

GAMBLING - "Ball Machines"

February 4, 1935



Honorable Wayne V. Slankard
Prosecuting Attorney
Newton County
Neosho, Missouri

Dear Sir:

We have your request of January 16, 1935
for an opinion upon the following:

"There is in operation in Newton County, certain devices known as 'ball machines', which are constructed in the form of a glass covered table with numbered holes bored in said table and pins placed upright in various places around the holes.

"On one side of the table is constructed a canal or trough in which the balls are placed and from which they are shot by means of a plunger operated by a spring. The balls are shot from this canal and by means of a track are spun around the table and allowed to, by the force of gravity on the sloping table, strike the pins and sometimes drop into the holes.

"There is a degree of skill necessary to the successful operation of these devices, in that by the pulling of the plunger back to a particular distance, the balls can be made to

#2 - Honorable Wayne V. Slankard

drop into whatever hole the placer sees fit to shoot it, unless prevented by some of the pins which are upright on the board.

"These balls, when dropped into the holes set up and electric contact, which operate a machine on the under part of the table and from the machine comes nickles in some cases and slugs in others, in various numbers according to the hole in which the balls drop.

"These machines with which you may perhaps be familiar are constructed in as many and various forms as the inventive genius of man will allow, but all are played for the purpose of gain.

"Do they, in your opinion, violate Section 4287, R. S. Mo. 1929?"

From your letter, it is apparent that this machine is a device, designed for gambling, and comes within the statute, Section 4287, R. S. Mo. 1929, defining criminal offenses as follows:

"Every person who shall set up or keep any table or gaming device * stand or device of whatever pattern, kind or make, or however worked, operated or manipulated, or any kind of gambling table or gambling device adapted, devised and designed for the purpose of playing any game of chance for money or property * * shall, on conviction, be adjudged guilty of a felony, * * "

The essential elements of a lottery are consideration, chance and prize. - State v. Emerson, 1 S. W.

#3 - Honorable Wayne V. Slankard

(2d) 109 (1927). The "ball machines" contain all these elements, and for convenience are set out as follows:

- (1) Prize - the payoff of one dollar more or less.
- (2) Chance - Depending upon the marble coming to rest in some particular niche or hole. If it lands in one hole you win; if it lands in others, you lose.
- (3) Consideration - The placing of a nickle in the machine and pushing of a lever.

It is, therefore, the opinion of this office that the "ball machines" are gambling devices prohibited by the laws of the State of Missouri.

Yours very truly,

FRANKLIN E. REAGAN
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

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