

LOTTERIES: Theatre scheme similar to "Bank Night".

March 10, 1937

3-11



Hon. Barker Davis
Prosecuting Attorney
Lewis County
Canton, Missouri

Dear Sir:

We have your request for an opinion of this office dated February 22, which reads as follows:

"Enclosed please find plan of theatre drawing, called to my attention in this county. In view of your 'bank night' opinion and the fact that your opinion is being upheld in this county, will you please furnish me opinion on this plan of operation."

We note from the hand bill attached to your letter that persons are required to come to the theatre and register and a drawing is then held and the person whose name is drawn, if present, will be given a prize of Ten Dollars for "services". If the person is not present when his name is drawn, then the prize will go over to the following week wherein a Twenty Dollar prize is awarded for the same "services."

There is no fundamental distinction between this situation and "Bank Night".

This scheme involves the three elements of a lottery; (1) distribution of prize; (2) by lot; (3) for a consideration.

The awarding of the Ten Dollars or multiples thereof to winners is a distribution of prizes within the lottery law.

The selection of the winners by lot, or a drawing, constitutes the element of chance.

Requiring participants to register and be present at the drawing is sufficient consideration.

It appears from the hand bill that the participants are required to be inside the theatre at the time of the drawing, if so, this constitutes a direct money consideration. If participants are not required to purchase an admission ticket but are merely required to be present at the theatre then there is sufficient consideration.

Society vs. City of Seattle, 203
Pac. 21;

Central States Theatre Corporation
vs. Patz, 11 Fed. Supp. 566;

Maughs vs. Porter, 157 Va. 451,
161 S. E. 242;

Brooklyn Daily Eagle vs. Voorhies,
181 Fed. 579;

Featherstone vs. Independent Service
Station, 10 S. W. (2) 124 (Texas
Civil Appeals);

State of Washington vs. Danz,
250 Pac. 37;

George Washington Law Review (May
1936) pp. 475, 491;

City of Wink vs. Amusement Company,
(Texas) 78 S. W. (2) 1065;

Glover et al. vs. Malloska, 238
Mich. 216; 213 N. W. 107;

Commonwealth vs. Wahl, 3 N. E. (2)
328;

General Theatres vs. Metro-Goldwyn
Meyer Corp 9 Fed. Supp. 549.

There are many other authorities which I could cite you but which would merely burden this opinion.

It is therefore the opinion of this office that the scheme as outlined in your letter and contained in the hand bill with reference to distributing a job each week which pays the person ten Dollars for "services" is a lottery prohibited by the laws of this state.

Respectfully submitted,

FRANKLIN E. REAGAN,
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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