

LABOR DEPARTMENT:) Children participating in play, "The
EMPLOYMENT OF CHILDREN:) American Way," under the supervision
MUNICIPAL OPERA, ST. LOUIS,) of their mothers, does not violate
MISSOURI:) Section 14087, R. S. Mo. 1929.

May 31, 1940

Honorable Earl H. Shackelford
Commissioner of Labor
Jefferson City, Missouri



Dear Mr. Shackelford:

This Department acknowledges receipt of your letter of May 31st, wherein you make the following inquiry:

"We attach hereto carbon copies of correspondence between our Deputy Commissioner in St. Louis and Mr. Jacob M. Lashly, representing the Municipal Opera Company in St. Louis, with reference to the use of minors between the ages of nine and thirteen years on the stage of the above named Opera Company in the City of St. Louis.

"We would appreciate an opinion from you giving us your construction and interpretation of the provisions of Section 14087 of the Revised Statutes of Missouri, 1929, which reads in part as follows:----'nor in any concert hall, theatre or cabaret; nor in any restaurant; except students in high schools, colleges or universities who may be so employed with the approval of the school authorities.'

"The correspondence enclosed herewith is self-explanatory and an

immediate opinion would be greatly appreciated, inasmuch as this performance will begin June 3rd."

Section 14087, R. S. Mo. 1929, is as follows:

"No child under the age of sixteen years shall be employed, permitted or suffered to work at any of the following occupations or in any of the following positions: Upon any scaffolding, nor erecting or repairing of electric wires or lines, nor in operating any railway or railroad engine or car, or street or interurban car; nor in connection with any construction or repair work on or for any railway or railroad, street or interurban line or tracks; nor upon or in the operation of any passenger or freight elevator; nor in the operation of any automobile, truck or motor vehicle; nor in any concert hall, theater or cabaret; nor in any restaurant; except students in high schools, colleges or universities who may be so employed with the approval of the school authorities, nor in any other occupation dangerous to the life, health or limb, or injurious to the health or morals of children under the age of sixteen."

We have read the attached copy of a letter to Mrs. Lottie C. Walsh, Deputy Commissioner of Labor, from Honorable Jacob M. Lashly, who represents the Municipal Opera Company in St. Louis.

The writer has witnessed a number of programs each season given by the Municipal Opera in the open air stadium and can visualize the nature of the performance of the children under the age of sixteen who are involved in your question. The program, "The American Way," we are informed is to begin June 3d and continue for two weeks. Mr. Lashly states that the children "are in no

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sense employed." The statute uses the expression, "* * * shall be employed, permitted or suffered to work at any of the following occupations * * *." The clause "nor in any concert hall, theater or cabaret," we think refers to children being employed in a menial capacity, that is, some form of labor which necessitates the child doing manual labor, rather than acting on the stage. In addition, the terms "concert hall" and "theater" in all probability refer to regular establishments.

We also agree with Mr. Lashly's statements relative to the fact that it is highly questionable as to whether or not the children, by participating in the play, are engaging in an occupation. The fact that the mothers or natural guardians of the children will in all probability accompany them and supervise their welfare during the performance, might be considered under the provisions of Section 14086, R. S. Mo. 1929.

Referring to the last provision of Section 14087, supra, there appears to be no action on the part of the children, as outlined by Mr. Lashly, which would be injurious to life, health, limb or morals of the children.

We are of the opinion that the participation in the play "The American Way" at the Municipal Opera, wherein children are used in the play, would not constitute a violation of Article 3, Chapter 125, R. S. Mo. 1929, relating to the employment of children under the laws of our State.

Respectfully submitted,

OLLIVER W. NOLEN
Assistant Attorney-General

APPROVED:

COVELL R. HEWITT
(Acting) Attorney-General

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