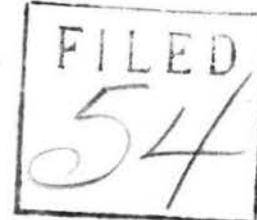


LOTTERY: "Job Day".

November 23, 1938

11-23



Mr. Edward V. Long  
Prosecuting Attorney  
Pike County  
Bowling Green, Missouri

Dear Mr. Long:

I have your request of November 21, 1938, for an opinion as to whether or not "Job Day" is in violation of the lottery laws.

An examination of this plan shows that it attempts, in a rather crude way, to employ someone to work for the theater. It appears that the application cards are filled in by persons desiring to participate in the content and are then placed in a container and one of the applications selected at random, and the person whose application is selected is thereby employed and paid Thirty dollars. This game has all the elements of "Bank Night", which was recently in State vs. McEwan (not yet reported) held to be a lottery by the unanimous opinion of the Supreme Court En Banc. In the recent case of State vs. Robb & Rowley United, Inc. 118 S.W. (2d) 117, a similar plan was to be camouflaged in Texas, and the Texas Court of Criminal Appeals held the plan to be a lottery and a nuisance.

In this state a lottery is any scheme or device whereby anything of value is for a consideration allotted by chance. State vs. Emerson, 318 Mo. 633, 1 S.W. (2d) 109; State ex inf. vs. Globe Democrat Publishing Company, 110 S.W. (2d) 705.

Mr. Edward V. Long

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November 23, 1938

It is therefore the opinion of this office that the scheme of "Job Day" is a lottery in violation of Section 4314 R.S. Missouri 1929.

Respectfully submitted,

FRANKLIN E. REAGAN  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

FER:MM