

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

You had this check in your possession this morning and I am informed by you that the check was mislaid either by the holder or by the payee thereof, and hence was not presented within a reasonable time after its date. We have no explanation from the holder or the payee why the loss of the check was not made known to the Controller's office, so that payment thereof could have been stopped and a new one issued.

Under the law a check must be presented within a reasonable time after the date of its issue, and the failure to do so, resulting in loss to the drawer of the check, would discharge the drawer from any further liability. In this case the Augusta Trust Company in 1933 closed because of the bank holiday and thereafter never re-opened, but its affairs were liquidated, resulting in a substantial loss to the State. Under these circumstances the failure of the holder to present his check for a period of nearly three years after the date of its issuance would make him chargeable with its loss, because it was not presented within a reasonable time.

I therefore advise you that the Highway Commission may not request the Controller to issue a warrant in place of this one, and the only recourse that the holder now has is to request the legislature to reimburse him by legislative Resolve.

ABRAHAM BREITBARD
Deputy Attorney General

March 25, 1949

To A. K. Gardner, Commissioner of Agriculture
Re: Milk Prices

I have your memo of March 24th, stating that milk received from local farmers in Maine country plants of Boston milk dealers is frequently sold as Class I milk to local milk dealers, but under the present set-up these producers do not receive the benefit of the local Class I price established by the Milk Control Board. They are paid the uniform blend price established by the Milk Market Administration for the Boston market. The Boston dealer selling the milk from his Maine country plant to the local dealer is charged for this milk at the Boston Class I zone price rate, which is usually about 20c a hundredweight lower than the Class I price established by the Milk Control Board. On these facts you ask whether the Board has authority to enforce its prices for milk sold in local markets when such milk is received at a country plant and subject to the Boston pool under the authority of the Federal Milk Order No. 4, issued under the Agricultural Marketing Agreement Act of 1937. Section 904.4 provides for the determination of pool plant status in the Greater Boston area of holders of certificates of registration issued under the provisions of Chapter 94, Section 16 of the Massachusetts General Laws.

It is my opinion that the State Milk Control Board has authority to enforce its prices for milk sold in open markets when such milk is received at a country plant in intrastate commerce, even though it is subject to the Boston pool which is under the Massachusetts Administrator. This does not affect the authority of the Maine State Milk Control Board, if the Board sees fit to enforce its rights, unless it has entered into an agreement with the

Boston pool and has adopted the minimum class prices set up under Section 904.7 of the federal Milk Order No. 4 for the Greater Boston Marketing Area. . . The Milk Control Board should know about the administration of this Act. They must have studied it, as it has been in effect since August 1, 1947.

The Greater Boston Marketing Area is defined in Section 904.1 of Milk Order No. 4, and it includes only those areas within the boundary lines of certain Massachusetts cities and towns, which are set forth in the definition. It does not seem to me that it has anything to do with towns and cities in the State of Maine where producers and dealers are under the supervision of the State Milk Control Board.

. . I shall be glad to sit down with some member of the Milk Board with some information on the administration of this Greater Boston Marketing Area agreement. I could then advise you more accurately as to how far it affects the State of Maine in enforcing the prices of milk sold in local markets.

RALPH W. FARRIS
Attorney General

March 25, 1949

To Harry E. Henderson, Deputy Treasurer of State
Re: Hutchinson Hardware Co., Inc.

I have your memo of March 24th relating to the above matter, together with a card to the Maine Fish & Game Dept. from the Referee in Bankruptcy, stating that there will be a meeting of the creditors on the 5th day of April in Boston.

I wish to state that this matter has never been referred to this office by the Commissioner of Inland Fisheries and Game, nor by the Treasurer's office; and we have never filed any claim in this office and know nothing about the matter. . . This matter was certified to your department on April 1, 1948 for collection, but was never turned over to this office for action.

It has been my policy not to consider moneys due the State of Maine for licenses as dischargeable in bankruptcy. For that reason we have never filed claims with referees in bankruptcy for a percentage settlement. These license fees collected by anyone as an agent for the State of Maine belong to the State of Maine and are not dischargeable in bankruptcy. Whoever filed this claim had never consulted this office and did not know the policy of this office in regard to moneys obtained for license fees, etc.

In this case the agent of the State is a corporation, and we probably have lost our rights by filing a claim with the referee in bankruptcy.

In the future, all legal matters should be referred to this department and not handled by the departments concerned, in cases where fees have been collected for the State and not turned over to the State Treasurer.

RALPH W. FARRIS
Attorney General