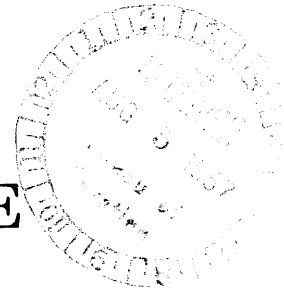
STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1955 - 1956

Under the provisions of Section 28 of Chapter 63 of the Revised Statutes of 1954, the same being a section under the chapter entitled "Personnel Law," it appears that if a person does not return to employment with the State within a 90-day period from the date of his discharge from the military or naval forces of the United States, he may not receive credit on his pension rights for the time during which he was in the service.

However, the Maine State Retirement System Law was amended by the 1955 Legislature, and the last sentence of Section 3-VI of Chapter 63-A now reads as follows:

> "No member who is otherwise entitled to Military Leave credits shall be deprived of this right if his return to covered employment is delayed beyond the 90 days after his honorable discharge if the delay is caused by a military service incurred illness or disability."

Thus it would appear that under the existing state of our laws in 1947 Col. Morang could not have received credit for the time he was in the service unless he had returned to State service within 90 days from the date of his discharge. The issue now appears to be if the colonel can avail himself of the 1955 amendment cited above. It is our opinion that this amendment is not retroactive and that the colonel may not now receive the credit which he might have received if he had returned to State employment within 90 days after his discharge.

JAMES GLYNN FROST
Deputy Attorney General

May 8, 1956

To Donald K. Maxim, Chairman, Harness Racing Commission

Re: Licenses for Consecutive Weeks

You request our opinion on the following question:

"If a race track is permitted to hold a two-week racing meeting, June 11 to 16 and June 18 to 23, 1956, must the Commission issue two licenses, one for each week or would 1 license for the two weeks be sufficient?"

In 1935, being the year of the enactment of the State Racing Commission, it was provided that any person, association or corporation desiring to hold a harness horse race or meet for public exhibition could apply to the Commission for a license to do so. Such license expired on the 31st day of December, and each license contained the designation of the place where the races or meets were to be held and the time or number of days during which racing might be conducted by the licensee. At that time, with the exception of Sundays, and between the dates of August 1st and October 20th, meets could be held for no more than six days in any 30-day period. Under such laws the licensee could have eight or nine meets per year.

In 1937 the statute was amended to provide:

> "Not more than 3 licenses shall be issued authorizing the holding of harness horse races or meets for public exhibition, with pari mutuel pools, on any 1 track in 1 year."

Chapter 187, Public Laws of 1937.

It is our opinion that this amendment limits the number of meets that can be held on any one track to not exceeding three in the period of a year.

The answer, then, to your question is that the Commission, under the dates set forth in your question, must issue two licenses, one for each week.

JAMES GLYNN FROST
Deputy Attorney General

May 14, 1956

To Roland H. Cobb, Commissioner of Inland Fisheries and Game

Re: Profits from State-owned Land

We have your memorandum in regard to the payment of certain profits to municipalities in this State. More particularly, your problem arises from an apparent conflict in two of our laws.

The third paragraph of Section 17 of Chapter 37, R. S. 1954, provides as follows:

> "Fur bearers may be removed from said game management areas by controlled trapping conducted under the direction of the Commissioner in which case the furs shall become the property of the State and the proceeds from their sale shall be used for the maintenance of the game management areas."

In 1955 the legislature passed a complete revision of the laws in regard to taxation, and Section 44 of Chapter 399 of the Laws of 1955 provides:

> "In municipalities where the State owns land as the result of acquisition of such land through the use of federal aid funds under the Pittman-Robertson Federal Aid to Wildlife Act and upon which natural products are sold or leased, 50% of the net profits received by the State from the sale or lease of such natural products shall be paid by the State to the municipality wherein such land is located."

The question arises, if fur bearers are taken under the provisions of Section 16, *supra,* upon land acquired by the State with the use of federal funds under the Pittman-Robertson Federal Aid to Wildlife Act, must the profits be shared with the municipality as set forth in Section 44, *supra*?

It is our opinion that in such circumstance the money received from the sale of fur bearers need not be shared under the provisions of Section 44. It is our belief that the "natural products" referred to in Section 44, are timber and grass, sold under permits, which is the usual case, and that the legislature did not intend to amend Section 17 impliedly. The general rule is that there shall be no repeal by implication where a subsequent act can be so read that it is not repugnant to an existing statute. We believe that the legislature well knew that Section 17 was in existence and did not intend to amend it by implication or otherwise.

It is to be noted, further, that Section 44 does not apply to State-owned lands in municipalities as such, but only to State-owned lands acquired through the use of federal aid funds under the Pittman-Robertson Act. In no instance is the profit to be shared unless it can be clearly shown that the land from which the natural products are taken, sold or leased, was purchased in accordance with this provision.