STATE OF NEW JERSEY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

744 Broad Street, Newark, N.J.

BULLETIN NUMBER 47. October 6, 1934

1. APPELLATE DECISIONS - SEVERANCE VS. BARRINGTON

RANDALL SEVERANCE,
Appellant,

-vs-

BOROUGH COUNCIL OF THE BOROUGH OF BARRINGTON (CAMDEN COUNTY),
Respondent.

ON APPEAL
CONCLUSIONS

Ernest Dubin, Esq., Attorney for Appellant.
Vincent deP. Costello, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the action of respondent in denying appellant's application.

At the hearing appellant admitted that although the business was a partnership, he had applied for the license in his own name because he knew his partner was not eligible to receive a license. Paragraph 7 of the application reads: "Has any person, individual, partnership or corporation or association, other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?" Appellant, under oath, answered this question in the negative, although such answer was admittedly false. Section 22 of the Control Act provides that any person who shall knowingly misstate any material fact, under oath, in an application shall be guilty of a misdemeanor, and that suppression of material facts in the securing of a license is ground for revocation thereof. A fortiori the denial of an application containing a wilfully false answer is proper.

The action of respondent is affirmed.

D. FREDERICK BURNETT,
Commissioner

Dated: Oct. 1, 1934

2. APPELLATE DECISIONS - BELLO VS. LODER

ANTHONY BELLO,
Appellant,

-vs-

HON. LEROY W. LODER, JUDGE OF THE COURT OF COMMON PLEAS OF CAPE MAY COUNTY,
Respondent.

ON APPEAL
CONCLUSIONS

T. Millet Hand, Esq., Attorney for Appellant
Rex A. Donnelly, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant applied for a plenary retail consumption license for premises located at 60½ Broad Street, City of Cape May. The application was denied. An appeal was duly filed and has come on for hearing.

Respondent contends that the application was properly denied for the reason that appellant's mother and stepfather were interested in the business of appellant and that they were not eligible to receive licenses in their own names because they were not citizens. No evidence was introduced by respondent to support this contention and appellant's testimony established that he not only exclusively owned the business, hired and paid the employees, purchased and sold the alcoholic beverages, but also that he retained the profit therefrom and did not share it with anyone; that the only money paid his mother and/or stepfather, aside from board, was for rent of the licensed premises.

The licensed premises are owned by appellant's mother and regularly leased to appellant. This fact standing alone does not, however, disqualify appellant. The mere fact of ownership of the building in which the licensed premises are located does not give rise to an interest in the licensed business as such and, except in situations governed by Section 40 of the Control Act, such ownership, without more, does not afford a proper basis for the refusal to issue a license to an otherwise properly qualified applicant. Nor are the provisions of Section 40 pertinent here, for that Section is designed to prevent persons directly or indirectly interested in the manufacturing or wholesaling of alcoholic beverages from being interested in the retailing thereof. The language of the Section cannot be extended to embrace situations not intended to be governed thereby.

The action of the respondent is reversed.

D. FREDERICK BURNETT,
Commissioner

Dated: October 1, 1934

3. APPELLATE DECISIONS - SUSSEX COUNTY DRUG COMPANY VS. NEWTON

SUSSEX COUNTY DRUG COMPANY, Appellant,	
-vs-	ON APPEAL
TOWN COMMITTEE OF THE TOWN OF NEWTON (SUSSEX COUNTY), Respondent.	CONCLUSIONS

Morris & Downing, Esqs., Attorneys for Appellant
Lewis VanBlarcom, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant applied for a plenary retail distribution license for premises located at 217 Spring Street, in the Town of Newton. The application was denied. An appeal was duly filed and has come on for hearing.

Respondent contends that the application was properly denied for the reason that a sufficient number of licenses had been issued and that an additional license would be socially undesirable.

The population of the Town of Newton is approximately fifty-four hundred, and there are nine licensees operating therein, of which six are plenary retail consumption licensees, one is a plenary retail distribution licensee, and two are club licensees. Respondent claims that these licensees adequately meet all existing demands. Appellant contends that the nearest retail distribution licensee is three or four blocks from the premises sought to be licensed, and therefore another distribution license is necessary. It appears, however, that a number of retail consumption licensees are operating within a short distance of appellant's premises.

