

GAMBLING - Lottery, gift enterprises.

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March 29, 1935.

3-30



Honorable C. Spannagel  
Prosecuting Attorney  
Laclede County  
Lebanon, Missouri

Dear Sir:

We have your two requests of March 23, 1935 for an opinion, which are as follows:

"I am writing to you with reference to something in the nature of a lottery that is going on in the city of Lebanon, Laclede County, Missouri, whereby the Lyric Theatre is allotting numbers to those who attend the show on various nights. On Friday night of each week, a drawing is held and if the person holding the lucky number is present, a prize in money is allotted to him.

"I am writing to you with reference to something in the nature of a lottery that is going on in this town. It seems that an organization of business men have instituted a plan in the nature of a game whereby they give away tickets with purchases of goods, and on a certain day named in advance a drawing is held and a prize is awarded to the winner."

We refer you to the provisions of Section 4314, R. S. Mo. 1929, which covers the establishment of any lottery.

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gift enterprise. The three essential elements under the above statute are consideration, chance, and prize. State v. Emerson, 1 S. W. (2d) 109.

I am enclosing with this opinion a copy of an opinion written by this office on April 12, 1934 holding "Bank Nights" in theatres to be a violation of the lottery law.

In State ex rel. v. Meyer Tailoring Co., 25 S. W. (2d) 98, it was held that the arbitrarily maturing certificates for suits of clothes was in violation of the lottery law of this State.

It is, therefore, the opinion of this office that the drawings held at the Lyric Theatre are in violation of this lottery statute; that the other plan of giving away tickets with purchases of merchandise is also a violation of the above section as a gift enterprise.

Respectfully submitted,

FRANKLIN E. REAGAN  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General

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