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

BULLETIN 210 NOVEMBER 5, 1937

1. LICENSED PREMISES - POLITICAL ACTIVITIES OUT OF PLACE - BUT MERE SOCIAL AFFAIRS ARE ON A DIFFERENT BASIS.

Dear Sir:

Can you oblige me with answers to the following questions:

1. Can a licensee allow his back room and Ladies Room, which is connected to his Barroom to be used for holding Political Rallies.

2. Can a licensee allow his side room, which is a part of his licensed premises to be used by Private Clubs and Political Clubs for suppers and dances and charge admission.

3. None of these places mentioned above are restaurants and do not serve lunches. The rooms are Ladies Rooms.

And oblige,

Respectfully
James Lervison
Chairman Public Safety

October 29, 1937.

Mr. James Lervison,
Waterford, New Jersey.

My dear Mr. Lervison:

In re Ford, Bulletin 113, Item 7, speaking of holding political meetings in taverns, I pointed out that while there was nothing, technically, in the Control Act prohibiting it, it was ill-advised and to be discouraged. Candidates and their managers should scrupulously avoid any appearance of dispensing favors to or developing fear in liquor dealers or of tying up taverns with tactics or using the industry to further political ends. It is not so much what they actually do or say as what others think. Conduct of political meetings in taverns, instead of dispelling the impression, fosters it. The less political rallies, pictures and propaganda in taverns, the cleaner drawn are the true issues in any capaign and the better in the long run for the industry itself.

Dinners, dances and social activities of political clubs are of an entirely different nature. I see no objection to holding such affairs on licensed premises. In the conduct of their social affairs, political clubs should certainly be afforded the same conveniences as private organizations.

Clubs, either private or political, may hold their suppers and dances on licensed premises and charge admission if they wish. Persons attending the affairs may purchase alcoholic beverages from the licensee so long as they are adults and sober and the premises are covered by a plenary or seasonal retail consumption license. The fact that the place is not regularly run as a restaurant is immaterial. The proprietor needs no license to buy food and serve it on occasion.

If, however, the club buys the alcoholic beverages from the licensee and, in turn, sells them to the guests, then, of course, the usual special permit must first be obtained.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

2. ELECTION DAY RULE - PROHIBITS SALE OF ALCOHOLIC BEVERAGES WHILE POLLS ARE OPEN BUT DOES NOT REQUIRE THAT PREMISES BE CLOSED - BOWLING ALLEYS ON LICENSED PREMISES MAY BE USED ON ELECTION DAY.

Dear Sir:

Mr. Habich would like to know if he can have his Bowling Alleys open Election Day. Our bowling alleys and tavern are located in the same building with no partition between. It is just one side of the building, the alleys, and the other side, the bar. No back rooms and no cellar. All of our bowlers have asked if we would be open and I figured I better write and ask you. Our bar business is not very prosperous, but we can make a living on our alleys, and we really need all we can get. There are a lot of men home that day and we thought we could make a little as our expenses are quite a lot. We promise if we get your permission not to even go behind the bar, put stools up and chairs on top of bar, shut off kegs and keep cash drawer empty. We have always closed before, but the men have asked us if we will be open, but if you do not allow us, we thank you just the same. Please write and answer us and we will obey the law regardless.

WALTER E. HABICH

October 29, 1937.

Mr. Walter E. Habich,
Woodbridge, N. J.

My dear Mr. Habich:

The State rule prohibits licensees from selling or offering for sale or delivering to any consumer any alcoholic beverage while the polls are open for voting.

It does not require that during these hours the premises shall also be closed.

You may, therefore, have your bowling alleys open and allow your patrons to use them if you wish, but keep your bar closed tight and don't sell or serve any alcoholic beverages for that will be cause for the revocation of your license.

Your pledge of cooperation is appreciated.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

3. ADVERTISING - ADVERTISEMENTS OF ALCOHOLIC BEVERAGES SHOULD NOT CONTAIN ENDORSEMENT THEREOF BY DOCTORS, CHEMISTS OR RESEARCH INSTITUTES.

October 30, 1937.

Camden County Beverage Company,
Camden, N. J.

Attention: Mr. Martin

Gentlemen:

The question you raise is whether a brewery may advertise a doctor's endorsement of the beer or ale it produces.

I have heretofore approved and adopted the ruling of W. S. Alexander, Federal Administrator, that labels shall not contain the endorsement of distilled spirits by doctors, chemists, or research institutes, for the reasons so well expressed by him, viz.: "distilled spirits should be sold upon the basis of their inherent quality as indicated by the statements of class, type, age and alcoholic content appearing upon the label, rather than upon the basis of endorsements by doctors, chemists, or food products institutes, which add nothing to the quality of the article but rather tend to mislead the purchaser." Bulletin 148, item 10 (copy enclosed).

