

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
744 Broad Street, Newark, N. J.

BULLETIN NUMBER 52

November 9, 1934

1. MUNICIPAL ORDINANCES - PUNISHMENT OF VIOLATIONS WHICH ARE
DECLARED OFFENCES BY THE STATUTE

November 5, 1934

Edward R. McGlynn, Esq.,
17 Academy Street,
Newark, New Jersey.

Re: City of Orange

Dear Mr. McGlynn:

I have yours of October 26th concerning the ordinance adopted by the Board of Commissioners of the City of Orange on August 17, 1934.

I agree with you that fines and imprisonment could not be inflicted for violation of a municipal resolution even though such resolution would be sufficient basis for revocation if its terms were violated, but that fines and imprisonment may be inflicted under an ordinance, as distinguished from a resolution, if the ordinance so provides.

The loop-holes through which defendants charged with violation of municipal ordinances seek escape are (1) attacks on the validity of the ordinance itself; (2) challenges directed to the pleading and proofs.

Our only present concern, of course, is the terms of the ordinance itself so to avoid, if possible, any successful attack on its validity.

We agree that local magistrates may adjudicate upon violations of local ordinances but that they have no jurisdiction over violations of the Alcoholic Beverage Control Act which, by its terms, are made misdemeanors. Hence, if the City ordinance, by its terms, or by legal construction thereof, purports to punish violations of the Act itself, as well as violations of local rules, it might on that ground alone be held judicially invalid.

The objective of my correspondence of October 24th with your City Clerk was to point out that references in the Ordinance to the Act itself might produce the unfortunate conclusion that the Ordinance on its face purported to punish violations of the Act. I do not say that such is the necessary legal construction, but merely that the courts might so construe it in view of their leaning to construe strictly and not liberally all ordinances inflicting penalties or punishment. Hence, the suggested revision to eliminate all mention or reference to the Act which might possibly invalidate the Ordinance.

The remaining question is more difficult, i.e., whether an ordinance, which in no wise purports to penalize or otherwise punish violations of the Act itself, may, nevertheless,

repeat the statutory language and punish offenders not for violating the Act but for disobeying the ordinance. I will approve such an ordinance in order that its validity may be tested in the courts. Personally, I hope such an ordinance will be sustained because quick trial and summary punishment by local magistrates without the delay necessarily incident to holding an offender for the Grand Jury to await subsequent indictment and trial will be, I believe, a major step in alcoholic beverage law enforcement. But the legal answer is doubtful. It may well be argued that the Legislature, having declared commission of certain acts to be misdemeanors, thereby pronounced its intention that any one accused thereof should be entitled to the protection and safeguards of Grand Jury investigation and indictment and not be subject to summary conviction in a different way and by a tribunal not authorized to adjudicate misdemeanors. It may, therefore, be necessary to ask the Legislature for such express permission. I shall take the initiative at the earliest moment.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

2. MUNICIPAL ORDINANCES - VALIDITY - WHAT CONSTITUTES - CONFLICT WITH STATE RULES

November 5, 1934

Mr. E. Wolcott Fary,
Borough Clerk,
Sea Bright, New Jersey.

Dear Sir:

I have resolutions passed by your Borough Council pursuant to the Alcoholic Beverage Control Act as amended and supplemented.

These are approved as submitted with the following exceptions:

Resolution No. 1.

Section 13 provides that fraud, misrepresentation or mis-statements in making application for a license, shall make the offender liable for perjury. I question the authority of your municipality to create a new crime or so to extend the existing crime of perjury. The Act itself does not go so far; it constitutes such acts as grounds for revocation but stops at that point. Only the Legislature can create a crime.

Resolution No. 2.

Sections 6 and 9 impose local regulations with respect to the sale of alcoholic beverages on Election Days and gambling upon the licensed premises.

Section 6 reads: "No alcoholic beverage shall be sold by any licensee on any election day during the hours when the polls are open."

Section 9 reads: "No gambling shall be permitted on any licensed premises in any form whatsoever."

