

circumstances when property should be returned, one where the initial search and seizure had been perfectly proper but where the criminal case had since been notprossed or dismissed or had resulted in an acquittal. Under such circumstances, all property except contraband or any property prohibited by law from being recoverable, may be returned to the person to whom it belongs without the necessity of that person instituting an action for replevin or any other legal proceeding against the agency having custody of the property." 54 Md. App. at 164.

That subsection "carefully exempts from its restoration provision 'contraband or any property prohibited by law from being recoverable.'" 54 Md. App. at 172. It serves, in part, to benefit the rightful owners of stolen property: "Here, the rightful owner of stolen property could invoke the benefit of § 551, even following the possible acquittal of the thief." 54 Md. App. at 164.

More significant, however, than its assistance in analyzing § 551 (b), the opinion serves to demonstrate the need to examine the entirety of § 551 and its interplay with other statutory and constitutional provisions. 2/ This bill underscores the necessity to include other forfeiture provisions in this analysis.

In sum, while House Bill 618 is hereby approved, it may well raise interpretive problems with other statutes. We think it clear that other aspects of § 551 are in need of thorough study, as well, and this office will be happy to assist in a comprehensive review.

Very truly yours,  
Stephen H. Sachs  
Attorney General

- 1/ Subsection (c) might apply if it is alleged that property lawfully seized is being retained after there is no further law enforcement need for its retention.
- 2/ There is another currently pending appeal dealing with whether subsection (a) authorizes a Maryland circuit court judge to issue a search warrant for evidence of a crime committed outside Maryland. A circuit court judge ruled that it does not, and the State Police have appealed the order to return the evidence.

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Stephen H. Sachs