

MAINE STATE LEGISLATURE

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(C O P Y)

May 10, 1945

Mr. Frank I. Cowan, Attorney General

Attorney General's Department

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State Liquor Commission

Legality of Awarding Prizes in connection with "Beano"

The problem presented is whether or not the Chief of the State Police may permit the awarding of prizes in connection with the amusement, commonly known as "Beano." The Legislature has failed to define the amusement known as "Beano." However, it has given express authority to the Chief of the State Police to make such rules and regulations for the operation of the amusement as he may deem advisable for the purpose of this act.

The awarding of a prize in connection with "Beano" would be a violation of both the gambling and lottery laws of this State. By Section 6 of the "Beano" Act all acts and parts of acts inconsistent therewith are made inoperative with reference to the "Beano" Act and further that the State's stipend paid to agricultural societies is not to be withheld because of the conducting on the fair grounds of a game of "Beano."

A Statute is not repealed by the enactment of a new law except expressly or by necessary implication. It is conceded that the "Beano" law does not expressly repeal any existing law. If it repeals any, insofar as the "Beano" Act is concerned it must do so by implication. Implication signifies the intent of the Legislature.

I am of the opinion that the Legislature intended that prizes should be awarded in connection with "Beano." Otherwise it would not have been necessary to enact Section 6 into the "Beano" law.

The Chief of the State Police is set up as the Administrator and the Legislature has given him broad powers among which are those of determining the necessary elements in the amusement, commonly known as "Beano." If he determines that the granting of a prize is a part of amusement he would, in my opinion be authorized to allow the awarding of prizes.

Unless the Legislature intended to permit the awarding of prizes in connection with "Beano" and thereby being in conflict with existing gambling and lottery statutes, it would not have been necessary to pass any act whatever as "Beano" without the awarding of a prize would certainly not violate any law.

Notwithstanding the fact that I believe the Legislature to have enacted a law which is detrimental to the morals of the inhabitants of the State and not withstanding my conviction that all laws permitting public gambling are catering to the human instinct for gambling, I must conclude that as a pure matter of legal interpretation and reasoning, the awarding of prizes under this Act would be legal.

William H. Niehoff,
Asst. Attorney General and
Counsel for the Commission

WHN:mcs