Your attention is called to the fact that State-wide rules in these respects were promulgated October 8th and 11th, 1934, effective immediately, being Rules 2, 6, 7 and 8 of Bulletin 48, Items 1 and 12.

Rule 2 reads: "No licensee shall sell or offer for sale at retail or deliver to any consumer, any alcoholic beverages in any municipality in which a general, municipal, primary or special election is being held, while the polls are open for voting at such election."

Rule 6 reads: "No licensee shall allow, suffer or permit any lottery to be conducted, or any ticket or participation right in any lottery to be sold or offered for sale, on or about the licensed premises."

Rule 7 reads: "No licensee shall engage in or allow, permit or suffer any pool-selling, book-making or any playing for money at ~~far~~o, roulette, rouge et noir or any unlawful game or gambling of any kind, or any device or apparatus designed for any such purpose, on or about the licensed premises."

Rule 8 reads: "No licensee shall possess, allow, permit or suffer on or about the licensed premises any slot machine or device in the nature of a slot machine which may be used for the purpose of playing for money or other valuable thing."

In each instance, the State-wide regulation takes precedence over all municipal rules to the extent that there is any actual conflict between the two. (Bulletin 43, Item 12) There is no conflict, however, between these sections of your resolution and the State rules. The latter are broader, to be sure, and cover more ground but that difference or variance does not make the resolution repugnant to the rules. It is only when the variance amounts to a repugnancy so great that they cannot be reconciled--that they cannot stand together--that they are utterly inconsistent with each other, that the local resolution or ordinance must fall. That is what is meant by "actual conflict". Since there is none, those sections are approved as submitted. Such approval makes them valid as local regulations but in no way weakens or dispenses with any of the broader terms of the State rule. Since all the terms of the State rule must be enforced in your municipality as well as elsewhere, I respectfully suggest to your Common Council that, at their convenience, and for the sake of uniformity and the incidental benefits thereof and the elimination of possible legal complications which might arise especially if these sections were in an ordinance inflicting summary punishment for violation thereof, that your rules in this respect be amended to read identically with the State rules. This will prevent an "out" which violators might try to take advantage of and make for better enforcement. By incidental benefits of uniformity, I mean, for instance, that a court decision or a ruling of the Commissioner interpreting, or applying the State rule would, if the municipal rule were couched in the same language, enure to the benefit of municipal enforcement and clarify, set at rest and be dispositive of the

same point if subsequently raised by an offender called to account before the local governing body for revocation or before the local magistrate for violation of the local resolution or ordinance. On the other hand, if the wording is different, there is always room to contend that the precedent does not govern or apply. The cooperation of your Common Council in making such amendments will be greatly appreciated.

Resolution No. 4:

Section 8 provides that plenary retail distribution licenses shall not be granted to permit the sale of alcoholic beverages in or upon any premises in which any mercantile business other than the sale of alcoholic beverages is carried on. The statute, Section 13 sub. (3) a, requires that this restriction be enacted by ordinance. Hence, this regulation, to be effective, must be enacted by ordinance and not by mere resolution.

Sections 19, 20 and 24 impose local regulations with respect to the serving of alcoholic beverages to minors, the sale of alcoholic beverages on Election Days, and gambling upon the licensed premises.

As regards the regulations concerning Election Days and gambling, they are approved as submitted, subject however to the comments made and suggestion offered, hereinbefore set out, with respect to Sections 6 and 9 of Resolution No. 3.

As regards Section 19 which reads: "No minor shall be served with alcoholic beverages directly over any bar, nor shall minors be allowed in any room in which any bar is located, unless accompanied by a parent.", I applaud that part which prohibits minors from being in bar rooms unless accompanied by a parent (should it not read "one of their own parents"?) which is even broader than the State rule but I am bothered by that part which provides that no minor shall be served with alcoholic beverages directly over any bar. For, this may imply that minors may be served with alcoholic beverages in any manner other than directly over a bar; e. g., by waiters at tables. The State rule, on the other hand, prohibits the sale, service, delivery or consumption upon the licensed premises of any alcoholic beverage, directly or indirectly, to or by any person under the age of twenty-one years. Undoubtedly no such contrary result was intended by you. Since it is not inconsistent; i. e., utterly repugnant to the State law or rule, it is approved as submitted but subject to the comments made and suggestions offered, hereinbefore set out, with respect to Section 6 and 9 of Resolution No. 3. By adopting the language of the State rule in this respect the erroneous implication is excluded and the clause prohibiting minors in any bar room could then be tacked on.

