

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

September 7, 1949

To Col. Francis J. McCabe, Chief, Maine State Police
Re: Sunday Sports at Agricultural Fairs

I have your memo of September 1st, relating to Chapter 440 of the Public Laws of 1949, amending Section 39 of Chapter 121, R. S. 1944. You seek my opinion relating to this act as it concerns agricultural fairs operating on Sunday, and you ask if this act allows various games to be played on the midways of the fairs on Sundays, and if it allows other recreational activities on Sunday, such as horse pulling, horse racing, and ball games. You also ask me to consider whether or not it would make any difference concerning the above recreational activities if the money collected were turned over to charitable organizations.

Chapter 440 of the Public Laws of 1949 reads as follows:

“Whoever, on the Lord’s day, keeps open his shop, workhouse, warehouse, or place of business; travels; does any work, labor or business on that day, except work of necessity or charity; uses any sport, game or recreation; or is present at any dancing, public diversion, show or entertainment, encouraging the same, shall be punished by a fine of not more than \$10; provided, however, that this section shall not apply to the operation of common carriers; to the driving of taxicabs and public carriages; to the operation of airplanes; to the driving of private automobiles or other vehicles; to the printing and selling of Sunday newspapers; to the keeping open of hotels, restaurants, garages and drug stores; to the selling of gasoline; or to the giving of scientific, philosophical, religious or educational lectures, or to musical concerts or theatrical productions.”

You will note that this exempts the giving of scientific, philosophical, religious or educational lectures, musical concerts, and theatrical productions.

I feel that Section 39, as amended by Chapter 440 of the Public Laws of 1949, should be read with Section 40 of Chapter 121, R. S. 1944, which legalizes Sunday sports and limits the regulation thereof to local option. That is, the cities and towns can vote whether it shall be lawful to engage in any outdoor recreational or competitive games or sports, between the hours of 1 P. M. and 7 P. M. on Sunday, except boxing, horse racing, air circuses, or wrestling. Section 40 was amended by Chapter 292, P. L. 1947, to permit bowling under the same local option provisions on Sundays between 3 o’clock in the afternoon and 11.30 in the evening. Most cities and towns have accepted the Sunday amateur sports law. The City of Augusta did so on June 19th, the City of Lewiston accepted it recently, the Town of Scarboro accepted it some time ago and has been holding amateur automobile races for some time, at Vinegar Road, Scarboro. I had a complaint from the Civic League on these automobile races and requested the county attorney to investigate. He found that the Town of Scarboro had accepted the Sunday amateur sports law at a regular town meeting and that these races were engaged in by owners of stock cars who were amateurs, and that

the races were run before 7 P. M. I advised the Civic League that apparently these automobile races were amateur races and were permitted by the local government of Scarborough by vote at town meeting, and therefore the races were being operated legally.

I do not believe that the act is broad enough to permit games to be played on the midways at the fairs on Sundays. It certainly does not allow horse racing, nor does it permit ball games unless the inhabitants of the town in which the fair is held have voted to permit amateur sports.

The operation of agricultural fairs, which are scientific, putting on exhibitions of cattle, fruits, vegetables, etc., would undoubtedly be permitted on Sunday under the amendment of 1949, as well as musical concerts and theatrical productions, regardless of whether or not there was any admission charged. There is nothing in the statute to legalize these activities if the money collected is turned over to charitable organizations. That is one of the provisions of the Beano law, but I do not believe that it will be found in any of the Sunday laws.

RALPH W. FARRIS
Attorney General

September 7, 1949

To Col. Francis J. McCabe, Chief, Maine State Police
Re: Game of Flush

I have your memo of September 1st, enclosing a description of a game known as "Flush" which you state seems to you very similar to the game known as Beano. You also enclose a card used in the game of Flush so that I may compare it with the card used in the game of Beano. You state that names and cards are used in the game of Flush, which in the game of Beano are only numbers, and you ask whether this game of Flush would circumvent the law on Beano, so that it might be played without coming under the regulations for Beano. You also ask whether this game of Flush would be considered Beano, and say that after I have considered your questions you would like my opinion as to the legality of this game, in order that, if it is allowed to be played in this State, you may inform all State Police officers accordingly.

In my opinion this game would not come under the regulations of Beano and would not be considered as such, as in Beano an altogether different method is used: a man with a microphone calls the numbers and the beans are placed by the player on the numbers called by the man at the microphone, whereas according to the description of the game of Flush, each player selects his own card by tossing a small rubber ball which goes into a pocket and remains in the pocket into which it has been tossed, until the completion of the game. That is, there is some element of skill in tossing the ball, which may fall on any given card on the board. This game appears to me no different than some of the games which are being played at Old