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MARYLAND GAMBLING STUDY COMMISSION

Court of Appeals Building

Annapolis, Maryland

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REPORT OF MARYLAND GAMBLING STUDY COMMISSION

TO

THE GOVERNOR OF MARYLAND

Subject: Lottery and Bingo

December 11, 1967

This Commission was asked by you to study and report its conclusions with respect to the often proposed state conducted lottery and the propriety of continuing bingo games as a permitted lawful means of gambling in this state.

We incorporate herein our conclusions with respect to both of these subjects because they have seemingly become inter-related in public thinking and discussions. Thus, it has been argued by a number of legal authorities in the area of gambling that bingo is indeed a lottery--that the technique or methods whereby each is conducted possess such striking similarities as to make the end results indistinguishable from each other.

We have been unable to concur in that reasoning but we have been mindful of the fact that this contention was to be determined in litigation which had been pending for some-time before the Court of Appeals of Maryland.

We have also been aware of the fact that both bingo and a state conducted lottery were the subjects of lengthy debate by the State Constitutional Convention now in session.

Within the past two weeks both the Court and the Convention have acted on the subject.

The Court of Appeals held on December 5, 1967, that "bingo" was not a "lottery" within the meaning or definitions of either the existing constitutional or statutory law of Maryland.

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The Proposed State Lottery

Two days prior to the aforementioned opinion, the State Constitutional Convention tentatively approved what was presumably intended to be a continuance of the state's long-prevailing constitutional prohibition against the conduct of a state lottery. At the same time, the delegates to the Convention made clear in debate that bingo was not intended by them to be prohibited. Indeed, the real controversy over the actual language adopted by the Convention was sparked by the determination of a large majority of its members not to endanger the continuance of bingo as lawful.

We express serious concern over the language approved by the Convention. It constitutes nothing more than a prohibition against the state or any political subdivision inhereof from financing "any expense" by means of a lottery.

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It is inconceivable to us that the Convention intended to let the bars down for private entrepreneurs to conduct lotteries. This would indeed be retrogressive action, but such a threat clearly is in the offing unless the language to which we refer is clarified.

It is understandable, although of doubtful wisdom, that the Convention advocates a constitutional prohibition against a lottery conducted by the state as a means of raising revenue. The very difficulty, however, the delegates had in reaching a common understanding as to what constitutes a "lottery," is striking evidence that the subject could be more properly treated by the General Assembly than the Convention. The need for a definition of what the latter regards as a "lottery" and as to who is prohibited from conducting the same is manifest. We believe the public policy of the State of Maryland with respect to lotteries should be left to the General Assembly, subject to a public referendum on its action.

In either event, we do not believe that any lottery should receive a legal blessing in this state under existing circumstances. We so conclude because we do not believe that the state should seek or would likely obtain meaningful amounts of annual revenue from any source of permitted gambling except that derived from pari-mutuel betting at state regulated race tracks.

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Our conclusion is based upon two reasons we believe to be persuasive.

First, we urge that sound public policy dictates that Maryland should begin to restrict rather than expand the area of gambling hermitted by law. The variety of gambling procedures now hermitted in Maryland exceed those of the great majority of other states in the union. For reasons set forth in our report to you dated December 7, 1967, the state should face up to the most serious challenge now confronting it to more effectively combat existing unlawful gambling.

Second, this Commission is of the opinion that, setting aside a consideration of the serious social problem involved, we find no substantial evidence to support a conclusion that a lottery is likely to be a very productive means of obtaining state revenue. The experience to date of New Hampshire and New York certainly provide no basis for an optimistic view of a lottery as a conduit to provide large annual sums to a state sponsoring the same.

The New Hampshire lottery was inaugurated in 1963, and it has been in continuous operation since then. Its annual net revenue the first year was \$2,768,088.59, and for the last reported year it was \$1,055,198.81. Both amounts are considerably below what the sponsors of the lottery had estimated.

New York's experience has been brief but even more frustrating. Commencing in June of this year, its net sales of lottery tickets so far disclosed have been as follows:

June	\$ 3,546,182.75
July	2,269,128.95
August	3,292,960.55
September	3,187,713.10
<u>October</u>	<u>3,311,767.25</u>
Total	\$15,607,752.60

Sales have been running at less than 20 per cent of the amount estimated when the lottery was authorized. Wide dissatisfaction with the lottery has been editorially expressed by the

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press in New York with accompanying widespread public criticism. Even the principal means of selling the tickets (by banks throughout the state) are now the target of Congressional criticism and have every prospect of being banned. In short, New York's lottery has been most disappointing to its sponsors and hardly constitutes an encouraging example for other states to follow.

Furthermore, there is a past history of gangster activities in lotteries. The federal laws prohibit the sale of lottery tickets in interstate commerce and thus greatly restricts the state's lawful marketing area. It follows that, when a state law authorizes a means of gambling prohibited by the federal law, an unusual opportunity is afforded for the criminal gambling fraternity to move in. We are informed by federal agencies with long and vast experience that the probable infiltration of gangsters in a state where a lottery is permitted, should not be lightly treated. We repeat our assertion that Maryland is already beset with gambling racketeers and should not--even impliedly--invite others into the state.

Bingo

Little time need be devoted to a discussion hereof, particularly in the light of the above-mentioned decision of the Court of Appeals.

We are completely convinced bingo is a game played primarily for amusement but undoubtedly with the accompanying hope of a modest return in dollars. There is not the slightest evidence that it is a game appealing to the professional gambling fraternity. The "action" is not fast enough and the possible maximum return on the investment is insufficient to appeal to that element.

Bingo, however, is a means of raising modest amounts by churches, charitable organizations, volunteer fire departments, fraternal associations and other civic or quasi-civic organizations. We have found no reason to believe that they possess any great appeal to those unable to afford the game or indeed that anybody is a constant bingo player primarily because he seeks or she seeks substantial rewards.

Bingo in Maryland has been essentially a parochial means of aiding worthwhile causes. That very fact, however, suggests one admonition. The decision of the Court of Appeals to which we have referred, upholds the validity of what is

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termed "commercial Bingo." This is a means whereby large numbers of people are attracted to play bingo in a commercial establishment operated primarily--if not exclusively--for private profit.

We, therefore, urge a revision of the state laws whereby commercial bingo would be prohibited. We believe its continued existence and expansion could seriously impair the benefits now enjoyed by the civic, religious and charitable beneficiaries to whom we have referred.

An investigation in Florida recently disclosed the payments of large sums to professionals to run the games, the use of well known charity causes as sponsors where the promoters deducted 40 per cent of the proceeds, the rental of halls for game nights at large sums and other practices calculated to bring bingo games as civic or charitable undertakings into disrepute.

We do not believe commercial bingo falls within the category of the game as contemplated when the General Assembly first authorized it. It is in only one county--perhaps two--where commercial bingo is being played. We strongly urge that it be made unlawful before it falls into the categories of slot machines and pinball machines or other highly questionable means of gambling.

Respectfully submitted,

Clarence W. Miles
Chairman

Charles L. Garland

Robert E. Jones

Walter E. Taylor

Stanford Hoff