Sections 26, 27, 28 and 29 purport to penalize by fine, or imprisonment, or both for violations of your resolution and of the Act. I doubt that any such penalties can be imposed by resolution. That result can be accomplished only by ordinance. I must therefore disapprove these sections. In preparing an ordinance to cover these points, I believe you will

find the discussion of the problem contained in Re Orange, Bulletin 52, Item 1, of some help.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

3. RULES CONCERNING THE SIZE OF CONTAINERS OF ALCOHOLIC BEVERAGES - APPLICATION TO HALF PINT BOTTLES

November 5, 1934

Hon. Charles L. Smith, Clerk,
Egg Harbor Township,
Mays Landing, R.D., N.J.

Dear Mr. Smith:

I have yours of the 29th ult. inquiring whether it is lawful to sell alcoholic beverages in half pint bottles.

The Rules Concerning the Size of Containers of Alcoholic Beverages have not been changed since June 17, 1934, copy of which is enclosed herewith.

On examining these Rules you will note that the minimum standards of fill and of sale apply solely to retail sales for off-premises consumption. Therefore there is nothing illegal if the display or offer for sale which you mention of half pints is made by the holder of a consumption license, providing that they are sold only for immediate consumption on the licensed premises and not for consumption off-premises.

If, however, these half pint bottles are offered for sale by a retail distribution licensee, such sales would be illegal unless they come within exceptions (a) or (d) of Rule 1.

It will, therefore, be necessary for you to determine which kind of alcoholic beverages is being offered for sale in half pint bottles.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

4. MUNICIPAL ORDINANCES - AMENDMENTS - RIGHT OF MUNICIPALITY TO AMEND

November 5, 1934

Mr. Benjamin Sierszputowski,
Hightstown, New Jersey.

Dear Sir:-

I have yours of October 24th.

You state that a local ordinance does not permit the sale of alcoholic beverages on Sundays, but that the Township Committee is willing to grant your request to be allowed to sell from one p.m. Sunday to two a.m. Monday and you inquire the Commissioner's reaction.

The right to enact the local regulation in the first place was founded on the general underlying police power vested in the Township Committee; so is the right to amend it. Hence, there is nothing to prevent the Township Committee from granting your request, provided that it is accomplished via an amendment to the ordinance changing the present prohibition against all Sunday sales so as to permit sales between the hours determined by the Committee. Thus, the permission to sell on Sundays will be granted to all licensees and will not be a special dispensation given to you alone, which latter action would not be legal or proper.

Whether or not such amendment should be made rests entirely in the Committee's power and discretion. The Commissioner expresses no opinion as to the policy thereof either way.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner
By: Maurice E. Ash
Senior Inspector

5. APPELLATE DECISIONS - CLEMENT VS. LODER

SANTO CLEMENT,
Appellant,
-vs-
HON. LEROY W. LODER, by designation,
JUDGE OF THE COURT OF COMMON PLEAS OF CAPE MAY COUNTY,
Respondent.

Irving Shenberg, Esq., Attorney for Appellant
Rex A. Donnelly, Esq., Attorney for Respondent

BY THE COMMISSIONER:

This is an appeal from the denial of an application for a plenary retail consumption license for premises located at 4407 Park Boulevard, Wildwood.

Respondent contends, inter alia, that the application was properly denied for the reason that there are a sufficient number of licensed places in the vicinity of the premises sought to be licensed and that an additional license in said vicinity would be socially undesirable.

