

Article 27 contains several:

1. § 264 - gambling (currency, cash, money).
2. § 297 - controlled dangerous substances (controlled substances, raw materials, containers, conveyances, books, records, research, money, currency, drug paraphernalia).
3. § 297A provides for the photographing of money and its immediate deposit.
4. § 36 C - handguns.

Article 33, § 24-25 contains another forfeiture provision concerning money used to bet on election results.

As you know, however, from the correspondence you have received on House Bill 618, some of those sections presently allow forfeiture even if a criminal case results in an acquittal and prosecutors are fearful that House Bill 618 would affect those provisions. The first problem is to determine what items are not "illegal per se" to possess. Clearly the controlled substances are contraband and will not be returned. The conveyances and money, however, are mere instrumentalities of crime and not commonly thought of as illegal, unless they become contraband under the forfeiture statutes. Similarly, stolen goods are fruits of crime and, although not illegal per se, would presumably be returned to the true owner and not to the former defendant. Thus, if § 551(b) does apply to the forfeiture provisions, a major change would be effected.

It has been suggested that the sponsor's intent was to overrule the result in Office of Finance, Balto. Co. v. Previti, 296 Md. 512 (1983), which held that a criminal conviction was not a prerequisite for forfeiture of money seized in connection with gambling charges. If applicable, it appears to have that impact. A related situation, however, is not affected. In Bozman v. Office of Finance, Balto. Co., 296 Md. 492 (1983), the court held that it was not necessary to bring a criminal prosecution prior to forfeiture of money seized in connection with controlled dangerous substances. The amendments in House Bill 618 would not affect that situation because subsection (b) is only triggered by the final result in the criminal case. 1/

We should point out that this bill amends a portion of § 551, a statute which generally deals with the issuance of search warrants. It was recently analyzed by Judge Charles Moylan for the Court of Special Appeals in an exhaustive opinion, In re Special Investigation No. 228, 54 Md. App. 149, cert. denied, 296 Md. 414 (1983). That case dealt primarily with subsection (a) of § 551, but certain comments about subsection (b) are instructive:

"Chapter 704 of the Acts of 1975 added an additional set of