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April 18, 1961

The Honorable Carl Austin
4442 South 8th Place
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL

My dear Mr. Austin:

In a letter of March 28, 1961, you propounded four questions to the office of the Attorney General relating to Section 5-114 of the Arizona Revised Statutes, Question No. 1 being:

Is it your interpretation that this law and the Article read into the Journal gives Arizona bred and Arizona foaled or whelped horses and dogs the preference on the race tracks in Arizona over out-of-state bred dogs and horses?

Section 5-110 (B) states: "The Commission may require by the terms of any permit issued by it that the permittee offer such number of races during any racing meet as the Commission shall determine but in no event more than one race each calendar week exclusively to horses or dogs bred in this state or to horses or dogs owned by bona fide residents of this state. In the event that any such race shall not fill, a substitute race may be provided."

This hereinbefore quoted section, together with Section 5-114, is the only law relating to the racing of Arizona bred or Arizona foaled or whelped horses or dogs.

In view of the foregoing statutes, namesly, the herein quoted and the one quoted by you in your letter, it is the opinion of this office that the answer to Question No. 1 propounded by you in the above referred to letter must be answered in the negative. By reason of the answer to Question No. 1, the answer to Question No. 2 must therefore be that the Commission may only compel the running of one race per week, but there is no duty that it require that and it is a discretionary matter with the Commission.

In response to Question No. 3, the only power delegated to the Commission is to make a determination of a horse or dog in the event of a dispute when the 5% is claimed for the Arizona breeding'.

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In response to Question No. 4, it is the opinion of the writer that there is no duty upon the JRacing Commission to force tracks to give Arizona bred and whelped dogs any preference but only a discretionary power which may be exercised by the Commission as it does most advisable with a limitation as to the number of races that may be required.

Very truly yours,

ROBERT W. PICKRELL
The Attorney General

JOSEPH B. MILLER
Special Assistant Attorney General

JBM:vm