STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1951 - 1954

The result is, therefore, that there are two penalty sections for violations of provisions of Sec. 100, Ch. 348, P. L. 1947, one of which, Sec. 100-B, Ch. 323, P. L. 1951, is to apply where the limitations of gross weight are violated, the other, Sec. 135, Ch. 348, P. L. 1947, is to remain as the general penalty section, providing for penalties where there is no such specific provision.

JAMES G. FROST
Assistant Attorney General

July 13, 1951

To H. H. Chenevert, Milk Commission
Re: Fees on Certain Sales

Question 1. Facts: A Maine milk dealer with a plant in Waterville buys milk from H. P. Hood (Boston) plant in Newport, Maine. H. P. Hood buys milk from Maine producers f.o.b. Newport and ships to Boston by trailer tanks. No collection of fee (2c per hundredweight) is made on this transaction. H. P. Hood sells a part of this milk to Maine dealers in Maine for fluid consumption in Maine. The question: Can the Milk Commission collect 2c per hundredweight fee on the latter transaction and if so from whom?

Opinion. The fact that H. P. Hood sells milk to the Waterville dealer at Newport, Maine, makes H. P. Hood a dealer within the provision of Section 1 of the Maine Milk Control Laws. As such dealer H. P. Hood is liable under the provisions of Section 6 of said Act, to pay the fee of 2c per hundredweight based on quantity of milk purchased and sold in Maine. The fact that H. P. Hood buys the milk in Maine and may transport some or all of it to Boston and then back into Maine and sell it in Maine does not affect the operation of the law. H. P. Hood can recover 1c from the producer in Maine for such milk as H. P. Hood sells in Maine.

Question 2. Facts: A Maine dealer sells surplus milk to another Maine dealer to be used for manufactured products (not to be resold for fluid consumption). This milk would normally be Class II to dealer, being that part of his total receipts which he was unable to sell at retail or wholesale for fluid consumption (Class I use). The dealer contends that since the milk is Class II anyway, and so computed in his blend price to the producers, selling it to another dealer for Class II use does not affect his price to his producers and does not place this milk in Class I category. Question: Does this mean that such dealer-to-dealer sales are Class I only in such areas where dealer-to-dealer prices are established?

Opinion. Section 4 of the Milk Control Laws provides:

> "The dealer-to-dealer prices for all sales shall be established only in such market areas as are necessary for the stabilizing of market conditions, but all such sales between dealers shall be considered Class I milk."

This means that the prices in all dealer-to-dealer sales can be established only in those market areas deemed and found to be necessary for stabilizing the market conditions, but in any event all such sales between dealers are considered Class I milk. In other words, such sales between dealers are to be considered Class I milk although the stabilizing price element does not apply;

the milk is still in Class I classification and remains there for the purposes of applying the provisions of the law.

WILLIAM H. NIEHOFF
Assistant Attorney General

July 23, 1951

To Allan L. Robbins, Warden, Maine State Prison

Your attention is directed to Chapter 23, Section 52, of the Revised Statutes of 1944, which provides as follows:

> "The department shall maintain quarters at the reformatory for women for the incarceration of all women sentenced to the state prison.
>
> "All women sentenced to the state prison shall be transmitted directly from the place of sentence to said reformatory and serve their sentences at said reformatory and shall be subject to all rules governing persons sentenced to the state prison."

As we understand the procedure being followed, the original mittimus is kept by you at the State Prison and an attested copy forwarded to the Superintendent of the Women's Reformatory. It appears that the Superintendent of the Women's Reformatory should have some written authority in addition to a copy of the commitment to show her authority for holding the prisoner. We suggest that in cases of a similar nature, including those already presently transferred to the Women's Reformatory at Skowhegan and those who may hereafter become matters of consideration, you write on the commitment papers the following:

"The within prisoner is hereby transmitted to the Reformatory for Women in accordance with the provisions of Chapter 23, Section 52, of the Revised Statutes of 1944."

This memorandum endorsed on the original commitment and the attested copy going to the Reformatory for Women should be signed by you. The original mittimus is retained in your file and the attested copy accompanies the prisoner to the Reformatory. . .

ALEXANDER A. LaFLEUR
Attorney General

July 17, 1951

To A. K. Gardner, Commissioner of Agriculture

Re: Licenses Required by Section 224-C, Chapter 184, P. L. 1951

This office is in receipt of a letter dated July 10, 1951, from C. P. Osgood, Chief, Division of Inspection, in which letter he requests information relative to the supervision and enforcement of Chapter 184, P. L. 1951, with regard to license requirements for the present year. Mr. Osgood requests that our reply be directed to you.