This ruling does not technically cover your inquiry because (1) it is a ruling on labels, as distinguished from advertising generally; and (2) it concerns distilled spirits instead of malt products.

But the reasoning applies to advertising as well as to labels and to beer as well as to hard liquor. If permitted, we would soon be regaled with a flood of testimonials by actresses, half-backs, discus throwers - in fact, by all the fair and the brave who are moved, by various considerations, to tell an already suffering humanity of how vim and vigor may be regained and just how easy it all is on the throat or the breath.

It is therefore ruled that advertisements of alcoholic beverages of any kind are not to set forth endorsement of the product by doctors, chemists, research institutes or by anyone else.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

4. LICENSES - LIST OF MUNICIPALITIES IN WHICH RETAIL LICENSES MAY NOT BE ISSUED.

TO: D. FREDERICK BURNETT, Commissioner

The records of the Department disclose that in the municipalities hereinafter set forth, for the reasons indicated, no municipal retail licenses are presently outstanding and hence, no retail sales of alcoholic beverages pursuant to such licenses may presently be made.

Prohibited By Referendum.	Prohibited By Ordinance.	Prohibited by Resolution.	Prohibited through Failure to Fix License Fees and Issue Licenses.	Fees fixed - No licenses Outstanding.	Prohibited By Charter and Deed	Population 1930 Federal Census
			Audubon			8,904
			Bloomsbury			639
			Califon			534
				Cape May Point		104
Collingswood						12,723
			(3) Commercial			2,873
			(3) Delanco			2,349
				Dennis		1,615
		(2) East Millstone				364
			(4) Elk			1,623
		(2) Elmer				1,219
			Far Hills			560
			(3) Greenwich Twp. (Cumberland Co.)			979
Haddonfield						8,857
		(2) Haddon Heights				5,394
Harrison, Twp. (Gloucester Co.)						1,827
				Harvey Cedars		53
				Helmetta		801
			Hi Nella			160
			Holland			994
Hopewell, Twp. (Cumberland Co.)						1,764
	(1)Interlaken					545
				Island Beach		none given
				Island Heights		453
		(2) Lawrence Twp. (Cumberland Co.)				1,770
Linwood						1,514
			Lower Alloways Creek			1,063
		(2) Mannington				1,584
				Mantoloking		37
			(3) Maurice River			2,319
Moorestown						7,247
				North Cape May		5
	Ocean City					5,525
			Oldmans			1,431
				Pahaquarry		80
	Pennington					1,335
	Pitman					5,411
			Port Republic			373
			Quinton			1,166
			Riverton			2,483
			Saddle River, Boro			657
		(2) Shiloh				401
				South Cape May		6
			South Harrison			680
		(2) Stoe Creek				796
				Stratford		953
Upper Deerfield						2,051
		(2) Upper Pittsgrove				1,899
				Upper Saddle River		347
				Washington, Twp. (Burlington Co.)		478
Washington, Twp. (Gloucester Co.)						2,068
					Wenonah	1,245
			West Amwell			788
				West Cape May		1,048
				West Wildwood		178
			Willingboro			613
				Woodlynne		2,878
		(2) Woolwich				1,196
					TOTAL	106,964

(1) Zoning ordinance prohibits conduct of business of any kind.
(2) While the resolution is legally of no effect because such a prohibition is required by statute to be enacted by ordinance, it accomplishes the same result for until license fees are fixed, no licenses can be issued.
(3) Referendum prohibits all sales of alcoholic beverages for on-premises consumption.
(4) Referendum prohibits sales for on-premises consumption of all alcoholic beverages except brewed malt alcoholic beverages and naturally fermented wines.

Respectfully submitted,
MAURICE E. ASH,
Senior Inspector

Dated: November 1, 1937.

5. APPELLATE DECISIONS - POWELL vs. WESTVILLE

SAMUEL B. POWELL,

Appellant,

-vs-

BOROUGH COUNCIL OF THE BOROUGH OF WESTVILLE

Respondent.

ON APPEAL

CONCLUSIONS

James B. Avis, Esq., Attorney for Appellant.
No Appearance on behalf of Respondent.

BY THE COMMISSIONER:

This is an appeal from denial of an application for a plenary retail consumption license for premises located at 32 Delsea Drive, Borough of Westville.

Although respondent has filed no answer herein and failed to appear at the hearing, appellant admitted that he did not file a Federal stamp with his application and that he had not obtained a Federal stamp up to the time of the hearing. He testified that he had not filed a Federal stamp because the Clerk of the Borough had told him it was not necessary until the license was granted.