The right of an issuing authority to deny an application where the issuance of the license would result in too many licensed places in any given vicinity is settled. BADER vs. Camden, Bulletin #44, Item #8. The City of Wildwood with a population of approximately 5350 is essentially a summer resort. According to the Department records, there are approximately 36 plenary retail consumption licensees operating therein. There now is a licensed place within approximately 60 feet of appellant's premises, the two buildings being separated only by an empty lot. There is another licensed place within 250 feet of appellant's premises, a third within 400 feet and two others within 500 feet. It does not appear that public necessity or convenience dictate the issuance of an additional license for said vicinity. The determination of respondent is justified by the evidence and is reasonable.

The action of respondent is affirmed.

D. FREDERICK BURNETT,
Commissioner

Dated: Nov. 5, 1934

6. APPELLATE DECISIONS - FERRIGNO V. LODER

| | | |
|------------------------------|---|-------------|
| MARY E. FERRIGNO, | } | |
| Appellant, | | |
| -vs- | } | |
| HON. LEROY W. LODER, JUDGE | | ON APPEAL |
| OF THE COURT OF COMMON PLEAS | | CONCLUSIONS |
| OF CAPE MAY COUNTY, | | |
| Respondent. | | |

Robert Bright, Esq., Attorney for Appellant
Respondent Pro Se.

BY THE COMMISSIONER:

This is an appeal from respondent's regulation prohibiting the sale of alcoholic beverages on Sundays in the Borough of Avalon, Cape May County.

The issuing authority for all municipalities in Cape May County is the Judge of the Court of Common Pleas. As such issuing authority, respondent is to exercise all the powers conferred upon municipal issuing officials with reference to each of the various municipalities in that County. P.L. 1934, c. 85.

One of those powers is to limit the hours between which sales of alcoholic beverages may be made. P.L. 1933, c. 436, as amended by P.L. 1934, c. 85. The Commissioner has heretofore ruled that the issuing authority of the municipality may, in the exercise of its discretion, prohibit Sunday sales. Bulletin 17, Item 3; Bulletin 19, Item 7.

Under general regulations applicable to the entire County of Cape May, the respondent promulgated rules and regulations which were approved by the Commissioner on August 22, 1934. That approval, however, is in nowise dispositive of this appeal, for whenever an approval is ex parte and parties who may be aggrieved thereby have not been afforded an opportunity of being heard, such as the appellant, such approval is given upon the understanding that any redetermination resulting from any petition or application thereafter filed to review such approval is reserved to the Commissioner. Bulletin 43, Item 12 B. Hence this appeal has been heard de novo.

Among said general regulations were the following:

"III. b. No sales of alcoholic beverage of any kind or in any manner shall be permitted within the County of Cape May on and after July 1st, 1934, upon Sunday, commonly known as the Sabbath, unless a petition signed by at least twenty-two (22%) per centum of the qualified electors of any municipality, as evidenced by the total number of votes cast at the then next preceding election for members of the General Assembly, in such municipality, shall be presented to the court requesting that Sunday sales be permitted; and then the question of granting such licenses for Sunday sales shall still remain discretionary with the court."

"III. i. In all municipalities in the County of Cape May where a petition properly drawn and having on it the names of 22% of the qualified electors of said municipality as evidenced by the total number of votes cast at the next preceding election, said petition being for the sale of alcoholic beverages upon Sunday; and said petition approved by the Court of Common Pleas of Cape May County, it shall then be legal and lawful for the sale of alcoholic beverages on Sunday, pursuant to the rules and regulations herein stated.

"j. Petitions signed by at least 22% of the qualified voters of the following municipalities having been received and acted upon in open court, it is ordered that Sunday sales of alcoholic beverages, in accordance with the rules and regulations promulgated by the court, are permitted in the cities of Wildwood, North Wildwood, Sea Isle City, Cape May, Stone Harbor and Lower Township."