The burden of proof requisite to demonstrate that a community needs or will be more properly or conveniently serviced by another liquor store is difficult to sustain, especially in the case of a distribution license for off-premises consumption. For, with telephone and transportation facilities, such a store can properly service an area of much greater ambit than a consumption license. It is very largely a matter for the exercise of sound discretion by the governing body of the particular municipality. Its decision may be reversed if it fails in the ultimate test of public necessity and convenience. In the instant case, the appellant has failed to sustain the burden of proof.

The action of the respondent Board is therefore affirmed.

D. FREDERICK BURNETT,
Dated: October 2, 1934 Commissioner

4. APPELLATE DECISIONS - ROSENTHAL VS. TRENTON

ABE ROSENTHAL,
Appellant,

-vs-

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF TRENTON,
Respondent.

ON APPEAL
CONCLUSIONS

- - - - - - - - - - - - - - - - -

Messrs. Perlman & Lerner, by Sol P. Perlman, Esq., Attorneys for Appellant
Romulus P. Rimo, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant complied with all the formal prerequisites pertaining to his application. His character and fitness are unquestioned.

At the hearing it appeared that there is a grocery business now being conducted upon the premises sought to be licensed, but that appellant has made arrangements to take possession of the premises in the event a license is issued and to use

said premises exclusively for the sale of alcoholic beverages.

Respondent's sole contention is that the application was properly denied by virtue of its resolution of May 31, 1934, limiting the number of plenary retail consumption licenses in the City of Trenton to 250 and its issuance of the allotted number. For the reasons stated in Central Restaurant Inc. vs. Municipal Board of Alcoholic Beverage Control of Trenton, Bulletin #44, Item #5, this contention cannot be sustained.

The action of the respondent Board is reversed upon the express condition, which shall be set forth upon the face of the license, that the mercantile business being conducted on the premises sought to be licensed, shall be discontinued and closed out prior to the sale of any alcoholic beverages therein.

D. FREDERICK BURNETT,
Dated: October 2, 1934 Commissioner

5. LICENSE FEES - PRORATION - NO PRORATION IN RESPECT TO LIMITED MANUFACTURING LICENSES - NOR DO THEY HAVE SURRENDER VALUE

MEMO.- To the Commissioner

FROM - B. C. Brown.

Re: Van Derveer Distillery

On July 1st, last, the above named company was granted a Limited Distillery License providing for the manufacture of a quantity of not more than 10,000 gallons per annum.

It now develops that circumstances warrant production in excess of that amount and a request has been made for a ruling on the following questions:-

1 - Are they eligible to make application for another Limited Distillery License providing for a quantity of not more than 10,000 gallons?

2 - Shall the full yearly fee accompany the application or shall the fee be prorated?

3 - Does their present license have any value in respect to the statutory provisions pertaining to voluntary surrender of a license?

Respectfully submitted,
B. C. BROWN,
September 29, 1934 Deputy Commissioner.

Mr. Brown:

1. YES. The licensee has previously paid for the privilege of manufacturing a certain number of gallons. He could have applied in the first instance to manufacture a larger quantity and paid a higher fee. There is nothing to prevent his taking out a second license to make additional gallonage, provided he pays the extra fee.

2. The application must be accompanied by the full annual fee. When a licensee is given permission to conduct his business without any quantity limit, e.g. plenary distillery, plenary retail consumption, the fee is prorated according to the length of time the permission may be exercised. But this principle does not apply to a limited distillery license which confines the privilege of manufacturing to a limited quantity only upon payment of a fee graduated according to the quantity, e.g. 10,000 gallons for a fee of $1,250. In all limited manufacturing licenses, quantity and not time is the important factor. The licensee can run his distillery as seldom or as often as he chooses - night and day if he wishes. He may make the 10,000 gallons in one month or stretch it over a whole year, but if he asks for the privilege of manufacturing that maximum, he must pay the full fee for that quantity without any proration based on time.

3. NO. Rebates upon voluntary surrenders of licenses apply only to those licenses, the fee for which is based upon the length of time during which they may be exercised and not on the maximum quantity manufacturable.

D. FREDERICK BURNETT,
Commissioner

Dated: October 2, 1934.

6. MERCANTILE BUSINESS DEFINED - DOES NOT INCLUDE BOWLING ALLEYS

September 24, 1934

Messrs. Hillery & Young,
Park Square Building,
Morristown, N. J.

