

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

Orchard, where the balls are tossed into a frame that designates certain cards, and which they call Poker. Of course there is a certain amount of skill, involved in games where balls are tossed to secure the card or number, rather than having a number called by the one conducting the game, as in Beano. I noted that at the various fairs they are placing money on certain games and tossing a ball on a plate with indentations for each color, and when the ball settles on a certain color, the player who has his money on that particular color wins all on the board.

Flush appears to be no different than many other games that are now in use in Maine at various carnivals and fairs, where the throwing of balls, darts, or rings on a certain number or a certain color wins a prize. Therefore I do not care to rule upon the legality of this proposed game at this time. The only thing that I can say is that I do not believe that the operators of this game would be obliged to obtain a beano license under the law. However, I might say in passing that if these other games which I have mentioned as being played at Old Orchard and at agricultural fairs are permitted, Flush should be handled in the same manner.

RALPH W. FARRIS
Attorney General

September 8, 1949

To William Tudor Gardiner, Chairman, Aeronautics Commission
Re: Sunday Air Show at the State Airport

In reply to your memorandum of September 6, 1949, you are advised that the matter has been cleared with the Governor's office and that the Governor has informed me that he sees no objection to the Maine Aeronautics Commission making such arrangements as they deem wise administratively for the use of the Augusta Airport for the promotion of aviation, especially in connection with a VFW demonstration to raise funds for charitable purposes.

It is our understanding that the proposed plan is to be in no sense an "air circus," nor will it be featured, promoted, or advertised as an "air circus."

JOHN S. S. FESSENDEN
Deputy Attorney General

September 8, 1949

To George J. Stobie, Commissioner, Inland Fisheries and Game
Re: Chain-of-Ponds Dam and Screen

I have your letter of August 24th, enclosing one from C. Stanton Carville of Stratton, dated August 22nd, relating to dam and screen at Chain-of-Ponds, T. 2, R. 6, in the County of Franklin, Resolve for which will be found in Chapter 175, Resolves of 1949. Mr. Carville states that the Stratton Light Company has now entered into this matter, advancing \$2000 of the \$6000 to be raised to match the State appropriation, in return for which they expect 15 or 18 inches of water when required to operate their plant at Eustis. On the basis of this you ask if you have a right to enter into an agreement of this nature, which was not mentioned at any hearing or at any time during the passage of this bill.

I have examined this Resolve and find no authority in it or in any other statute for you to enter into an agreement with a private corporation, giving them any additional flowage rights to operate their plant. That is something that will have to be worked out between Mr. Carville and the others who are raising the money to complete the project. The Resolve provides only for an appropriation of \$6000 for this purpose, with the proviso that the State shall not be liable for more than one-half of the cost of said dam and screen. So it seems to me that you can only go up to \$6000 under your authority from this Resolve, and anything further must be worked out with the Megantic Fish and Game Association or others who have interests in this dam.

RALPH W. FARRIS
Attorney General

September 9, 1949

To the Milk Commission
Re: Sales to State Institutions

This will reduce to writing as briefly as possible the verbal counsel which I have given to the Milk Commission on two occasions with respect to the status of State Institutions in connection with the Milk Control law.

Section 1 of that law contains definitions as to the meaning of words used in that law. The word "person" is defined as any person, firm, corporation, association or other business unit. The word "consumer" is defined as any person other than a milk dealer who purchases for fluid consumption. It is a fundamental rule of construction that when a series of words is followed by a phrase such as the phrase used in the definition of person, "or other business unit," such phrase means other things of the same general class as those specifically named. It is obvious, then, that as defined by the Milk Control law, the State of Maine is not a person; and if it is not a person, it follows that it is not a consumer. Therefore, such State institutions as come within the operating functions of the executive departments of the government of the State of Maine are not persons within the meaning of the definition, and therefore are not consumers within the meaning of the statutory definition.

It follows, then, that the Milk Commission cannot set a minimum price at which dealers may sell milk to a consuming unit which is neither a consumer nor a person within the statutory definition.

At the request of the Commission I prepared the original draft of what, I am told, is now paragraph 12 of the Commission's regulations. Several copies of this draft were presented by me to the Board's meeting on July 21st, at which meeting the draft was discussed, together with its implications. Following that time, the secretary of the Commission came to the Attorney General's office with a re-draft of the same material, which we edited, and which I am now told, has been issued as paragraph 12. I do not at this writing have before me a copy of the material promulgated.

JOHN S. S. FESSENDEN
Deputy Attorney General