

Lotteries, Suit Clubs, Agreements. Suit Clubs, Lotteries.

A suit club in which there are weekly drawings at which the person drawing a lucky number may get a suit of clothes for less than its actual value is a lottery within the meaning of Section 580, Penal Code.

Helena, Montana, Feb. 4, 1908.

Hon. B. B. Law,
County Attorney,
Bozeman, Montana.

Dear Sir:—

Your letter of the 31st ult. received, enclosing an agreement in the following words:

"I Hereby Agree To Become A Member Of The
PROSPECTIVE INSTALLMENT SUIT CLUB
Upon The Following Conditions:

I agree to pay to the said club at its place of business
....., Bozeman, Montana, the sum of One
(\$1.00) Dollar per week for the period of twenty-five (25) suc-
cessive weeks. Such payments are to entitle me to a drawing
each week until I have drawn a suit of clothes amounting to
Twenty-five (\$25.00) Dollars, made strictly to my measure and
guaranteed to fit. Upon drawing such a suit my membership
shall cease.

If at the end of twenty-five (25) weeks I have not drawn a
suit but have continued paying regularly One (\$1.00) Dollar per
week for twenty-five (25) successive weeks, as stipulated in this
contract, I am to receive a Twenty-five (\$25.00) Dollar suit from
the said Prospective Suit Club without any further cost to me.

IT IS FURTHER UNDERSTOOD that in case I desire a
higher priced garment than Twenty-five (\$25.00) Dollars I am
to pay the difference. Upon failure on my part to regularly
keep up said weekly installments to the said club, I am to forfeit
all currency previously paid, and shall have no claim whatever on
said club.

At the determination of said Club, any time before twenty-
five (25) weeks from the time this contract goes into effect,
I shall have credit with the said Club the amount I have prev-
iously paid, in accordance of this contract.

IT IS AGREED that the first drawing shall take place as
soon as the subscription of one hundred (100) members have been
completed.

Date1908. Member

Accepted: By Prospective Installment Club

Per"

You also state that you have held that such agreement is a lottery and in violation of Section 580 of the Penal Code, and request an opinion of this office upon such question.

Almost identically the same contract has been passed upon by the Supreme Courts of Georgia, Michigan and Minnesota, practically the only difference being in the price of the suits of clothes. In each of these states the Supreme Court has held that such agreement is a lottery and in violation of statutes similar to said Section 580; the statute of Minnesota being almost identical with that of this state.

See Cyc. Vol. 25, p. 1639. Note 41.

In the recent case of *People vs. McPhee*, 103 N. W. (Mich.) 174, the Supreme Court in discussing such an agreement said:

"It cannot be denied that the respondent sought to, and presumably did, increase his business by a device or scheme, the feature of which, so far as securing patrons and customers was concerned, was the chance to obtain \$20. worth of clothing for some sum of money less than \$20. It was calculated to, and did, appeal to the gambling propensities of men, was within the mischief at which the legislation is aimed, was within the terms of the statute, and, in our opinion, a disposition of property by way of lottery. We are referred by counsel to no case which sustains their contention."

You are advised that from the above authorities and from the language used in said section 580 that there can be no question but what the agreement like the one above set out, or any agreement similar thereto, is a violation of the lottery laws of this State.

Your opinion directing discontinuance of such agreements in your county is hereby affirmed.

Very truly yours,

ALBERT J. GALEN,
Attorney General.