judge that a prison term cannot be imposed might well be successful in attacking such a sentence on appeal. A successful challenge to the imposition of prison terms would not affect the validity of the conviction itself, but would leave in effect only a relatively minor monetary penalty. The alternative result of invalidating the bill altogether by reason of a title defect, as suggested above, would leave intact the prison sentence (under the existing law) but it can be assumed that substantial confusion in connection with sentencings would nonetheless have occurred.

For the reasons set forth above, we cannot recommend that House Bill 1526 be signed in its present form. We should note that if the bill is not signed, then the various individual trial judges would continue to be able to impose consistent penalties for the two related offenses pursuant to the present sentencing latitude pending reconsideration of a legislative conformance of