

LOTTERIES: "Surprise Night" and similar theatre schemes.

August 17, 1937



Honorable Walter G. Stillwell
Prosecuting Attorney
Marion County
Hannibal, Missouri

Dear Sir:

We have your request of August 14, 1937, for an opinion, which request in part is as follows:

"The proprietor of a theatre in this county is contemplating the establishment of what he terms "Surprise Night", the plan being that on the night designated as "Surprise Night" a drawing will take place and to the winner of this drawing a prize either in the form of money or other property will be given. A list of the names from which the winner will be drawn is taken from a book or register in the lobby of the theatre proper."

The principle underlying all lottery laws and particularly Section 4314 R. S. Missouri 1929, is that a lottery is a scheme or device wherein anything of value is, for a consideration, allotted by chance. State v. Emerson 1 S. W. (2) 109. Brooklyn Daily Eagle v. Voorhies, 181 Fed. 579; 38 C. J. 289.

Honorable Walter G. Stillwell

August 17, 1937

We note that the winner is to be determined by a drawing made up from names taken from a book or register in the lobby of the theatre. People, in order to participate, are required to go to the theatre and register. We think this requirement is sufficient to constitute consideration. In *Maugh v. Porter* 157 Va. 451, 161 S. E. 242, the court held that a scheme whereby an auctioneer gave tickets for a prize drawing on an automobile in order to attract a crowd to his auction, was a lottery.

It is therefore the opinion of this office that "Surprise Night" is a lottery.

Yours very truly,

FRANKLIN E. REAGAN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

FER MR