Gentlemen:

I have your letter of September 15th inquiring whether a consumption license may be issued for premises in which a bowling alley is conducted.

Section 13 (1) of the Control Act provides that no consumption license shall be issued "to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business (except the keeping of a hotel or restaurant, or the sale of cigars and cigarettes at retail as an accommodation to patrons, or the retail sale of non-alcoholic beverages as accessory beverages to alcoholic beverages) is carried on".

The phrase "mercantile business", in its generally accepted sense, refers to the buying and selling of goods or merchandise or the dealing in the purchase and sale of commodities. This would exclude bowling alleys and similar businesses where no sales of merchandise are effected.

It may be contended that since restaurants and hotels do not sell merchandise their specific exclusion displays a legislative intent to use the phrase "mercantile business" in a modified sense. Support for this suggestion may be sought in the maxim

ejusdem generis. A contrary contention might well be rested upon the thought that the exception pertaining to restaurants and hotels was inserted to remove doubts which might arise with respect to them. Support here may likewise be sought in a maxim - abundans cautela non nocet - extreme caution does no harm.

No compelling reason appears for an interpretation other than the usual meaning of the words "mercantile business". Accordingly it is the ruling of the Commissioner that the statutory prohibition contained in Section 13 (1) against the issuance of licenses for premises where mercantile businesses are conducted does not apply to premises in which bowling alleys and similar businesses are conducted.

It may well be that a municipal issuing authority in the exercise of its general police powers and the powers conferred by Section 37 may deny an application for a license for premises on which a bowling alley or similar business is being conducted. The determination of whether such a policy should be adopted rests in the first instance with the municipal issuing authority, subject to appeal to the Commissioner. Nothing contained in Section 13 (1) of the Control Act nor in this opinion limits these powers of the municipal issuing authority.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner
By:
Nathan L. Jacobs,
Chief Deputy Commissioner
and Counsel

7. REFERENDUM - SUNDAY SALES - EFFECT OF AFFIRMATIVE VOTE

D. Frederick Burnett, Commissioner.

Dear Sir:-

A petition has been filed with our governing body, signed by more than 15% of the qualified electors, requesting a referendum on Sunday sales.

Section 44 of the Alcoholic Beverage Act of Dec. 6, 1933, provides that when a majority vote "no", it shall be unlawful to sell in the municipality on Sundays. And also provides that when a majority vote "yes", "the sale of alcoholic beverages on Sundays pursuant to the provisions of this act shall continue in said municipality as if no such election had been held".

Our municipality now permits sales on Sundays from Midnight Saturdays until 2 A. M. Sundays.

It would appear that under the provisions of Sec. 44, above quoted, the advocates of an open Sunday could gain nothing by a referendum, but in case of a "no" vote would lose the two hour open period now enjoyed.

It seems unreasonable that the legislature intended the act and the referendum thereunder to produce such a situation.

Have you any ruling under the act, or any later legislation that would cover this point?

Very truly yours,

Robt. F. Sheppard,
Mayor

Mayor Robert F. Sheppard,
Borough of Runnemede,
Camden County, N. J.

Dear Sir:-

When the Control Act was enacted the Legislature contemplated that the electorate of a municipality shall have the right to determine by referendum whether Sunday sales should be permitted or prohibited therein. Accordingly, Section 44 expressly provides that if a majority answer the question, "Shall the sale of alcoholic beverages be permitted on Sundays in this municipality?" in the negative, then the sale of alcoholic beverages therein on Sunday is unlawful. It further provides that if a majority answer the question in the affirmative, then the sale of alcoholic beverages "shall continue in said municipality as if no such election had been held". The last quoted language obviously refers to a situation where prior to the referendum Sunday sales were permitted. It does not refer to a situation where a municipal issuing authority has, by resolution or ordinance, prohibited Sunday sales under its police powers pursuant to the ruling of the Commissioner in Bulletin 17, Item #3. Section 44 must be construed to mean that under such circumstances, an affirmative vote at the referendum shall abrogate the antecedent prohibition against Sunday sales imposed by the municipal authority. Any contrary conclusion would nullify the clear legislative purpose.

Consequently, where, as in your municipality, Sunday sales after 2 a.m. are prohibited, an affirmative vote at the referendum will remove all restrictions against Sunday sales. Whether the municipal body will have authority thereafter to limit the hours of sale on Sunday, pursuant to the provisions of Section 37 and subject to appeal to the Commissioner, need not be determined at present.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner
By:
Nathan L. Jacobs,
Chief Deputy Commissioner
and Counsel.

