

MAINE STATE LEGISLATURE

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May 13, 1943

Henry P. Weaver, Chief

State Police

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Attorney General

"Beano" (P. L. 1943, Chapter 355)

The statute, in my opinion, has neither by express words nor by necessary implication provided for the giving of prizes. Nevertheless, we must recognize that since "beano" in itself is as innocent a game as checkers or dominoes, the legislature must have had some reason for putting Chapter 355 of the Public Laws of 1943 on the books. This is strengthened by the suggestion in Section 6 that acts inconsistent therewith shall not apply to the game of "beano", and also the provision that fairs shall not lose their stipends for permitting the game of "beano" to be played.

We are forced, therefore, although the legislature has not defined the game, to assume that the giving of prizes must have been considered as an essential part of the "amusement commonly known as beano."

Since your department has the duty of enforcing the law and making the rules and regulations which shall govern the playing of the game in public, it behooves us to establish your position as clearly as we possibly can. You are not authorized by the "beano" law to relax in any degree your stand against gambling, and since the legislature must have recognized that fact in its drafting of the "beano" act, it seems to me that we must accept the theory that the legislature intended to remove from "gambling" the practice of giving prizes in connection with the playing of public "beano". However, the legislature did not open the door completely, but stated in unmistakable language that "the chief of the state police shall make such rules and regulations for the holding, conducting and operating of such amusements as he may deem advisable for the purpose of this act." Moreover, the language of the act is very positive in making it optional with the chief of the state police to decide who shall be permitted to play the game, and that the permission to play this particular game shall not be considered as giving similar permission for the playing of any other game. Obviously, this restrictive language would not have been used, had the legislature contemplated opening the doors for any kind of prize-giving or gambling in connection with any other game; and it seems to me very apparent that the legislature intended that the state police should promulgate such rules and regulations that the game of "beano", as played, should not be an invitation to persons who would make it a source of private profit.

Apparently, rules and regulations to be put out by the state police must then contain a recognition that to some extent prizes may be given. I respectfully suggest that a declaration of policy be inserted in those rules and regulations immediately preceding any paragraphs that have to do with the giving of prizes, somewhat in the following language:

Since the giving and receiving of prizes is apparently an essential part of the "amusement commonly known as beano," and because the legislature must have recognized that fact in the passing of the bill itself, the State Police, for administrative purposes, will proceed on the theory that the giving or receiving of prizes in connection with the "amusement known as beano," when

said prizes are within the limits provided in these regulations, is not to be regarded as a violation of the anti-gambling laws of the State."

Frank I. Cowan
Attorney General

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