

May 29, 1984

The Honorable Benjamin L. Cardin
Speaker of the House of Delegates
State House
Annapolis, Maryland 21404

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed House Bill 618.

This bill amends Article 27, Section 551 and adds new Section 551A and would make mandatory the return of property seized by police, the possession of which is not illegal per se if a criminal case is disposed of by entry of a nolle prosequi, dismissal or acquittal. Present Section 551 does not require but permits the return of property which is neither contraband nor prohibited by law from being recoverable.

There are several other statutes in Article 27 relating to forfeiture and return of seized property. The statutes relating to seizure in gambling cases and seizure of controlled dangerous substances allow the seizure and forfeiture of all contraband which is deemed to include money and automobiles among other assets of the illegal enterprise. By requiring the return of property which under the gambling and controlled dangerous substances forfeiture statutes is deemed contraband, House Bill 618 could be interpreted to require the return of property which often is a large amount of currency to a defendant when the criminal charges against him are disposed of by entry of a nolle prosequi for reasons other than the innocence of the defendant such as his incarceration in a foreign jurisdiction.

I have received letters from the Chief Executives of five jurisdictions, three State's Attorneys, the Maryland State's Attorneys' Association, three Chief's of Police, and other law enforcement officials that indicate that the mandatory return of property which is often of evidentiary value could cause severe problems in many situations including: those where there are multiple defendants, where there are charges pending in more than one jurisdiction against a defendant, where a charge is dismissed to correct a faulty charging document, or where the accused becomes a fugitive from justice.

Also, I have today signed Senate Bill 589 which expedites the procedure for forfeiture or return of motor vehicles seized under the controlled dangerous substances law which increases the likelihood that a motor vehicle could be ordered forfeited prior to a resolution of the criminal charges. The resolution of the situation where a law would mandate the return of property, when the disposition of that property has already been resolved by the