Pursuant to regulation III. b. a petition was filed requesting the extension of Sunday selling to the Borough of Avalon in said County, which petition contained over 22% of the qualified electors of the municipality, as required by the rules. The municipal authorities of the Borough of Avalon, by resolution, likewise requested the respondent to grant the privilege of Sunday sales to said Borough of Avalon. The respondent under the power reserved under regulation III. b. denied the petition, stating, "I gave a hearing on the matter and at the conclusion of the hearing in the exercise of my discretion, declined to grant Sunday sales for the Borough of Avalon. There is only one licensed place in the Borough of Avalon, and while it is a seashore resort it seemed to me it was not necessary and that it was not for the benefit of the community." Appellant, who is the only licensee in Avalon, has made this appeal.

The learned counsel for appellant concedes respondent's power to regulate, even to the extent of entirely prohibiting Sunday sales, but contends that respondent improperly exercised his discretion in the instant case and argues that such regulations should extend and be uniformly applied to all municipalities of the same class within the control of the issuing authority; that while various municipalities controlled by respondent may properly be classified, nevertheless the basis of such classification must bear a reasonable relationship to the purpose for which the classification is made; that since Sunday sales have been permitted by respondent in the neighboring Borough of Stone Harbor where the conditions are substantially the same except as to the number of licensees, the privilege of Sunday sales should likewise be extended to the Borough of Avalon; that the mere fact that in one municipality there are several licensees while in the other there is but one does not afford a reasonable basis for prohibiting Sunday sales.

The question whether Sunday sales should be permitted is a matter best confided to each community to decide for itself. It is peculiarly a local problem to be determined primarily by the local authorities. They are the best judges of local sentiment. They are closest to the situation. Except for the count of a direct referendum, they know best the public pulse. The cold record of transcribed testimony often fails to reflect the heated views of the community upon this controversial subject. The issuing authority is in a far better position than the Commissioner accurately to weigh and determine the prevailing public opinion as to what is most for the benefit of the community. In essence, it is local option.

In Cape May County, the respondent is the issuing authority.

for each community. He, therefore, is to decide the problem for each community. He is not bound to classify them nor is his decision as to what is best for one municipality binding in respect to a different municipality. For, if it were not for the amendment to the Control Act, each municipality would decide for itself. All he does is to take the place of the issuing authorities of each municipality. Hence there is no legal basis for claiming that his rulings must be made uniformly in all municipalities of the same class. He is, by legislative mandate, to decide for each what is best for it. Lack of uniformity or the making of variant rulings on this point, which after all is only a question of local policy, is material only on the charge of abuse of discretion.

While the unanimous approval of the appellant's petition by the three Commissioners of Avalon weighs heavily with me, because of their certification that the sentiment of the inhabitants of the Borough is greatly in favor of the same, nevertheless, he, not they, is the only authority, by the amended statute, to determine questions of this kind. On a matter so highly discretionary, the power to reverse is to be exercised sparingly and only with extreme caution and in the clearest cases. The Control Act provides for a referendum whereby the views of the community may be directly expressed, I am informed that such a referendum is to be held in the Borough of Avalon at the coming general election. The people of this community will therefore decide this question for themselves. The State Commissioner will abide the people's own verdict.

The action of the respondent is therefore affirmed.

D. FREDERICK BURNETT
Commissioner

Dated: November 5, 1934.

7. RULES AND RULINGS - ALWAYS MADE IN WRITING - DO NOT ACCEPT
HEARSAY - WRITE IN

November 5, 1934

D. Frederick Burnett, Commissioner.

Dear Sir:-

I am writing you for advice on an amusement machine called the Army and Navy football machine.

The company that put the machine in said they were at your office and you told them it was allowed; also was not considered gambling.

Yours truly,
JOHN T. SMITH,
Andover, N. J.

November 7, 1934

Mr. John T. Smith,
c/o Alice's Tavern,
Andover, N. J.

Dear Mr. Smith:

I have your inquiry of November 5th.

I am not familiar with the Army and Navy football machine which you mention, and do not remember ever having seen it, but if you will send me a full description of it, I will rule upon it.

