

printing and records would not be an actual expense of the *trustee* within the meaning of the language quoted but would be an expense of the *township*.

I think that the monthly rental of a telephone in the office of the trustee could be paid if supported by sufficient appropriation, but following the reasoning of the court in the above case of *Eagle Township v. Phillippi*, I think it is doubtful whether it is one of the class of expenses which falls within the language of the Act above quoted. In other words, in my opinion, the rental of a telephone in the office of the trustee is not an item which should be considered as chargeable against the specifically limited appropriations as provided in section 65-204 *supra* for actual expenses and your first question is therefore answered in the negative.

Such an item of expense on behalf of the township, however, I think may be a legitimate subject for the consideration of the appropriating body of the township and if properly included in and supported by such appropriation, such appropriation may be properly expended for that purpose.

MILK CONTROL BOARD, STATE: Whether distributing broker's license is sufficient to authorize the operations of a "distributor" and a "produce distributor"; Milk Control Law of 1937.

June 14, 1937.

Hon. Charles G. Dailey,
Attorney, Milk Control Board of Indiana,
Room 332, State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you request an opinion as to whether under the Milk Control Law of 1937, chapter 215 of the Acts of 1937, a single license as a "distributing broker" is sufficient to entitle the holder to engage in all of the activities included under the titles "distributor," "producer-distributor" and "distributing broker."

Section 2 of chapter 215 of the Acts of 1937, which is an amendment of section 2 of the 1935 Milk Control Act defines the term "distributor" to mean and include "all persons who purchase, accept or receive milk for the purpose of putting

such milk into bottles or other unit containers in which the same is designed to be sold or distributed, or for the purpose of cooling, pasteurizing, standardizing or otherwise processing such milk, or for the purpose of selling, jobbing or distributing such milk at wholesale or retail or for any two or more of such purposes."

Acts of 1937, page 1073.

Excluded, however, from the above are all persons who purchase, accept or receive milk for the purpose only of sale by such person in one or more retail stores or in one or more places where the milk is sold to customers for consumption on the premises.

A "producer-distributor" is defined to mean and include "any person owning, or managing, or controlling a dairy herd or herds, who puts only the milk produced therefrom in bottles or other unit containers in which the same is designed to be sold, or cools, pasteurizes, standardizes, or otherwise processes such milk for the purpose of selling or distributing the same at wholesale or retail, or who sells or distributes such milk at wholesale or retail."

Acts of 1937, page 1074.

The term "distributing broker," however, is defined as meaning and including "all persons who, on their own account, accept or receive milk from a distributor or producer-distributor for sale or distribution at wholesale or retail."

Acts of 1937, page 1074.

The distinctions between the above classes I think are clearly indicated by the above definitions. In the first place, perhaps the outstanding distinction between a "producer-distributor" and the other two classes is that he produces the milk which he distributes and distributes no milk except that which is produced by him. In other words, the "producer-distributor" takes the milk which he, himself, has produced, puts the same into bottles or other unit containers, or cools, pasteurizes, standardizes or otherwise processes the milk for the purpose of selling the same at wholesale or retail, or who sells the same at wholesale or retail. That is, he is a distributor in the limited sense and the milk involved in the transaction is produced from his own herd.

A "distributor," however, purchases milk from others and puts it into bottles or other unit containers for sale or purchases milk from others for the purpose of cooling, pasteurizing, standardizing or otherwise processing such milk for the purpose of selling it at wholesale or retail.

The "distributing broker" on the other hand does not deal in milk produced by his own herd, nor does he put same into bottles, nor does he buy from others for the purpose of pasteurizing the milk. He receives from the other two classes milk in the form in which they are authorized to sell it for the purpose of re-selling the same by the "distributing broker" either at wholesale or retail.

Referring now to section 6 of the 1937 Milk Control Act, which is an amendment of section 7 of the 1935 Milk Control Act, it will be observed that every milk dealer as defined in the Act "shall apply to the board for a license to engage in business as a distributor, a producer-distributor, a distributing broker or to conduct a retail store, as defined in this Act, or in any one or more of said businesses, provided that *each applicant shall apply for a license for each business in which he intends to engage.*" (Our italics.) This section clearly indicates that a separate license is to be obtained for each activity engaged in as defined in the Act.

Observing further section 7 of the 1937 Milk Control Act, which is an amendment of section 14 of the 1935 Milk Control Act, it will be noted that a specific license fee is provided for *each* of the above activities computed upon differing bases. For example, for a distributor's license the fee is calculated, charged and collected upon the basis of the daily average distribution of milk through the plant owned, operated or controlled by the licensee according to a table specifically set up in the Act and ranging from \$35.00 to \$825.00. On the other hand, the license fee of a "producer-distributor" is based upon the number of animals owned by him, and the "distributing broker" is charged upon the flat basis of \$5.00.

Acts of 1937, page 1089.

It seems to me to be very evident that a separate license is required for each separate activity engaged in by the licensee and your question is answered accordingly.