

OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable L.D. Hartwell
County Attorney
Hunt County
Greenville, Texas

Dear Sir:

Opinion No. 0-2767
Re: Whether "Foto Nite" constitutes a
lottery.

We have your request for our opinion on the above question and wish to thank you for the brief submitted therewith. We quote your statement describing the conduct of "Foto Night":

"The Texan and Rita Theatres of Greenville, Texas, are putting on what is denominated as Foto Night. They have some body to go over the town with slips of paper and get people to sign their names or what they call to register. These names are written down in a large book opposite numbers beginning at 100 and up and then on Foto Nite or day you purchase a ticket to the Texan or Rita Theatre and then on every Tuesday night at the Texan they put on an amateur contest of some kind and these numbers are run and if your number is drawn and if you have been to the show during the day or that night you obtain one hundred dollars less 20% or eighty dollars, provided you then bring your phot, new or old and then they turn over to you the eighty dollars, if you are not present at the time required to draw the eighty dollars they give you \$2.50 for signing the slip."

We agree with your conclusion that "Foto Nite" as described above constitutes a lottery in violation of Article 654, Penal Code. For a discussion of the authorities upon which our conclusion is based, we are enclosing herewith copies of our Opinions Nos. 0-54 and 0-2063.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Walter R. Koch
Walter R. Koch
Assistant

WRK:SEB:wc
ENCLOSURES

APPROVED OCT 7, 1940

s/Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/EBB chairman