

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

July 5, 1950

To Honorable Frederick G. Payne, Governor of Maine

Re: Correspondence with Ralph Jewell of the Racing Commission

I have your memo of June 30th, attaching a copy of a letter which you wrote to Ralph Jewell on that date, together with a letter you had received from him, dated June 28, 1950, as a result of a request you made upon him for certain correspondence between him and the U. S. Trotting Association. You call my attention to the fact that the U. S. Trotting Association is stepping into another field of activity, namely, telling the people of the State of Maine what they must pay for purses in order to hold race meets, and commenting that it seems to you that they are going far afield of their rights in this matter and you would like to have me look over the correspondence and tell you what I think of the situation.

In reply I will say that Chapter 77, R. S. 1944, as amended by the Public Laws of 1945, 1947 and 1949, provides what the set-up of the State Racing Commission shall be. Section 8 of said chapter provides that the Commission shall make an annual report to the Governor on or before the first day of December in each year, including therein an account of its actions, receipts derived under the provisions of said chapter, the practical effects of the application of the provisions of this chapter, and any recommendation for legislation which the commission deems advisable.

This statute further authorizes the commission to make rules and regulations and to issue licenses. It also provides for a bond to be given by every licensee under the provisions of this chapter. It provides for pari-mutuel pools, records, and supervision by the commission. There is nothing in the chapter which I have cited which gives the U. S. Trotting Association any authority to set the amount of the purses which the Maine State Racing Commission must pay.

Under Chapter 77 authorizing the commission to make rules and regulations, Rule 2 adopted by the commission provides as follows:

"2. Harness racing when conducted by licensees of the Maine State Racing Commission shall be conducted in accordance with the rules and regulations of the United States Trotting Association, with exceptions, and at all times racing rules of the Maine State Racing Commission shall supersede conflicting rules. . ."

Rule 20 provides as follows:

"20. No race allowed to be run under Pari-Mutuel betting unless for bona fide purses.

- (a) Race purses shall not be paid from the Mutuel building or from the Judges' stand during pendency of the racing program.
- (b) Any race Secretary or representative of any Association operating under license from the Maine State Racing Commission at which pari-mutuels are in operation, who hires or procures horses to race for other than bona fide purses shall be subject to fine of not more than \$200, and the license of such Association may be revoked."

I find also in the last sentence of paragraph six of Section 12 of Chapter 77 as amended by Chapter 388 of the Public Laws of 1949 the following language:

“Said licensees shall also pay purses at least equal to minimum purses paid at any other New England harness racing track.”

This is all that I find in the statutes and the rules and regulations which relates to purses.

It is my opinion that the Maine Racing Commission has wide discretion except that the commission should take an over-all view of the minimum purses paid at other New England harness racing tracks, in fixing the purses at our Maine harness racing tracks. It seems to me that the commission should set the purses to fit the financial picture of our own State, of which the U. S. Trotting Association would have no knowledge except from hearsay.

If there is anything further that you would like us to check in regard to the Maine State Racing Commission statute and the rules and regulations, please advise me.

RALPH W. FARRIS
Attorney General

July 5, 1950

To Harland A. Ladd, Commissioner of Education
Re: Renting of School Buildings

I have your memo of June 29th, stating that my opinion is sought on a phase of administering the principle of the division of church and State. You state that the school department of the City of Presque Isle has been requested to make the high school auditorium available for a series of meetings sponsored by the Seventh Day Advent Churches of Aroostook, and the superintendent of schools wishes advice on what to tell his committee. You ask if the next to the last sentence in the September 1, 1943, statement of the late Attorney General, Frank I. Cowan, is pertinent.

I quote the language to which you refer, which is found on page 71 of the Report of the Attorney General for 1943-44:

“In my opinion, a school board in any municipality of this State cannot lawfully permit the use of a public school building by any group for any particular type of religious training.”

In answer to your question I will state that in my opinion this statement is pertinent, and I concur in same.

RALPH W. FARRIS
Attorney General

July 6, 1950

To Marion E. Martin, Commissioner of Labor and Industry
Re: Section 38, Chapter 25, R. S. 1944

As I read the weekly payment of wages law, it appears to me that the requirement of payment weekly of wages earned up to within eight days of such payment refers to calendar days.