Whoever told you that I had approved the machine and that I had ruled that it was not a gambling device per se did not tell you the truth. All my rulings are put down in black and white. A mere say-so does not go. Otherwise there would be no end of false hearsay.

Whenever you are in doubt as to what the rule or ruling is on any subject matter connected with the alcoholic beverage law, just write in.

The question as to whether this machine is a gambling machine, therefore, is still to be decided on its own facts.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

8. BITTERS - SHIPMENT IN ASSORTED PACKAGES

November 6, 1934

Austin, Nichols & Co.,
Brooklyn, N. Y.

Gentlemen:

I have your inquiry: "Is there any objection to shipping retail stores assorted Cocktail accessory package including Orange Bitters in 2 oz. bottles, which, although containing 40% alcohol, the Department of Internal Revenue has ruled as untaxable because unfit for beverage purposes? Other items in the package are Cherries, Olives, Fruit Syrups and Juices."

If the bitters are in fact unfit for beverage purposes, there is no objection by this Department.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

9. REVOCATIONS - GENERAL INSTRUCTIONS AS TO PROCEDURE

Proper enforcement of the Control Act requires that where licensees violate the Control Act or the rules and regulations thereunder, they should not only be prosecuted criminally wherever appropriate, but should also have their licenses revoked or suspended. Section 28 of the Control Act authorizes municipal issuing authorities, as well as the Commissioner, to revoke or suspend municipal licenses for violation of the Control Act or rules and regulations. The Commissioner has heretofore announced that, except in certain special situations set forth in Bulletin #27, Item #1, all municipal violations will be referred, in the first instance, to municipal authorities for action.

Reports of violations will be transmitted to local issuing authorities, to the end that revocation proceedings be instituted. Whenever the testimony or exhibits of State Inspectors or Investigators are desired at a hearing, the State Department should be notified at the earliest possible moment to that effect and of the date set for hearing.

A written notice (see form, Item 10 following) should be served upon the licensee or sent by registered mail, addressed to the licensee at the licensed premises, advising him of the charge made and the date of the hearing. The notice may contain one or more charges.

If the licensee is not the owner of the licensed premises, another notice (see form, Item 11 following) should be served upon the owner, to which notice should be attached a true copy of the notice given to the licensee. This latter notice puts the owner on guard that the licensed premises may, in the discretion of the issuing authority, be declared ineligible to become the subject of any further license for a period of two (2) years.

At the hearing, testimony should be taken to support the

charges and the licensee and the owner of the licensed premises must be given full opportunity to be heard. Preferably, the testimony should be taken stenographically, although this is not essential. At the close of the hearing, the issuing authority should judicially determine (1) whether the charge or charges are true; (2) if so, what punishment shall be meted out. If the finding is that the charge or charges are not true, a resolution should be enacted, finding such to be the fact and dismissing the proceedings on that ground.

If the finding is that the charge or certain of the charges are true, a resolution and order should be enacted finding the facts and ordering appropriate punishment. (See form, Item 12 following))

Punishment may be either temporary suspension of the license for a designated time or permanent revocation of the license. If the latter, it may be accompanied, if deemed proper, by an order that the licensed premises be ineligible to become the subject of any further license for a period of two (2) years.

Notice (see form, Item 13 following) of the order of any suspension or revocation must be served personally or sent by registered mail, addressed to the licensee at the licensed premises, and where the licensed premises are declared ineligible, notice (see form, Item 14 following) must also be served upon the owner thereof. Your records should contain due proof, by affidavit or acknowledgment, of every service of notice.

You will note that the illustration used in these forms relates to violations of the election day regulation. These forms are intended as general guides and must be modified where necessary to meet the particular situations presented.

The State Department will cooperate in every manner and will be pleased to assist in the preparation of forms for other violations or to cover special situations which may arise under municipal resolutions or ordinances.