Section 22 of the Control Act provides that a photostatic copy of a Federal stamp or other evidence in lieu thereof must accompany the license application. The provision is mandatory, not merely directory. Even the issuing authority cannot waive it, let alone the municipal clerk. Hence, I cannot consider the merits of this appeal. Andreach vs. Keansburg, Bulletin 78, Item 14; Smock vs. Harding, Bulletin 83, Item 4.

The appeal is, therefore, dismissed without prejudice, however, to appellant's right to file a new application in accordance with the Act.

D. FREDERICK BURNETT
Commissioner

Dated: October 30, 1937.

6. APPELLATE DECISIONS - BUTLER vs. MIDDLETOWN TOWNSHIP

SAMUEL BUTLER,

Appellant,

-vs-

TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MIDDLETOWN,

Respondent.

ON APPEAL

CONCLUSIONS

Benjamin Gruber, Esq., Attorney for Appellant.
Howard W. Roberts, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This appeal is from the denial of a plenary retail consumption license for the "New Bamboo Inn", corner of Beach View Avenue and Port Monmouth Road, Middletown Township.

The Township borders on Raritan Bay and the Navesink River, and enjoys natural bathing and recreational advantages from those waters. It has a winter population of 12,000 and a summer population of 20,000.

Scattered throughout the Township are unofficial and relatively small communities; fronting on the Raritan Bay are East Keansburg, Port Monmouth, Belford, and Leonardo.

Appellant's premises are located on Port Monmouth Road midway between East Keansburg, which begins half a mile to the west, and Port Monmouth, which begins a similar distance to the east. Both these communities, while of an all-year-round character, are also devoted to summer residents.

Port Monmouth Road, in its mile run between those communities, skirts the Raritan Bay. Each end of the road, as it runs between the two communities, is vacant; this includes about one thousand feet of road leading into East Keansburg, and about fifteen hundred feet of road leading into Port Monmouth. Along the stretch of highway in between, there are thirty-five to forty residences. The main group is a secluded colony of twenty to twenty-five summer dwellings, beginning about three hundred feet up the road, and on the opposite side, from the New Bamboo Inn. The residences of this colony front directly on the Bay, each with its private beach.

Outside of appellant's premises (which is apparently a residential type of building converted into a restaurant and boarding house), and possibly one or two road stands, there are no business establishments located in the vicinity.

Appellant caters principally to transients who frequent his premises especially on week ends and holidays. Residents of this summer colony object to these visitors because of the excessive noise they cause and because of constant trespassing of these visitors over the lands of the residents onto their private beaches.

Appellant has made repeated applications during the last few years for a license at his premises. The majority of summer residents have persistently indicated protest. Respondent has given heed, at least partly, to this protest, and has denied the applications.

In light of the foregoing, respondent's action cannot be said to be unreasonable. A municipal issuing authority may validly deny a license in order to eliminate or to minimize the danger of disturbing activity in a residential and recreational area. Kaline and Theringer vs. Burlington, Bulletin 188, Item 2; Conroy vs. Pemberton, Bulletin 191, Item 5; and see Jennings vs. Vernon, Bulletin 186, Item 13.

Furthermore, in East Keansburg there are five consumption licenses, ranging from half a mile to a mile from the

New Bamboo Inn, two being located on Port Monmouth Road; in Port Monmouth there are three consumption licenses, also ranging from half a mile to a mile from the New Bamboo Inn, all located on or near Port Monmouth Road. Port Monmouth Road is merely an incidental artery between those two communities.

Where, as here, a vicinity, even though not large or closely developed, is nevertheless residential in character and residents therein are in protest, and a sufficient number of licensed places exist in the general area, denial of a license in that vicinity cannot be said to be unreasonable. See O'Rourke vs. Fort Lee, Bulletin 189, Item 4, and cases therein cited; Hagenbucher vs. Somers Point, Bulletin 192, Item 6.

There is no evidence or indication that the present application was arbitrarily refused because of appellant's color. Cf. Sears Roebuck & Company vs. Absecon, Bulletin 185, Item 10.

I find nothing arbitrary or unreasonable in the denial in this case. Nor do I find that public necessity or convenience requires that the license which is applied for be issued.

The action of respondent is, therefore, affirmed.

D. FREDERICK BURNETT
Commissioner

Dated: October 30, 1937.

7. DISQUALIFICATION - REMOVAL PROCEEDINGS - LIFTING ORDER MADE

In the Matter of an Application to Remove Disqualification because of a Conviction, Pursuant to the Provisions of Chapter 76, P.L. 1937 - Case No. 4.

CONCLUSIONS AND ORDER

George S. Applegate, Jr., Esq., Attorney for Petitioner.

