

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

MAINE STATE
LIBRARY

the most recent amendment to this statute, that, indeed, was the legislative intent.

JAMES GLYNN FROST
Deputy Attorney General

May 25, 1959

To: Stanley A. Jones, Chairman of Harness Racing Commission

Re: Collecting of \$10 license fee for Harness Racing

We have your memo of April 6, 1959, relating to the collecting of a \$10 license fee for each six days or less of harness racing whether or not pari mutuel pools are sold.

You ask if it is correct for the Commission to collect such \$10 license fee for races which do not have pari mutuel wagering.

Answer: No.

In considering the laws of 1952, which laws in relation to your question were then substantially as they are today, the Maine Law Court in *Maine State Raceways vs. LaFleur*, 147 Maine 367, 374, said no license is required of anyone who wishes to engage in the business of harness horse racing if there is no pari mutuel betting permitted.

On the basis of the Law Court decision, it is our opinion that the Commission should not collect a license fee for harness horse racing having no pari mutuel pools.

JAMES GLYNN FROST
Deputy Attorney General

May 25, 1959

To: Miss Ruth A. Hazelton, Librarian, Maine State Library

Re: Stipends — Municipal Appropriations or Expenditures

We have your memo of April 9, 1959, in which you ask if the state stipend as provided for in Chapter 42, Section 33, of the Revised Statutes of 1954 as amended, should be a percentage of the municipal appropriation or a percentage of the municipal expenditure.

In the 1954 revision of our laws, separate sections applied to the stipend to be paid municipalities according to whether the municipality maintained its own free library or secured for its inhabitants the free use of a library in another town.

In each case the 1954 law provided that "the officers shall annually, on or before the first day of May, certify to the State Librarian the amount of money appropriated and expended during the preceding year," for the aforesaid purposes of maintaining a library or securing the use of a library for its inhabitants. The state would then pay over to that municipality a sum of money according to the following formula:

"To municipalities appropriating and expending \$475 or less, 10% ;

To municipalities appropriating and expending \$476 to \$1,900,
7%;

To municipalities appropriating and expending \$1,901 to \$5,000,
4%.

No municipality shall receive annually more than \$200. The stipend shall be used for the purchase of books to be placed in said library. (R. S. c. 38, Sec. 25, 1953, c. 308, sec. 75.)”

In 1955, however, the two separate sections of law were substantially integrated and the words “and expended” were eliminated in the formula but remain in the first paragraph of the section.

“Sec. 33. State aid for municipalities maintaining free public libraries. The officers of any municipality may certify to the State Librarian annually, before the 1st day of May, the amount of money *appropriated and expended* by said municipality during the preceding year for the benefit of a free public library established therein, or for the free use of a library in an adjoining town. Upon such certification the State Librarian, if satisfied with the quality of service performed by such library, shall approve for payment to such municipality an amount based on the following schedule:”

(Chapter 185, sec. 13, Public Laws 1955)

Payment of the state stipend is conditioned upon the certificate of the municipality. A certificate stating merely that money had been appropriated would not comply with the statute, for the statute says such certificate must be as to money “*appropriated and expended*.” If no money could be paid by the state on such a certificate (on appropriation only) it seems clearly that the stipend is based on money appropriated *and* expended.

The deletion of the words “and expending” from the formula does not change the necessity of a township having to expend money for library purposes in order that the state aid be paid, and we are of the opinion that the amount of money so expended is the basis upon which payments shall be made by the state to the town.

JAMES GLYNN FROST
Deputy Attorney General

May 27, 1959

To: Nathan W. Thompson, Esquire
Woodman, Skelton, Thompson & Chapman
85 Exchange Street
Portland 3, Maine

Dear Mr. Thompson:

We have your letter of May 25, 1959 and the attached copy of a proposed lease between the Town of North Haven and the Maine Port Authority, whereby the Port Authority leases property of the town on which to build a ferry terminal.

You ask for our comments on the following paragraph of the lease: