

BULL FIGHTS: Whomsoever shall use any designs to ttract, provoke, harass or torment any bull shall be guilty of baiting a bull. The giving of any entertainment known as Corrida De Toros (Running of the Bulls) is prohibited.

October 8, 1936

10-8



Mrs. Nat S. Brown
4th at Chouteau
St. Louis, Missouri

Dear Mrs. Brown:

This will acknowledge receipt of your request for an opinion, which reads as follows:

"I am wanting to put on an entertainment to raise funds to carry on the work of Welcome Inn and have under consideration, this Corrida De Toros.

I want to know if you will be kind enough to give me an Opinion as to whether this would be permitted under our State Laws, and return this copy to me for my files."

Appended to your request is copy of a letter explaining the entertainment to be given by the Diaz Amusement Corporation, which reads as follows:

" CORRIDA DE TOROS

1. PROLOGUE. Music playing the national anthems of America and Mexico. Following this there will be a procession of Matadors and their attendants, including horses in full regalia, into and around the arena, said procession to be accompanied by Spanish music. This portion of the program makes a very beautiful and awe-inspiring

introduction for the main event. After all such formalities have been completed, the Matadors and their attendants take their appointed places in and around the arena.

2. Bugles then herald the main attraction, and the gates are thrown open permitting the bull to rush into the ring. An accurate and descriptive picture of a Spanish Bull Fight is then enacted in the ring, without the slightest cruelty to any of the animals. (The first part of an authentic Spanish Bull Fight commonly known as the Picador Act, is omitted as in this act horses are used and we wish to obviate any chance of injury to the horses or the men.) Therefore, instead of using horses the Matadors use the black and red capes to lead on the bulls. The performance itself is very thrilling giving a wonderful display of artistic footwork and agility on the part of the Matadors and their attendants.

3. Placing of Banderilleros. Instead of the real banderillero darts, which darts are used to weaken and enrage the bull, we use a beautifully decorated dart with a vacuum cup on the end. The darts may thus be thrown, and fasten themselves upon the bull without in any way causing him physical injury or harm.

4. The Matador then brings the event to a climax by skilfully maneuvering the bull into position and then makes the point of contact (with rubber sword) where the muleta is placed at

the back of the neck, terminating the bull fight.

The act above described lasts about twenty minutes. The bull is retired from the arena and later sold, as the same bull is never used twice for any act--although these bulls are specially bred for this purpose, are very powerful and in no way are injured or exhausted by an act of such short duration. All animals are well taken care of and are under a veterinarian's care at all times."

The question as to whether or not the entertainment that you desire to put on, to enable you to raise funds to carry on the work of Welcome Inn, turns upon the construction of Section 4397, R.S. Mo. 1929, relating to bull baiting. Said Section reads as follows:

"Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock or other creature, and any person who shall encourage, aid or assist or be present thereat, or who shall permit or suffer any place belonging to him or under his control to be so kept or used, shall, on conviction thereof, be guilty of a misdemeanor."

In interpreting said Section, we construe the word "baiting" as meaning to provoke, harass, torment, persecute and exasperate. In this respect, your attention is directed to the definition of "baiting" as given by Bouvier's Law Dictionary, Page 317, which reads as follows:

"to bait is to attack with violence; to provoke and harass"

Webster's New International Dictionary in defining the word "baiting" states:

"to persecute, harass or torment; to exasperate with repeated attempts"

In the case of State ex rel Crow vs. Dennis Canty, 207 Mo. 439, the Supreme Court had before it for consideration the enjoining of respondents from giving a public bull fight (in an arena prepared for that purpose on the premises of Barrett Realty Company). In the lower court, a hearing was had and the finding was had for the respondents and a decree was entered dissolving a temporary injunction and dismissing the bill. Thereafter, in due time, the attorney general appealed the case to the Supreme Court, which court held that the lower court erred in dismissing the petition and in refusing to perpetually enjoin the Barrett Realty Company from permitting the use of its premises for the holding of bull fights and directing the lower court to reinstate the case and enter a decree perpetually enjoining Barrett Realty Company from holding bull fights in and upon its premises. In so doing, the court ruled that the giving of bull fights, under the facts, was a public nuisance, debasing in its character and debauching in its influence on public morals.

The evidence developed by the State tended to show that, at the beginning of the performance, there was a parade around the arena with bull fighters in Spanish costumes, leading horses and after retiring, one of the gates was opened and a bull was let in. The evidence disclosed that the bull came in in a run and a jump. It was also developed that several men were standing around fully dressed for the occasion called matadors with red cloaks and capes and as soon as the bull entered, his attention was attracted to one of these men, who had thrown his cloak in the face of the bull and then jumped away. From time to time, each of the men participants went through the same performance.

