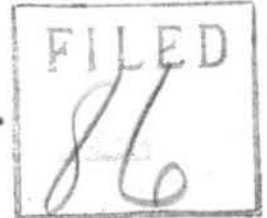


GAMBLING DEVICES - Who has right to money in seized slot machines?

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January 24, 1936.



Hon. Walter G. Stillwell,  
Prosecuting Attorney of Marion County,  
Hannibal, Missouri.

Dear Sir:

A request for an opinion has been received from you under date of December 12, 1935, such request being in the following terms:

"Recently two members of the Hannibal Police force seized and confiscated two slot machines which they found within the corporate limits of this city. A complaint was filed in the City court and the owner of the establishment where these machines were taken was not in court, but was represented by counsel. A plea of guilty was entered and a fine imposed.

Mr. Shea, our local Chief of Police, advised me that in his opinion there is approximately seventy or eighty dollars in these two machines. Of course there is no question as to Mr. Shea's authority acting as Chief of Police in destroying both of these machines, but the question arises as to the money. Counsel representing the defendant has taken the position that his client is entitled to the money taken from these illegal devices, and the opinion has also been expressed that the Chief of Police is not within his rights in returning this money to the person who admitted ownership of the appliances.

The question involved is:

What disposition should be made of this money at the time the machines are destroyed?

Hannibal, as you know, is a City operating under a special charter and I am not able to find anything either in the charter or the ordinances

Hon. Walter G. Stillwell,  
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"providing for such condition.

In as much as these machines are being held and the matter cannot be ultimately disposed of until Mr. Shea receives your opinion, I would appreciate having your suggestions at your earliest possible convenience."

On October 23, 1934, we issued an opinion to Hon. Herbert M. Braden, Prosecuting Attorney of Livingston County, Chillicothe, Missouri, which in our opinion answers the question raised in your letter. That opinion dealt with the proper disposition of money in seized slot machines where no claim was made by any person to the ownership thereof, but in such opinion we analyzed the state of the title to money in slot machines and ruled that "the owner of this money, who is the owner of the slot machine or his assignee, would have a present right (as soon as it was decided that this money was not to be used in a criminal proceeding as evidence and the judge had so ordered under Section 3787) to claim such money and have it delivered over to him." Under the facts stated in your letter we understand that the criminal prosecution has been closed, and that the money will no longer be needed as evidence. We enclose a copy of our opinion to Mr. Braden of October 23, 1934.

In conclusion, it is our opinion that money in a slot machine seized as a gambling device under R. S. Missouri, 1929, Section 3783, should be returned, when the necessity of retaining possession thereof for use as criminal evidence no longer exists, by the officer having possession of it, to the owner of such machine or the person who, by contract with the owner, is entitled to the coins in such machine.

Very truly yours,

EDWARD H. MILLER  
Assistant Attorney-General

APPROVED:

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ROY McFITTRICK  
Attorney-General