

## Newspaper Guessing Contests Illegal

In June, 1903, noting the growing prevalence of the "newspaper guessing contest," Mr. Bryan wrote a letter to Postmaster General Payne. Mr. Bryan took the position that these so-called contests were more demoralizing than the ordinary lottery, as well as less fair, and asked if the postoffice department had issued any order on the subject. The letter follows:

Postmaster General Payne, Washington, D. C.—Dear Sir: I enclose a circular sent out by a St. Louis company which is conducting a guessing contest based upon the number of admittances to the Louisiana Purchase Exposition. You will see that the sum of \$85,500 is offered in prizes, the estimates being sold for 25 cents each, or five for a dollar. The company is soliciting the aid of newspapers throughout the country to advertise the contest. It is apparent from the advertisement that this is even more demoralizing than the ordinary lottery, because the low price of the ticket and the large capital prizes promised are more alluring to those who are susceptible to the temptations offered by a lottery, and because the contestant has no way of knowing how many competitors he has. In the public lottery the prizes usually bear a fixed and known proportion to the amount received for tickets, but in this case the company may take in ten or a hundred times the

amount paid out in prizes. The concluding paragraph of the advertisement discloses the gambling character of the institution. It reads as follows:

"A good investment. Better than stocks and bonds. We are receiving from shrewd business men from the large trading centers, monthly orders for certificates, they claiming that the investment is safer and the possibility of large gain greater than investments in bonds, life insurance or any of the speculative stocks offered on the boards of trade in the various commercial centers. Most of them purchase certificates systematically, that is, send in every month for from one to five dollars' worth. Almost every one can economize a few cents a day, and the funds thus saved can be invested in certificates, and with a hundred or more certificates in your possession you are likely to wake up some morning and find yourself the lucky possessor of an independent fortune. It hardly seems reasonable that with a hundred certificates one could miss ALL of the 1,880 prizes."

Please let me know whether the department has issued any order on the subject and whether or not such a contest is regarded as a violation of the anti-lottery laws. Yours truly,

W. J. BRYAN.

Mr. Bryan's letter was referred by Postmaster General Payne to C. H. Robb, assistant attorney general for the postoffice department, who made the following reply:

Office of the Assistant Attorney General for the Postoffice Department, Washington, D. C., June 23, 1903. Your communication of the 10th inst. addressed to the postmaster general, submitting a circular of the World's Fair Contest company, St. Louis, Missouri, and expressing the view that the prize scheme advertised therein is a lottery, has been referred to this office.

It is unquestionable that the effect upon the public of these so-called guessing contests—considering the elaborate plan upon which they are operated, the very large prizes offered, etc.—is almost as pernicious as that of ordinary lotteries, and it is the disposition of the postoffice department to scrutinize very carefully all such schemes and to deny the use of the United States mails where authority of law can be found for so doing. You of course understand, however, that in all such cases the department must be governed by decisions of the federal courts and opinions of law officers of the government.

In this same connection your attention is directed to the opinion of Attorney General Miller, 19 Opinions of Attys-Gen, 679; opinion of Attorney General Griggs, 23 Opinions of Attys-Gen, 207; opinion of Attorney General Knox, 23 Opinions of Attys-Gen, 492; and to the decision of the United States circuit court for the southern district of New York, in United States vs. Rosenblum, set forth in the inclosed circular.

From a consideration of the authorities above cited you will observe that the scheme to which you call attention is beyond the reach of the postoffice department, unless it shall develop that fraud is being practiced in its operations. Very respectfully

C. H. ROBB,

Assistant Attorney General for the Postoffice Department.  
Hon. William J. Bryan, Lincoln, Neb.

On November 2, 1904, the postmaster general, aroused by the growing protest against the evils of the "newspaper guessing contest" referred the matter to Attorney General Moody, and The Commoner takes great pleasure in printing in full the opinion written by Mr. Moody. That opinion is in line with

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Charcoal is a remedy that the more you take of it the better; it is not a drug at all, but simply absorbs the gases and impurities always present in the stomach and intestines and carries them out of the system.