10. REVOCATIONS - PROCEDURAL FORMS - NOTICE TO LICENSEE OF CHARGES AND OF HEARING THEREON

(Name of issuing authority)

TO: _____
(Name of Licensee)

(Address of licensed premises)

(Municipality)

TAKE NOTICE that the following charges are preferred against you:

On _____, 193__, at _____. M. while the polls were open for voting at a general election being held in _____, you offered for sale
(Name of Municipality)
and sold alcoholic beverages at retail, at the licensed premises _____ to _____,
(Address of licensed premises)

(or if person is unknown, so state) in violation of Rule 2 concerning conduct of licensees and the use of licensed premises heretofore promulgated by the State Commissioner of Alcoholic Beverage Control, and which Rule provides:

"No licensee shall sell or offer for sale at retail or deliver to any consumer, any alcoholic beverages in any municipality in which a general, municipal, primary or special election is being held, while the polls are open for voting at such election."

TAKE FURTHER NOTICE that a hearing will be held at _____ on the _____ day of _____, 193__, at _____ o'clock in the _____ noon, at which time and place you will be afforded full opportunity to be heard on the foregoing charges and to show cause why the _____ license No. _____, issued to you by the _____ should not be suspended
(Name of issuing authority)

or revoked and the licensed premises declared ineligible to become the subject of any further license of any kind or class under the Control Act for a period of two (2) years from the effective date of revocation, pursuant to the provisions of the Control Act.

(Name of issuing authority)

By:

(Secretary or other proper
official)

Dated: _____, 193_.

11. REVOCATIONS - PROCEDURAL FORMS - NOTICE TO OWNER OF CHARGES AND HEARING

(Name of issuing authority)

TO: _____
(Owner of licensed premises)

TAKE NOTICE that charges have been preferred against _____, the holder of _____ license No. _____, for premises located at _____, of which premises you are the owner.

TAKE FURTHER NOTICE that pursuant to the provisions of section 28 of the Control Act, the issuing authority may, in its discretion, upon the revocation of said license, render the licensed premises ineligible to become the subject of any further license of any kind or class under the Control Act, during a period of two (2) years from the effective date of the revocation.

Attached hereto, and made part hereof, is a copy of notice of charges and date set for hearing. You may appear and will be afforded full opportunity to be heard at said hearing.

Dated: _____, 193_.

(Name of issuing authority)

By:

(Secretary of other proper official)

12. REVOCATIONS -- PROCEDURAL FORMS - RESOLUTION AND ORDER

(Name of issuing authority)

In the matter of the proceedings)
to revoke the _____)
license No. _____, issued to)
_____)

RESOLUTION AND ORDER

Notice having been duly served upon _____
(Name of

_____ the holder of _____
Licensee)

license No. _____, that certain charges therein set forth
had been preferred against him, and that a hearing thereon would
be held at the time specified in the notice, and the testimony
introduced at said hearing having been stenographically tran-
scribed and having established the following: (where there is no
stenographic transcript, attach a statement setting forth the
names and addresses of the witnesses and the substance of their
testimony and use the following form after the words "at said
hearing" - the substance of which appears in the statement annexed
hereto, having established the following:)

That on _____, 193_, at _____ M. while the
polls were open for voting at a general election being held in

_____,
(Name of municipality)

_____,
Name of Licensee)

the said licensee, offered for sale and sold alcoholic beverages
at retail, at the licensed premises _____,
(Address of licensed premises)

in violation of Rule 2 concerning conduct of licensees and the use
of licensed premises heretofore promulgated by the State Commis-
sioner of Alcoholic Beverage Control, and which Rule provides:

"No licensee shall sell or offer for sale at retail or deliver to any consumer, any alcoholic beverages in any municipality in which a general, municipal, primary or special election is being held, while the polls are open for voting at such election."

