

**Gambling, Merchandise Slot Machines. Gambling Devices,
Cane Racks. Raffles.**

Merchandise Slot Machines, which pay only in merchandise, and deliver for each nickle deposited the ordinary amount of merchandise which would be delivered if sold over the counter, are not prohibited by the gambling law.

Cane Racks may be so conducted as to make them gambling devices.

Raffles are one class of Lottery, and are covered by Section 580 Penal Code.

Helena, Montana, April 29, 1907.

Hon. S. V. Stewart,
County Attorney,
Virginia City, Montana,

Dear Sir:—

Your letter of the 15th inst. received in which you request an opinion upon the following questions:

“In this county some of the merchants have what they are pleased to call ‘Automatic Clerks’. They are gum machines in which a nickle is dropped and the gum comes out. Are these machines contemplated when the term ‘Slot Machine’ is used in the recent gambling law?”

“Are cane racks, where the player pays some stipulated price for throwing a ring at canes and knives, and gets whatever he rings, gambling devices?”

“Are raffles, such as raffling off hair bridles, prohibited by the gambling law?”

In answer to your first question you are advised that a slot machine, which automatically delivers merchandise at the regular price of such merchandise, and gives no more or less than would be delivered over counter, if the sale was made other than through the slot machine, is not prohibited by the gambling law. It is simply an automatic method of retailing merchandise at the regular price. The Supreme Court of this State, in the case of the State vs. Woodman, 26 Mont. 356, said:

“It is not possible that it was proposed to prevent the use of automatic machines to sell gum, salted peanuts, and other such articles, which always deliver the same amount when the specified price is deposited.”

In answer to your second question, you are advised, that in our opinion, a cane rack may be conducted in such a manner as to bring it within the phrase “or any game of chance played with cards, dice, or any device whatever.”

In answer to your third question you are advised that raffles are specifically provided for by Section 580 of the Penal Code.

Yours very truly,

ALBERT J. GALEN,
Attorney General.