

# MAINE STATE LEGISLATURE

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No

August 3, 1951

To George F. Mahoney, Insurance Commissioner  
Re: "Agricultural Society"

Receipt is acknowledged of your memo of August 1, 1951, in which you ask:

"Was Bangor Fair, Inc. of Bangor, Maine, an 'agricultural society' as of July 30, 1951 within the intent and meaning of R. S. c. 88, sec. 53 amended?"

You relate that the Ellsworth Lions Club is presently sponsoring a traveling amusement show, or carnival, in Ellsworth, and that such carnival was licensed by your Department for the 1951 season. It is stated that complaints have been registered by someone, alleging that the presence of the carnival in Ellsworth is a violation of §53, Ch. 88, R. S. 1944, as amended by Ch. 249, P. L. 1945, which states that

". . . a license shall issue, conditioned that no traveling amusement show shall operate, within 30 miles of the fairgrounds of any agricultural society, during the 2 weeks immediately preceding or during the time of any annual exhibition thereof."

The alleged violation appears to be the fact that Bangor is less than 30 miles from Ellsworth, and that a fair is scheduled in Bangor for the week of August 6-11.

It is further stated in your memo that Harvard W. Blaisdell of Ellsworth, attorney for the Ellsworth Lions Club, questions the applicability of Sec. 53, Ch. 88, R.S. 1944, to the particular carnival, Mr. Blaisdell maintaining that the Bangor Fair, Inc., is not an "agricultural society".

These facts are the background of your question, quoted above.

The Revised Statutes, 1944, Chapter 27, section 16 as amended by Chapter 375, P.L. 1949, appear to contain the only definition of the term "agricultural society" as those words are used in our statutes.

There, for the purposes of distributing stipends to aid various agricultural societies, certain bodies are designated as "societies" "according to the following schedule and method."

Subparagraph III of sec. 16 further defines the term agricultural "society", by setting up three requirements that must be adhered to before that body would be considered a "society" within the meaning of section 16.

As a result of these definitions of "society" as set up in section 16 of Chapter 88, it appears that before an agricultural body can be considered an agricultural "society", it must be such a body as would

comply with all the requirements necessary for such a body to apply for a stipend within the provisions of sections 16 et seq. of Chapter 88, R. S. 1944, as amended.

Therefore, whether or not such bodies are agricultural "societies", and as a result eligible for stipends to be distributed by the Department of Agriculture, is a problem to be determined by the Department of Agriculture - an administrative problem of that Department, including the determination of what agricultural displays are proper ones, which contests are to be paid premiums, etc.

As a result, it is necessary for the Department of Agriculture to determine which bodies are agricultural "societies" within the meaning of Chapter 27, R.S. 1944. This office feels that it may not infringe upon the duties of the Department of Agriculture and attempt to define terms which are peculiarly limited to the affairs of that Department.

Actually, the statutes relating to this problem are clear and unambiguous, the only question being one of fact, that is, is a particular body an agricultural "society" within the meaning of the statutes? The Attorney General's office gives opinions only on questions of law, leaving questions of fact to be solved by the Departments concerned with those facts.

We recommend that in particular instances, where it becomes necessary to ascertain the nature of an agricultural "society", the question be presented to the Department of Agriculture for answer.

For your further information, the following statement, given to you orally, but requested by you in writing, is set forth, though as far as it pertains to the present problem, it is relevant but not necessary:

This office is limited in its authority to the giving of advice to the Governor and Council, the respective branches of the Legislature, and the various Departments on State matters. As to controversies between private individuals who have readt access to practising attorneys, this office is not authorized to offer advice. In this respect, if the Bangor Fair, Inc., feels it is injured by the activities of the carnival in Ellsworth and believes itself to be an agricultural "society", then it has a legal remedy.

James G. Frost  
Assistant Attorney General