It is, therefore, on this _____ day of _____, 193_, on motion duly made and seconded,

RESOLVED and ORDERED, that the _____ license No. _____, issued by _____ (Name of issuing authority)

to _____ (Name of Licensee) be suspended, effective from

_____, 193_, to _____, 193_, inclusive (or, as the case may be) revoked, effective on and after _____, 193_; and it is further

RESOLVED and ORDERED, that the licensed premises located at _____ (here describe specifically the location of licensed premises)

be and the same hereby are declared ineligible to become the subject of any further license of any kind or class, under the Control Act, during the period from _____, 193_, the effective date of said revocation, to and including _____ (not more

_____, 193_.
than two years after effective date of revocation)

13. REVOCATIONS - PROCEDURAL FORMS -- NOTICE TO LICENSEE OF REVOCATION OR SUSPENSION

(Name of issuing authority)

In the matter of the proceedings)
to revoke the _____)
license No. _____, issued to)
_____)

NOTICE

TO: _____
(Name of Licensee)

(Address of licensed premises)

(Municipality)

TAKE NOTICE that by resolution and order, a copy of which is attached hereto and made part hereof, duly adopted by _____ at a meeting properly convened, the _____ license No. _____, held by you was suspended from _____, 193_, to _____, 193_, inclusive (or, as the case may be) revoked, effective _____, 193_, and the licensed premises were declared ineligible to become the subject of any further license of any kind or class under the Control Act, during the period from _____, 193_, the effective date of said revocation, to and including _____, 193_.

Dated: _____, 193_.

(Municipal issuing authority)

By:

(Secretary or other proper official)

14. REVOCATIONS - PROCEDURAL FORMS - NOTICE TO OWNER OF REVOCATION AND DISQUALIFICATION OF PREMISES

(Name of issuing authority)

In the matter of the proceedings)
to revoke the _____)
license No. _____, issued to)
_____)

NOTICE

TO: _____
(Owner of licensed premises)

TAKE NOTICE that by resolution and order, a copy of which is attached hereto and made part hereof, duly adopted by _____ at a meeting properly convened, the _____ license No. _____, held by _____ was revoked, effective _____ (Name of Licensee) _____, 193_, and the licensed premises located at

(here describe specifically the location of the licensed premises)
were declared ineligible to become the subject of any further license of any kind or class under the Control Act, during the period from _____, 193_, the effective date of said revocation, to and including _____, 193 .

Dated: _____, 193_.

(Name of issuing authority)

By:

(Secretary of other proper official)

15. LEGAL HOLIDAYS - LICENSEES MAY TRANSACT BUSINESS ON LEGAL HOLIDAYS
EXCEPT ELECTION DAYS UNLESS LOCAL REGULATION OR ORDINANCE
PROHIBIT

November 6, 1934

D. Frederick Burnett, Commissioner.

Dear Sir:-

Will you please advise whether November 11th, Armistice Day, is deemed a legal holiday in the State of New Jersey so as to preclude a rectifier, a bonded warehouse and a plenary export wholesaler, selling, receiving, shipping and otherwise disposing of alcoholic beverages in the usual manner on that day.

The foregoing request for information is made in view of the fact that the Jersey Alcoholic Beverage Control Law does not definitely indicate whether such operations may be performed on Armistice Day.

Respectfully yours,
DISTILLERS AND BREWERS
CORPORATION OF AMERICA
By: Max J. Miller

November 7, 1934

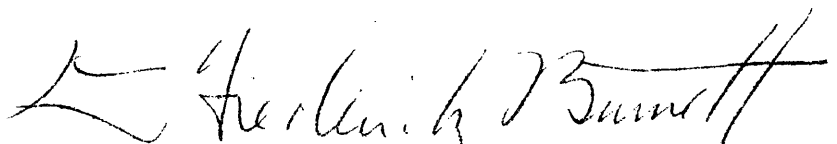
Distillers and Brewers Corporation of America,
Jersey City, N. J.

Gentlemen:

I have yours of November 6th.

Armistice Day is a legal holiday in New Jersey. There is nothing, however, in the Alcoholic Beverage Control Act or in the regulations made by this Department pursuant to it which in anywise affect the conduct of licensees on such holidays, with the single exception of the Election Day rules. Unless, therefore, local municipal rules and regulations otherwise forbid, there is nothing to prevent your carrying on business as usual on Armistice Day.

Very truly yours,



Commissioner