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Games of Chance

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Playing the lottery, a 50/50 drawing, or a raffle seems commonplace in today's society, but gambling in any form was once considered a moral and legal crime in Illinois, enshrined in the 1848 and 1870 constitutions. An Illinois Supreme Court case in 1937 helped to end a fad called Bank Night in which movie theaters held lotteries to attract audiences during the Great Depression.

Bank Night began in 1931 in Denver, Colorado and, because of its popularity, quickly spread to other markets in the country. In Chicago, 150 theaters participated in Bank Night promotions. People entered the promotion by registering their names at the theater, but purchasing a ticket to see a movie was not required to enter the drawing. At a certain time of the day, the theater called the number, and the possessor had to be present to win a substantial cash prize. For those people waiting outside the theater whose number had been drawn, they had two minutes to get to the stage to collect their winnings—again, not having to pay to get in.

The Chicago Police Commissioner claimed Bank Night violated section 1901 of the municipal code that prohibited lotteries and other games of chance, as well as the Illinois Constitution. The Iris Amusement Corporation and other Bank Night operators petitioned for an injunction against the mayor and police commissioner to stop them from interfering in their Bank Night promotions. While operators agreed that three elements were necessary for a lottery—a chance, a prize, and a price—they argued that since there was no price to enter the cash drawing, it was not a lottery, and therefore was legal under section 1901 and the Constitution. The Superior Court of Cook County disagreed with that argument and dismissed the petition for injunction. The Iris Amusement Corporation brought an appeal to the Illinois Supreme Court, *Iris Amusement Corporation et al. v. Kelly et al*., 366 Ill. 256 (1937).

Justice Elwyn Shaw authored the opinion affirming the Superior Court's decision. Shaw noted that there was a diversity of opinion among other states as to whether Bank Night was a lottery. Iowa, New Hampshire, and Tennessee accepted the three-element argument and that since there was no "price" to enter the drawing, it was not a lottery. However, Massachusetts, Michigan, and Kansas all believed that Bank Night was a lottery. The Massachusetts Supreme Judicial

Court stated that price was a consideration because many people would buy movie tickets with the idea that being closer to the stage would reduce the chance that the time limit would expire.

Justice Shaw agreed with the opinion of Massachusetts, adding that "our public policy in opposition to lotteries is ancient and is imbedded in our fundamental law." He also accepted the general dictionary definition of lottery: "a scheme for the distribution of prizes by lot or chance." Lottery was also one of those words that met the general public's idea of what it was and "attempting exact definition of generic and well understood words…such as 'fraud,' 'confidence game,' and others, which are their own best definition and which are better left with some elasticity lest the ingenuity of nefarious minds devise means for evading the letter of the law while transgressing its spirit."

After the large and influential states of Illinois and New York ruled similarly, Bank Nights disappeared, partly because of the growing body of law declaring it illegal, but also because World War II and a growing economy resulted in movie theaters relying less on schemes to attract audiences. The 1970 Illinois Constitution had no restrictions regarding lotteries, and in 1974, the General Assembly created the Illinois State Lottery, which grew in popularity over time and now participates in multi-state lotteries, meeting the three elements—a chance, a prize, and a price.