

**Confidence Game, Evidence to Prove. False Pretenses, Distinguished From Confidence Game. Lands, Falsely Locating Settlers Upon.**

Misrepresenting the location of lands to prospective settlers, and receiving money therefor, is a confidence game, punishable under section 8684, and the misrepresentation need not be in writing, as section 9289 does not relate to such offenses.

Helena, Montana, April 30, 1910.

Hon. Sam Stephenson,  
Assistant County Attorney,  
Great Falls, Montana.

Dear Sir:

Governor Norris this day referred your letter of April 28 to this office, requesting us to take the matter up with you.

In our opinion the obtaining of money from prospective settlers by means of securing their confidence and locating them upon worthless land, the settler believing that the person is correctly informed as to the land, constitutes an offense under section 8684.

Sections 8657 and 8683 deal with the crime of obtaining money under false pretenses, and the fact that the legislature has seen fit to enact the additional section (8684) shows that they intended this section to cover offenses other than those of obtaining money under false pretenses, in the technical meaning of the term "false pretenses."

I am also of the opinion that section 9289 relates only to the prosecutions brought under sections 8657, 8680 and 8683, and does not apply to prosecutions brought under section 8684.

For an instructive discussion of confidence games, under a statute similar to section 8684, see the case of

Maxwell v. People, 41 N. E. (Ill.) 995.

There is so much of this bunco business in the selection of lands going on at present that we are very anxious, if possible, to convict some one, and to at least make a test case under section 8684, and I believe that we can sustain a conviction under this section.

Very truly yours,

ALBERT J. GALEN,  
Attorney General.