

MAINE STATE LEGISLATURE

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May 6, 1942

Frank I. Cowan, Attorney General

Sumner Sewall, Governor

At your request, I have investigated the subject of cap pistols and the use of the explosive cap.

There has been submitted to me a letter from Robert F. Ehinger of Columbus, Ohio, dated April 30, 1942 and addressed to National Confectionery Co., Inc., 80 Exchange Street, Bangor, Maine, to which are attached what purport to be and are therein declared to be photostatic copies of communications in regard to the cap and the cap pistols.

One of these is particularly interesting, being from C. C. Pierce, Acting Surgeon General of the United States Public Health Service, and bearing date, April 4, 1927. It is addressed to Dr. Henry B. Faber, Executive Secretary, United States Fireworks Manufacturers Association, 50 East Forty-First Street, New York City. In this letter, Dr. Pierce expressly differentiates between the paper cap pistol and the blank cartridge pistol. The latter he classes as a dangerous instrumentality, being responsible for a large proportion of 80% of 818 recorded deaths from tetanus following Fourth of July celebrations. In his letter, he says, "The paper cap pistol seems to be a harmless toy, very widely used by children, but so far as the records show this type of pistol does not result in wounds which cause tetanus." You will note that this letter is dated 1927, a matter of fifteen years ago, and that it covered study of the subject for the preceding eight years.

There is also enclosed what purports to be a photostatic copy of a letter from H. A. Campbell, Asst. Chief Inspector of the Bureau of Explosives of the Association of American Railroads. This letter bears date, September 4, 1940, and is addressed to Mr. Henry B. Watkins, Chairman, Toy Paper Cap Pistol Manufacturer's Committee, Westerville, Ohio. This letter states that the explosive material in the "toy caps", so called, has been so reduced and the packing methods so improved that they are not now shipped under the classification of fireworks.

There is also enclosed what purports to be a photostatic copy of a letter from H. B. Watkins, General Manager of The Kilgore Mfg. Company, Toy Paper Cap Pistols And Caps--Plastic Products, Westerville, Ohio. Said letter bears date, January 24, 1941, and

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is addressed to Mr. C. E. Dittmer, 175 S. High St., Columbus, Ohio. Said letter quotes from Interstate Commerce Commission regulations for January 7, 1941, and gives the regulations for "toy paper caps" which appear on Page 37, Section 74, of said regulations. These regulations very definitely limit the amount of explosive that can appear in caps.

It would seem that from the point of view of danger in use, the toy cap pistol is in such a category that it does not need to be classed with fireworks. The question that we have discussed, to wit--the use of implements producing the sound of firearms by a discharge, and the necessity, from a protective standpoint, of forbidding the use or sale of fireworks that produce such sounds--is still a bothersome one.

I experimented with one of the toy pistols that Messrs. Pinkham and Minsky brought to me last week and found that it produces a light cracking sound very similar to the sound produced by the discharge of a small caliber rifle. It seems to me, however, that we can except this toy from the operation of an order against the use of fireworks, if for no other reason than the one that their use will be so limited.

If it should develop that the State is being flooded with these particular toys to take the place of prohibited fireworks, then the very purpose of your order will require prohibition of sale of the so called toy cap pistol and the use of the so called toy caps.

S/ Frank I. Cowan

Frank I. Cowan
Attorney General

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