8. REFERENDUM - PETITIONS - WHERE FILED - SIXTH CLASS COUNTIES

October 4, 1934

C. A. Heil, Jr., Esq.,
City Clerk,
Wildwood, N. J.

Dear Sir:-

I have your letter inquiring whether, in sixth class counties, referenda petitions should be filed with the Judges of

the Courts of Common Pleas of the counties or with the governing bodies of the respective municipalities where the referenda are being held.

Sections 41 to 44, inclusive, provide that referenda petitions shall be presented to the "governing board or body or other controlling authority" of the respective municipalities whose electors are to vote at the referenda. The words "other controlling authority" were used in the original Control Act synonymously with the words "governing board or body". This is evidenced by their mutual definition in Section 1 of the original Control Act as the "board or body which governs a municipality". Although various amendments to the Control Act excinded the words "or other controlling authority" from most of the sections, the legislature neglected to excind them from sections 41 to 44. Their original meaning, however, remains unaltered.

Read in the light of the foregoing, Sections 41 to 44, inclusive, provide that referenda petitions shall be filed with the boards or bodies which govern the respective municipalities where the referenda are to be held. This conclusion is not affected by the enactment of Section 6A (P.L.1934, C.85) which vested in Judges of the Courts of Common Pleas in sixth class counties the powers and duties imposed upon "issuing officials". While this enactment transferred all of the powers and duties pertaining to the issuance of licenses, regulation of licensees and other powers and duties associated with the offices of issuing officials, it did not transfer the powers and duties of governing bodies under the referenda provisions. These latter provisions are directed to the ascertainment of the wills of the people in the respective municipalities, which should properly rest with the governing bodies as distinguished from the issuing officials.

It is the ruling of the Commissioner that in sixth class counties as well as elsewhere, referenda petitions must be filed with the governing bodies of the respective municipalities where the referenda are being held.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner
By:
Nathan L. Jacobs,
Chief Deputy Commissioner
and Counsel.

9. REFERENDUM - RIGHT RESIDES IN GOVERNING BOARD TO DETERMINE THAT PETITION COMPLIES WITH STATUTE BOTH IN LAW AND IN FACT

D. Frederick Burnett, Commissioner.

Dear Sir:-

Referring to Section 44 of the Alcoholic Beverage Control Act, will you kindly advise me if, in your opinion, the governing board or body with which a petition is filed requesting a referendum as stated therein, has the authority to delay adoption of a resolution as called for in the said section, pending an investigation of the signatures of the said petition, or must

the said governing board or body forthwith, without an investigation adopt the resolution upon the filing of the same as set forth in the said section.

Very truly yours,
A. M. KARL

October 4, 1934

Arthur M. Karl, Esq.,
#60 Park Place,
Newark, N. J.

Dear Sir:-

I have your letter of September 26th.

Section 44 of the Control Act provides that if a petition for referendum "signed by at least 15% of the qualified electors," etc. is presented to the governing body of the municipality, such governing body shall forthwith direct the clerk to print the question therein set forth upon the official ballot. The statute does not indicate by any express language any authority in the governing body to determine whether the petition meets the requirements of the Act, but such authority must be implied, for it is inconceivable that a petition which does not comply with the statute, either in law or in fact, imposes upon the governing body the duty to proceed.

In Ryer vs. Holland, 10 N.J.Misc. 1059 (Sup.Ct.1932), the Court, in considering this question under a similar statute, said:

> "It may be said, however, that the law requires the presentation of a petition signed by at least fifteen per centum of the voters voting at the last preceding election for members of the general assembly. The statute indicates by direct language no authority to determine whether a petition signed meets the requirements of the act. This authority must be lodged somewhere. The act requires the election to be held when the requisite petition has been filed and only then. The clerk can only be compelled to act when the petition meets the requirements of the act. Whether, therefore, the petition is sufficient would seem to be required to be determined by him in the first instance. It is not conceivable that every paper purporting to contain names imposes upon the clerk the obligation to act, but the petition must be signed by the requisite number of voters and only upon such signing is he either authorized or can he be compelled to act. The decision would, therefore, seem to rest with him, and if he fails to act upon an adequate petition after such determination the remedy is in the court to compel action."

