

All that Delegate Case and I and all the rest were trying to say was that whatever you put in as a pre-constitutional requirement to the validity of a law bear in mind that the Court of Appeals can make these decisions based on its interpretation of what took place.

That's what it was. I think it is totally irrelevant, Delegate Gleason, to what we are talking about here for only this reason. Bingo is something that we have had in Maryland now for, I don't know how many years. We have a legislative enactment which says this is how you shall operate bingo. That has never been challenged. Only recently somebody raised the point that they ought to get their money back. In the course of that discussion they said this bingo really is a lottery. Two judges in the lower court said no, it is not so. It is now before the Court of Appeals.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: I would suggest to you, sir, that your recital of the facts of the case did not go far enough. If you recall the opinion of the Court of Appeals of which the presiding officer was good enough to send a copy to me, he mentioned that that time had reference to the fact a deliberate attempt was made in that Convention to overturn that requirement and it was turned down. The Court of Appeals put a particular emphasis on this act.

What I am suggesting to you is that if we here, in deciding upon the inclusion of this particular recommendation of the majority of the Committee, state positively that within our vote lotteries shall not include bingo, that is a substantive part of the action as it goes forward, then it could have some weight on the Court in the future. This is why I want to get it clear.

DELEGATE SHERBOW: I cannot make it any clearer than this. We on the Committee did not intend that lottery should include bingo. We did intend that lottery shall not include bingo.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: I am sorry to hear that, sir.

THE CHAIRMAN: Delegate Weidemeier.

DELEGATE WEIDEMEIER: Mr. Chairman, inasmuch as you have told us here time and time again that the Court of Appeals might construe lottery as one thing and at another time it would not con-

strue it as a lottery, and that we do not know what the future holds, is it not true that what your proposal really means is that lotteries shall not be sanctioned by the State, acquiesced in by the State, or its political subdivisions except by rule of court or opinion of the attorney general?

DELEGATE SHERBOW: No, that is not what I suggest.

THE CHAIRMAN: Delegate Raley.

DELEGATE RALEY: Judge Sherbow, would you have any objection to substituting for the Committee's report on lotteries the language that is in the old Constitution? This seems that this may be the answer to all the questions that have been raised because whatever is in the old Constitution has already been tested by law. Would you answer that, Judge, please.

DELEGATE SHERBOW: I can only answer this way, Delegate Raley, that the old constitutional provision states that no lottery grant shall ever hereafter be authorized by the General Assembly. It would not be applicable today because of the provisions relating to the local governments. We are now in position where you could not write it that way. Of course, if the opinion of the attorney general is accepted that lottery grant means what he decided that it was, then insofar as the State is concerned, this would be applicable. But as to political subdivisions this would not be enough. They would have the right to operate their own lotteries.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Mr. Chairman, do I understand that it is the intention of your Committee that if the State of Maryland decided that it wanted to raise some revenue by the operation of a statewide bingo game, it could do so.

DELEGATE SHERBOW: All I am saying to you is that as of the present time, if the State of Maryland were to decide that it wanted to operate a statewide bingo game, it would not be prohibited by the present provisions of the State Constitution.

THE CHAIRMAN: Delegate Bamberger, I suggest to you we have confused judicial interpretations of statutes which prohibit particular types of gambling or regulate particular types of gambling and a prohibition against the State or as the Committee suggests any political subdivision financing itself by gambling.

I take it the answer to my question would have to be yes. What you are saying de-