

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

June 13, 1949

To J. W. Randlette, Chairman, County Commissioners of Sagadahoc County

In your letter of June 1, 1949 you ask to be informed as to the disposition to be made of fines collected by the Bath Municipal Court for violations of ordinances of the City of Bath.

Section 19 of Chapter 64 of the Private & Special Laws of 1937 provides that fines collected by the judge or recorder of the Bath Municipal Court shall be accounted for and paid over quarterly in the manner provided by law. While the section does not specifically state that such fines shall be paid over to the county treasurer, the title of the section does state that the fines shall be paid to the county.

The reference to their being paid over in the manner provided by law obviously is to what is now Section 5 of Chapter 137, R. S. 1944. This section requires that all fines regardless of the court by whom the sentence is imposed shall be paid into the treasury of the county where the offense is prosecuted, monthly. This provision is for facility in auditing court accounts. The section goes on to provide that the county treasurer, upon approval of the county commissioners, shall pay to the State, town, city, or persons any portion of the fines, costs and forfeitures that may be due.

Neither Section 19 of Chapter 64, P&SL 1937, nor Section 5 of Chapter 137, R. S. 1944, contemplates that the county shall keep or retain the benefit of all fines imposed. In appropriate instances the county treasurer serves as an agency through whom fines pass for accounting purposes on their way to the agency for whose benefit the fines accrue.

Chapter 3 of the Private & Special Laws of 1949, in providing for the disposition of fines imposed for violations of the ordinances of the City of Bath, simply specifies that such fines shall ultimately accrue to the benefit of the City of Bath.

These funds, of course, must be paid in monthly to the county treasurer, as all other funds; but ultimately the county treasurer, upon the approval of the county commissioners, should pay the amount of such fines to the treasurer of the City of Bath.

RALPH W. FARRIS
Attorney General

June 24, 1949

To Carl Treworgy, Secretary, Racing Commission

I have your memo of June 24th, stating that the Commission has made the following rule and regulation:

"In the event that the second half of the Daily Double is not run, after the first half has been run, the amount of the Daily Double pool will be paid as a straight pool to all ticket holders of the winning horse in the first race."

You ask if in my opinion such a ruling is legal.

The Commission is authorized by statute to make rules and regulations for the holding, conducting and operating of all harness horse races or meets for public exhibition held in this State and for the operation of race tracks on which any such race or meet is held. Section 10 of Chapter 77, R. S.,

provides that no person, association, or corporation shall hold, conduct, or operate any harness horse race or meet for public exhibition, if pari mutuel betting is permitted, within the State without a license from the Commission. Section 15 provides for the sale of pari mutuel pools under such regulations as may be prescribed by said commission.

So it is my opinion that under Section 15 of the statutes the Commission has power to make such a regulation as relates to the pari mutuel pools, and therefore this regulation is legal.

RALPH W. FARRIS
Attorney General

June 27, 1949

To Marion E. Martin, Commissioner of Labor and Industry
Re: Chapter 374, P. L. 1949—Elevators

I have your memo of June 24th, stating that a question has been raised relating to Section 99-H, the first sentence thereof, the question being whether "authorized elevator inspectors" hold the authority to issue inspection certificates on the payment of a \$1 fee by the owner or user of the elevator.

The first paragraph of Section 99-H reads as follows: "Each elevator proposed to be used within this state shall be thoroughly inspected by either the supervising inspector, a state elevator inspector or an authorized elevator inspector, and if found to conform to the rules of the board, upon payment of the inspection fee where required and a registration fee of \$1 per year by the owner or user of such elevator to the inspector, the latter shall issue to such owner or user an inspection certificate. . ."

Section 99-B defines "State elevator inspector" and "authorized elevator inspector," but does not define a supervising inspector. In order to ascertain who the supervising inspector is and what his duties are we turn to Section 99-D, entitled, "Supervising and state elevator inspectors; how appointed." This section reads as follows:

"The commissioner shall appoint with the approval of the governor and council, and may remove for cause when so appointed, a citizen of the state qualified to fulfill the functions of the office to serve as supervising inspector, after he shall have successfully passed an examination prescribed by the board. The commissioner may appoint such state elevator inspectors as are necessary to carry out the provisions of sections 99-A to 99-Q, inclusive, from among applicants who successfully pass the examination."

Under Section 99-E the supervising inspector, under the direction of the Commissioner, is empowered under subsection V, "To issue, suspend, and revoke certificates allowing elevators to be operated; . . ."

Therefore in my opinion under Section 99-H, which contains the language you quoted, a registration fee of \$1 per year by the owner or user of the elevator to the inspector means the supervising inspector, as he is the only one who is authorized to issue, suspend and revoke certificates, even though the word "supervising" was omitted in the amendment to which you refer in your memo. Authorized elevator inspectors hold no authority to issue inspection certificates.

RALPH W. FARRIS
Attorney General