

# 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**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1957 - 1958**

It appears that under the federal act, a very small expense on the part of the State would aid in ascertaining the location of Indian graveyards on a proposed new construction job and that proper authorities would remove the antiquities.

These relics are property and belong to the people.

When the Commission is planning a way, and a cemetery lies within the proposed line, it is frequently necessary to go to considerable expense to solve the problem. Expending highway funds in this manner is in no way different in kind than to expend funds to avoid destroying Indian relics in an ancient Indian burial ground. In both cases an irreparable damage may be caused.

Section 15 of Chapter 23 says:

“The provisions of the Federal Aid Road Act (public number 156), entitled ‘An Act to Provide that the United States shall aid the states in the construction of Rural Post Roads and for other purposes’, approved July 11, 1916, and all other acts amendatory thereof and supplementary thereto, are assented to. The state highway commission is authorized and empowered to accept, for the state, federal funds apportioned under the provisions of the above act as amended and supplemented, to act for the state, in conjunction with the representatives of the federal government, in all matters relating to the location and construction of highways to be built with federal aid pursuant to the provisions of said act, and to make all contracts and do all things necessary to cooperate with the United States government in the construction and maintenance of public highways in accordance with the above act, as amended and supplemented.”

The Commission is authorized under this section to do all things necessary to cooperate with the United States Government in the construction and maintenance of public highways *in accordance with the above act*, as amended.

The avoidance of damages to these relics is in accordance with the Act, and it is my opinion that the Commission has the authority to participate in the program.

L. SMITH DUNNACK  
Assistant Attorney General

June 20, 1958

To E. L. Newdick, Commissioner of Agriculture

Re: The Bangor Fair

I have found that The Bangor Fair was incorporated under the general law on June 11, 1951.

Mr. Gillin has supplied me with a certificate from the Clerk of the corporation which discloses thirteen stockholders in this corporation.

I have checked the lease to Mr. Mourkas and the assignment of the same to The Bangor Fair.

Section 17, Chapter 32, Revised Statutes of 1954, provides that a society to be entitled to the stipend must meet three requirements of which number three was questioned.

Requirement III states:

“A society which has not less than 10 stockholders or members, or the primary purpose of which is not profit to be distributed to its stockholders.”

(Emphasis supplied)

The additional stipend under Chapter 391, Public Laws of 1957, states four requisites which must be met before the stipend will be given:

- (1) must be a recipient of the stipend fund
- (2) must conduct pari mutuel racing in conjunction with its annual fair
- (3) improve its racing facilities
- (4) and the improvement has met the standards for facility improvements set by the Commissioner of Agriculture.

It appears from the information which I now have that The Bangor Fair meets the first two requisites, and assuming that the latter two are met, the corporation is entitled to the additional stipend.

GEORGE A. WATHEN  
Assistant Attorney General

June 23, 1958

To Samuel F. Dorrance, Livestock Specialist, Agriculture

Re: Damages to Minks

We have your request for an opinion on the following question:

“Are mink killed by dogs or wild animals entitled to payment by the state as provided by R. S. 1954, Ch. 100, Sec. 18, as amended?”  
Sec. 18 provides:

“Whenever any *livestock*, poultry or domestic rabbits, *properly enclosed*, owned by a resident is killed or injured by dogs or wild animals, the owner, after locating such animal, animals or poultry or a sufficient part of each to identify the same . . .” (emphasis supplied)

The term “livestock” as defined by Webster’s Unabridged Dictionary, second edition, is: “Domestic animals used or raised on a farm, esp. those kept for profit.”

Sec. 141 of Ch. 32 states:

“Mink that have been propagated in captivity for 2 or more generations shall be considered domesticated animals subject to all the laws of the state with reference to possession, ownership and taxation as are at any time applicable to domesticated animals. . .”

It is my opinion that domestic mink are livestock within the meaning of the statute and the owner may be eligible for the benefit of Section 18 of Chapter 100.

GEORGE A. WATHEN  
Assistant Attorney General