



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

~~XXX JOHN HESSELBAND~~
ATTORNEY GENERAL

Hon. Homer Garrison, Jr.
Director, Department of
Public Safety
Camp Mabry
Austin, Texas

Opinion No. 0-3031

Re: Whether "Nestegg Night" is
a violation of the lottery
law.

Dear Sir:

This will acknowledge receipt of your letter of Jan. 8, 1941, requesting the opinion of this Department as to whether or not "Nestegg Night" constitutes a violation of the lottery laws of this State, Article 654 of the Penal Code.

A circular enclosed with your letter reads as follows:

"FEATHER YOUR NEST with \$30.00 or more

"NESTEGG
Nite

EVERY THURSDAY NIGHT
IS 'NESTEGG NITE' AT
THE GUILD THEATRE
Crystal City, Texas

NESTEGG
NITE
FEATHER YOUR
NEST

"The 'Nestegg' is never less than \$30.00

"If YOU are present and have signed the Application for Spare Time work . . . and your Application is the one selected you will 'FEATHER YOUR NEST' with \$30.00 or more.

"If the party selected is not present on 'NESTEGG NITE' the 'NESTEGG' will be increased \$10.00 for the next 'NESTEGG NITE.'

"It is only necessary to sign one (1) Application, as the name will always remain on file . . . even if you are selected YOUR NUMBER will be placed back in the hopper and YOU can be selected at some future time.

"REMEMBER . . . WE PLACE YOU ON OUR PAY-ROLL . . . and deduct Social Security Taxes only.

"In addition we pay our share of Taxes under the

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Social Security Act which will increase YOUR benefits under the Old Age Fund.

"We will select a number from the hopper, then refer to the Application file and call the name. . . if the party is present you make yourself known by answering to the name called and come forward to the stage . . . BE PRESENT! YOURS MAY BE THE ONE SELECTED.

"FIRST SELECTION: THURSDAY NIGHT, JANUARY 25th - 8:30 P.M."

An application card likewise enclosed is in the following form:

"NESTEGG NITE FEATHER YOUR NEST	NESTEGG NITE FEATHER YOUR NEST
GUILD THEATRE	CRYSTAL CITY, TEXAS

"I hereby file my application for spare time work.

Name
 Address
 Telephone

And in connection with these exhibits you state that:

"It seems that this theatre passes out the enclosed card to persons who purchase a ticket, on which the purchaser makes application for spare time work. Tickets are then drawn one night each week, and the winner, if present, receives not less than \$30.00. Of course, it is compulsory that the winner be in the theatre before he would be entitled to the money."

From this we have concluded that this scheme is undistinguishable from the "movie critic" scheme, held to constitute a violation of our lottery laws in opinion No. 0-54, copy of which is enclosed; and for the reasons set forth and under the authorities there cited you are advised that the operation of "Nestegg Night" by the theatre in question under the plan described will be a violation of Article 654 of the Penal Code.

APPROVED JAN 18, 1941
/s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS
APPROVED: OPINION COMMITTEE
By /s/ BWB, Chairman
JDS:AMM:wb ENCLOSURE

Yours very truly
ATTORNEY GENERAL OF TEXAS
By /s/ James D. Smullen
James D. Smullen, Assistant