After each display, one of the men would go through the form of killing the bull with a cane, as the sword is thrown in the Mexican and Spanish arena but the bull was not, in fact, stabbed, killed or injured by the act. The agility and quick footwork on the part of the matador tended to excite and madden the bull so that he would rush around the arena, attempting to gore one of them. Upon one occasion,

one of the matadors was gored and smashed against the side of the arena. Various "escapes" were in parts of the arena behind which the matadors would dodge when too closely pursued by the bulls and the man who was injured was trying to get behind one of them when he was gored.

Another matador was attacked by the bull during this performance and knocked to the ground and was in great danger of being killed but another matador came to his assistance, thereby attracting the attention of the bull. The bull was kept in the arena fifteen or twenty minutes.

The facts further revealed that other bulls were brought in, from time to time, and acted in the same manner as the first bull. The bulls were greatly infuriated and would snort and bellow when charging the men. The evidence further revealed that these bulls were raised for fighting purposes and none other.

Analyzing the facts as presented by the resume of the proposed entertainment with the facts as just previously set out, we find in the proposed entertainment that in the beginning of the attraction, bugles herald the main attraction and the gates are to be thrown open, permitting a bull to rush in the ring. Practically identical to the facts as presented in the above cited case. We also note that the matadors are to use black and red capes to lead on the bulls and that the performance itself compels a display of artistic footwork and agility on the part of the matadors and their attendants. Thus, it may be seen that the facts in the proposed entertainment are analagous with the facts in the above cited case except that red cloaks and capes are used instead of black and red capes.

In the fourth paragraph of the resume of the proposed entertainment, it is stated that the climax to the event is had by skillfully maneuvering the bull in position where the point of contact is made with a rubber sword, thus terminating the bull fight. The facts stated in the above case reveal that instead of a rubber sword being used, a cane was used to go through the form of killing the bull.

You will also note from the facts of the case cited above, that the bull is kept in the arena fifteen or twenty minutes and then, again, in the resume of the proposed entertainment, you will note that the act described lasts about twenty minutes and the bull is retired from the arena.

It is to be noted from the facts cited in the above case that the bulls were produced for fighting purposes and none other and that the facts of the resume of the proposed entertainment state that the bulls are especially bred for this purpose.

The court in the above case in discussing what was deemed to be a public nuisance stated on Page 449:

"any act which is an offense against the public order, common good and public decency or morals, or any public exhibition which tends to corrupt the morals, to disturb the peace or the general order and welfare of society, is a public nuisance; * * *."

Then again, on Page 450, the court said:

"According to the evidence in this case there can be no doubt but what the bull-fights in so far as the bulls were concerned were genuine fights and partook of the ferocity and brutality which has ever characterized them in Spain and Mexico. Two matadors were knocked down and injured more or less by the bulls the first night, and might have been seriously injured or killed had it not been for the timely arrival and assistance of their associates; and two others were knocked down, one of them a crazy man, but both escaped injury, through the assistance of their fellows.

"While it is true the evidence discloses that the matadors did not use the sword, as is the practice in Spain and Mexico in such fights, nor inflict injury or death upon the bulls, yet that very fact made it more hazardous and dangerous for the matadors. If they had been furnished with swords they would have

been more able to have stopped the mad career of the infuriated bull, and thereby escaped the deadly charge of the Socorro brute, without relying exclusively upon the timely arrival and prompt assistance of their fellow matadors, or the convenient 'escapes' erected along the wall of the arena.

"The managers in disarming those poor bull-fighters and placing them in the arena with those mad bulls were almost if not quite as guilty of as great a crime as the Romans were in ancient times, who threw the criminals and Christians into the public arena with the wild beasts to be torn to pieces and killed by them for the edifice and amusement of the morbid and vicious populace.

"Today the matadors have modernized the arena and reduced the fighting largely to a science, and when properly armed they can defend themselves with some degree of safety, but when disarmed they are placed back on an exact plane and equality with the unfortunate Romans, except they have the 'escapes' behind which they may retreat if they are quick and dexterous enough to evade the swift and mad charge of the infuriated bull; otherwise he must share the same gory fate as the Romans of old, if perchance some associate does not in the nick of time divert his attention from him by a red flag. But in either event and under the most favorable circumstances and when the matadors are properly armed with swords they are often killed

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or injured, as every one knows as a matter of history and common knowledge.

"The State is deeply interested in the lives and well being of all her citizens, and of those who come within her borders, and much more so than she is in the lives and safety of the bulls. The immunity of the bull from punishment under the system of fighting as shown by the evidence in this case is no manner or degree lessened the interest of the State in the lives and limbs of the men who were engaged in those highly dangerous combats and struggles."

CONCLUSION

In light of the above, it is the opinion of this department that whomsoever shall use any designs to attract, provoke, harass or torment any bull shall be guilty of baiting a bull.

We further conclude that the giving of such a public entertainment, such as has been indicated by the facts submitted, is a public nuisance, such that may be enjoined by the proper authorities whose duty it is to protect the people from such nuisances.

Respectfully submitted,

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APPROVED:

JOHN W. HOFFMAN, Jr
(Acting) Attorney General

RCS:RT