It is the ruling of the Commissioner that upon the submission to it of a referendum petition, the governing board or body has authority to determine whether the petition meets the requirements of the Act before directing the county clerk

to place the question upon the official ballot.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner
By:
Nathan L. Jacobs,
Chief Deputy Commissioner
and Counsel.

10. REHEARING - NOT PERMISSIBLE AFTER DENIAL OF APPLICATION FOR A LICENSE

September 25, 1934

George Ralph Hendrickson, Esq.,
Wyckoff,
Bergen County, N. J.

Dear Sir:-

I have your letter of September 13th inquiring whether a municipal issuing authority may grant a rehearing from the denial of an application for a license.

The sole method of review provided for by the Control Act, from the denial of an application for a municipal license, is by appeal to the Commissioner. See Section 19. Since there is no express provision therefor no rehearing is permissible under well accepted principles announced by our Courts. See Whitney vs. VanBuskirk, 30 N.J.L. 463 (Sup. Ct. 1778); Dilkes vs. Pancoast, 53 N.J.L. 553 (Sup. Ct. 1891); Gulnan vs. Board of Chosen Freeholders, 74 N.J.L. 543 (E. & A. 1906). In the Gulnan case the syllabus reads as follows:

> "The right of a deliberative body to reconsider its action on a matter of a judicial or quasi judicial character ceases when a final determination has been reached."

The foregoing conclusion finds support in reason as well as authority. Deliberation must end sometime to be followed by action. When a municipal body has acted in its deliberate judgment, it should not be burdened with the consideration of applications for rehearings. And where, as in your case, a hearing attended by objectors was held, it would be unfair to such objectors now to permit a reconsideration of the application.

It is the Commissioner's ruling that no rehearing may be granted by a municipal issuing authority after it has denied an application for a license.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner
By:
Nathan L. Jacobs,
Chief Deputy Commissioner
and Counsel.

11. LICENSES - FEES - PRORATION UPON APPEAL

October 1, 1934

Roland H. Loog, Esq.,
Office of the City Clerk,
Asbury Park, N. J.

Dear Sir:-

I have your letter with respect to the claim of Mr. Henry Rufeisen for a return of a portion of the fee which accompanied his application.

Mr. Rufeisen filed his application on July 1, 1934. His application was denied on July 7th, 1934, and he, thereafter, appealed to the Commissioner. The denial of his application was reversed by the Commissioner on appeal and on August 25th, 1934, a license was issued by the Municipal issuing authority.

Under the ruling contained in Bulletin #35, Item #16, the applicant would not have been entitled to a refund for the period from July 1st to July 7th, 1934, even though the Municipal issuing authority had granted the application on the latter date. It would be unjust, however, to exact a license fee for the period from July 7th until August 25th, 1934, during which he was not permitted to operate under the Order of the Municipal issuing authority, which has been adjudged erroneous by the Commissioner on appeal. See Bulletin #31, Item #2.

Accordingly, the Commissioner's ruling is that the applicant be charged the established license fee for the period from the filing of his application to June 30, 1935, less the prorated portion thereof unearned from July 7th, 1934 to the date of the issuance of the license.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner
By:
Nathan L. Jacobs,
Chief Deputy Commissioner
and Counsel.

12. APPELLATE DECISIONS - SEASHORE BEVERAGE CO. INC. VS. WAY

SEASHORE BEVERAGE CO. INC.,)
Appellant)
)
-vs-)
) ON APPEAL
HONORABLE PALMER M. WAY,) CONCLUSIONS
JUDGE OF THE COURT OF COMMON)
PLEAS OF CAPE MAY COUNTY,)
Respondent.)
- - - - - - - - - - - - - - - - -

Harry Tenenbaum and Samuel F. Eldredge, Esqs., Attorneys for Appellant
Rex A. Donnelly, Esq., Attorney for Respondent

BY THE COMMISSIONER:

This is an appeal from respondent's action in denying appellant's application for a Plenary Retail Distribution License, for premises located at 3312 Pacific Avenue, Wildwood, N.J.

Appellant has complied with all the formal requirements pertaining to its application. The suitability of the premises sought to be licensed and the character and fitness of the persons interested in appellant corporation are unquestioned. There is no other store in the community of the kind for which appellant seeks a license.