Charcoal sweetens the breath after smoking, drinking, or after eating onions and other odorous vegetables.

Charcoal effectually clears and improves the complexion, it whitens the teeth and further acts as a natural and eminently safe cathartic.

It absorbs the injurious gases which collect in the stomach and bowels; it disinfects the mouth and throat from the poison of catarrh.

All druggists sell charcoal in one form or another, but probably the best charcoal and the most for the money is in Stuart's Charcoal Lozenges; they are composed of the finest powdered Willow charcoal, and other harmless antiseptics in tablet form or rather in the form of large, pleasant tasting lozenges, the charcoal being mixed with honey.

The daily use of these lozenges will soon tell in a much improved condition of the general health, better complexion, sweeter breath, and purer blood, and the beauty of it is, that no possible harm can result from their continued use, but on the contrary, great benefit.

A Buffalo physician in speaking of the benefits of charcoal, says: "I advise Stuart's Charcoal Lozenges to all patients suffering from gas in stomach and bowels, and to clear the complexion and purify the breath, mouth and throat; I also believe the liver is greatly benefited by the daily use of them; they cost but twenty-five cents a box at drug stores and although in some sense a patent preparation, yet I believe I get more and better charcoal in Stuart's Charcoal Lozenges than in any of the ordinary charcoal tablets."

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all that The Commoner has said in opposition to this insidious form of gambling and bears out the contention made by Mr. Bryan in his letter to the postmaster general in June, 1902. Attorney General Moody's opinion is as follows:

Department of Justice, Washington, D. C., November 28, 1904. The honorable the Postmaster General.—Sir: I have the honor to acknowledge the receipt, on the 17th instant, of your letter dated November 2, relative to so-called "guessing contests," and asking an expression of my opinion as to whether you have authority to exclude from the mails advertisements and literature relating to the World's Fair Contest Company, which you refer to as typical examples of "guessing contests."

The scheme of the World's Fair Contest Company, as stated by you, is as follows:

It offers \$85,500, divided into 1,180 prizes, to the persons submitting the nearest estimates of the total number of paid admissions to the World's Fair at St. Louis, Mo., from its opening to its close. For the privilege of submitting an estimate in this enterprise 25 cents is charged, or for \$1 five estimates may be submitted. This scheme has been syndicated; that is to say, a very large number of magazines and other publications are advertising it, and giving to their subscribers the privilege of submitting guesses.

The National Contest Company, according to the advertisement accompanying your letter, proposes to distribute 3,415 cash prizes, aggregating \$100,000, to "3,415 men, women and children who can estimate nearest to the popular vote cast for the winning candidate for the presidency of the United States for 1904," the largest prize amounting to \$25,000, and the smallest to \$5.00.

I assume for the purpose of this opin-

ion that the mails are still being used to bring these contests to a close.

The question is whether these schemes are within the language of sections 3929 and 4041 of the Revised Statutes, which in effect authorize you to deny the use of the mails to "any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing of any kind."

Similar schemes for the distribution of prizes have been considered by my predecessors, and the conclusion reached that inasmuch as "calculation, foresight, knowledge, inquiry, and information enabled the participants to approximate the correct result, the use of the mails in promoting such enterprises was not a violation of the law in question." (10 Op. A. G., 679; 23 Op. A. G., 207 and 492.)

The conclusion reached in these opinions rested upon the theory that since the distribution of prizes under the schemes considered was not dependent wholly upon chance such schemes were not within the law. Since these opinions were written sections 3929 and 4041 have been construed by the Supreme Court of the United States in Public Clearing House vs. Coyne (194 U. S., 497); and since the decision in the Coyne case the court of appeals of New York in a unanimous decision (August 5, 1904), in the case of People vs. Lavin, has ruled that a guessing contest identical in principle to those under consideration is within the New York statute, which, as the



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