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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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February 22, 1945

To Fred M. Berry, State Auditor

I have your memo of February 22d relating to the duties of the State Auditor under the provisions of Chapter 16, Section 3, of the Revised Statutes of 1944, requesting my opinion in regard to Section 18 of Chapter 77 of the Revised Statutes of 1944, which concerns the licensees' keeping records under the State Racing Commission Law, as it applies to "agencies of the state government."

It is my opinion that the records of persons, associations or corporations conducting races under the provisions of this section are not subject to an audit by the State Auditor; but the State Racing Commission is a State agency in my opinion and its accounts are subject to a post-audit by your department.

RALPH W. FARRIS
Attorney General

February 26, 1945

To Harry V. Gilson, Commissioner of Education

I received your memo of February 14th with letter attached which you had received from the Federal Works Agency, pertaining to the allocation of Lanham Act funds to the town of Kittery. Also attached was a copy of the tabulation of the town of Kittery for the past three years. I note that in your 1944 tabulation on equalization you have placed in Item 14, under "Other Deductions," "Lanham Act funds in lieu of taxes, $13,262."

It is my opinion that you are not authorized by the Revised Statutes or the provisions of the Lanham Act to make a deduction of the full amount paid by the Federal Government under said Act, as the Act provides: "The Administrator shall pay from rentals annual sums in lieu of taxes to any State and/or subdivision thereof, with respect to any real property acquired and held by him under this Act, including improvements thereon. The amount so paid for any year upon such property shall approximate the taxes which would be paid to the State and/or subdivision, as the case may be, upon such property if it were not exempt from taxation, with such allowance as may be considered by him to be appropriate for expenditure by the Government for streets, utilities, or other public services to serve such property." In other words, you have taken a deduction for the full sum the Government has paid in lieu of taxes for such property for streets, utilities or other purposes, including schools.

I note from the attached letter from Frank S. Moore, Chief of the legal section of the Federal Works Agency, addressed to you and dated February 12, 1945, that he states that, if the assessed valuation of the Federal Housing Development is included in the valuation of the town as assessed by the State Bureau of Taxation, in his opinion no part of the $13,262 should be added to the three funds specifically enumerated in the statute. On the other hand, if the assessed valuation of the Federal Housing De-

velopment is not included in the valuation as assessed by the State Bureau of Taxation, only $5800 (if our computation is correct) should be added to the other three specified funds, instead of the full amount of $13,262.

I have been advised by the State Bureau of Taxation that the assessed valuation of the Federal Housing Development is not included in the valuation as fixed by the State Bureau of Taxation, and I am inclined to agree with the Federal Works Agency that your tabulation sheet on equalization fund subsidy for December 1944 should be revised to conform to Section 204 of Chapter 37, R. S. 1944.

RALPH W. FARRIS
Attorney General

February 27, 1945

To Hon. Harold I. Goss, Secretary of State

The American Railway Express Company has requested "zone privilege number plates" for trucks registered in the State of New Hampshire and garaged at Portsmouth and Dover in said State. These trucks are used not only in that State but also to make deliveries across the boundary line into this State and within an area of 15 miles from the boundary line of said State. The question is whether it is entitled to this privilege under Section 57 of Chapter 19, R. S. 1944.

Prior to 1937, zone privileges under the first paragraph of this section were limited to residents of the bordering State or country residing within 15 miles by highway of the border-line of this State to operate in an area on the ways of this State within 15 miles from the border-line of "his" State, providing reciprocal rights of the same nature were granted to residents of this State.

The American Railway Express Company could not have come within the provisions of this paragraph, since it was not a resident of either New Hampshire or Maine, it being a foreign corporation organized under the laws of another State.

By amendment in 1937, Chapter 239 of the session laws of that year, it was provided, so far as here pertains, that

> "motor trucks having a rated carrying capacity of 3 tons or less which are duly registered according to the laws of another state or country which grants like privileges to such trucks registered in this state, and to the operators thereof, shall not be required to be registered in this state when operating within the 15 miles zone limit herein provided."

I am of the opinion that by this amendment the intention was to extend the privilege to trucks registered in a bordering state or country, irrespective of the residence of the registered owner. In other words, residence is no longer a condition, registration in such bordering State or country being sufficient, providing of course reciprocity of similar privileges is granted to registrants of motor vehicles of this State.