Respondent's sole contention is that the application was properly denied because two persons who own property close to appellant's premises objected to the issuance of the license. The objections were based on a general desire by the objectors not to have a licensed place of business close to their property - claiming that it deteriorated values and caused congestion. On the other hand, many witnesses - business men in the immediate neighborhood - testified that there was a real need for such a store, that it would not affect the character of the neighborhood but rather would be advantageous. It was stipulated that the premises are located in a business neighborhood. Hence the objections urged do not sustain the denial of the application. Bunks vs. Board of Commissioners of the City of Atlantic City, Bulletin #45, Item #14. The instant case is even stronger for the beverages are to be sold in original containers and only for consumption off the premises.

The action of respondent is reversed.

D. FREDERICK BURNETT,
Commissioner

Dated: October 5, 1934

13. MUNICIPAL ORDINANCES - PRACTICES DESIGNED TO INCREASE CONSUMPTION - SALE OF FOOD BELOW COST

October 5, 1934

Mrs. Edith H. Moore, Secretary,
Municipal Board of Alcoholic Beverage Control,
City Hall,
Trenton, N. J.

Dear Madam:

Sections 3 and 4 of your proposed Rules present questions which have not heretofore been decided.

Section 3 provides: "Alcoholic beverages for consumption on the licensed premises shall not be sold on credit or in exchange or pledge thereof for any commodity, goods, wares or merchandise, provided that such prohibition against sales on credit shall not apply to licensed Clubs."

Section 4 provides: "The gift or sale of food below cost, or the offering in any manner whatsoever of any other inducements by licensee to encourage the consumption of alcoholic beverages is hereby prohibited, provided, however, that such prohibition shall not apply to a light lunch or relishes served with beverages."

I have approved these sections on the ground that they constitute a reasonable regulation of the conduct of the licensed business, but in so doing disclaim any intent to trespass upon the province of the National or State Recovery Administrations and the Code authorities where economic considerations are properly cognizable. If the words "sale of food below cost" were isolated from their context, I should disapprove them as beyond your jurisdiction. As written, they are merely an illustration of prohibited inducements and therefore come fairly within the power conferred upon the Commissioner to make regulations and rulings concerning "practices unduly designed to increase consumption of alcoholic beverages" (P.L. 1933, C.436, Sec.36).

Since the foregoing approval has been rendered ex parte and persons who may consider themselves aggrieved thereby have not been afforded an opportunity of being heard, this approval is given upon the understanding that any redetermination, resulting from any petition or application which may hereafter be filed to review such approval, may be made and is reserved.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

14. RULES GOVERNING RECEIPT, POSSESSION AND SALE OF ALCOHOLIC BEVERAGES ILLEGALLY TRANSPORTED INTO THIS STATE

On July 2, 1934, rules governing the transportation of alcoholic beverages into New Jersey were promulgated. These rules authorize the shipment into New Jersey of alcoholic beverages owned by or sold to the holder of a New Jersey manufacturer's or wholesaler's license. They prohibit such shipments from foreign dealers not licensed in New Jersey to New Jersey retailers.

Investigation discloses that such shipments from foreign dealers are being received by New Jersey retailers in violation of the foregoing rules.

This must stop at once.

The following regulation is hereby promulgated, effective immediately:

(1) No licensee shall receive, possess or sell any alcoholic beverages transported into this State in violation of the rules governing the transportation of alcoholic beverages into New Jersey.

(2) Violation of the foregoing regulation shall be cause for revocation of the license.

D. FREDERICK BURNETT,
October 5, 1934. Commissioner

15. MUNICIPAL RESOLUTIONS - NUMERICAL LIMITATION OF LICENSES - LIMITED RETAIL DISTRIBUTION LICENSES.

October 4, 1934

Charles Wagner, Esq.,
Counsellor at Law,
1160 East Jersey Street,
Elizabeth, N. J.

Re: Union Township, Union County

Dear Sir:

Yours of September 17th asks whether a municipality may enact that no more than two limited retail distribution licenses be granted to any person, corporation, partnership, limited partnership or association in said municipality.

The statute, Section 13, sub 3 (b), confers authority upon the governing body of each municipality to enact by ordinance that no more than one such license may be so granted. The specific mention of this option, expressly limited numerically, implies the exclusion of any other option based on a different number.

I think, therefore, your doubt was well taken as I could not approve such an ordinance.

Very truly yours,

Commissioner