BY THE COMMISSIONER:

Petitioner is President and also a 33 1/3 percent stockholder in a restaurant and hotel corporation that holds a municipal license. Investigation was instituted to determine whether petitioner was disqualified from holding such office and stock, and the corporation disqualified from holding its license, by reason of petitioner's conviction in 1926 for bribery of a federal officer. Accordingly, a hearing was held to determine whether this crime involved moral turpitude within the meaning of Section 22 of the Control Act. However, during the pendency of that matter, Chapter 76 of the Laws of 1937 was enacted, allowing for the removal of the disqualification imposed by a conviction for a crime involving moral turpitude. Petitioner then filed the present application, and the aforementioned investigation was stayed pending the outcome of this application.

Petitioner's conviction for bribery of a federal officer, a crime indubitably involving moral turpitude, occurred

in February 1926. Pursuant to this conviction, petitioner was given a suspended sentence and released on five years' probation.

At the present hearing, petitioner testified that he has been continuously residing at the same address since the time of his release; and that both before and after his arrest, he has been engaged in the real estate and building business, remaining in that business exclusively until 1930-1931, when, through the above-mentioned corporation, he also entered the restaurant and hotel business.

Petitioner produced a witness who recently has been Recorder and now is a member of the Board of Education in the locality where petitioner has been conducting his real estate and building business. This witness testified that he has known petitioner for the last twelve years; that he has transacted an extensive amount of real estate business with the petitioner, especially during the last six years; that petitioner's reputation is "very good"; and that, with the exception of the bribery matter, no criminal conduct has ever been imputed to the petitioner. This testimony was corroborated by the President of a local bank, also an officer in one of the local building and loan associations, who has known and done an extensive business with petitioner for the last fifteen years.

Petitioner's record reveals no criminal behavior additional to the aforementioned crime of bribery.

I am satisfied from the evidence before me that petitioner has conducted himself in a law-abiding manner since the occurrence of his crime of bribery, and that his association with the alcoholic beverage industry in this State will not be contrary to public interest.

It is, therefore, on this 30th day of October, 1937, ORDERED that petitioner's disqualification from obtaining or holding a license or permit, because of the conviction set forth herein, be and the same is hereby removed in accordance with the provisions of Chapter 76, P. L. 1937;

And it is further ORDERED that the investigation of the aforementioned corporate licensee by reason of petitioner's conviction of bribery in 1926, be hereby discontinued.

D. FREDERICK BURNETT
Commissioner

8. DISQUALIFICATION - REMOVAL PROCEEDINGS - LIFTING ORDER MADE

In the Matter of an Application to Remove Disqualification because of a Conviction, Pursuant to the Provisions of Chapter 76, P. L. 1937 -	)	CONCLUSIONS AND ORDER
Case No. 12	)	

Petitioner, Pro Se.

BY THE COMMISSIONER:

In May 1924, petitioner was convicted of carrying a concealed weapon and of atrocious assault and battery, in conse-

quence of possessing a gun which he angrily fired several times at a person who had been causing him considerable trouble. By reason of this conviction, petitioner was declared to be disqualified under Section 22 of the Control Act from being employed by a licensee. He now seeks to remove his disqualification in order to serve as a bartender at his wife's tavern.

Petitioner was originally sentenced to one year in the county workhouse. After five months, however, his sentence was modified and he was released on three years' probation.

At the present hearing, petitioner testified that after his release from the workhouse in October 1924, he resumed management of his wife's grocery business; that he remained in this occupation until approximately two years ago, when the grocery business was abandoned and the premises converted into a tavern; that since the discontinuance of the grocery business, he has not worked on the premises but has been maintaining a farm on the outskirts of the city.

Petitioner produced a Detective-Sergeant of the police force of the city where he has been residing for the last twenty years. This witness testified that he has known petitioner throughout that time; that for thirteen years he patrolled the neighborhood where the grocery business was located; that to him and to the community at large, petitioner is a "sober, sane, and law-abiding citizen." Petitioner also presented an attestation by the Prosecutor of the Pleas of his county, and by two County Detectives and others, that petitioner has been known to them for many years and has been living in an honest and law-abiding manner.

In addition, petitioner's fingerprint record reveals no criminal past whatsoever. His conviction in 1924 was voluntarily disclosed.

The fact that petitioner produced but one witness on his behalf has given me pause in determining the present application. However, in view of the fact that this witness is a responsible and disinterested law enforcement officer in the petitioner's community and the further fact that petitioner's fingerprint record is clear, I shall believe petitioner's declaration that he has conducted himself in a law-abiding manner since his conviction in 1924, and conclude that his association with the alcoholic beverage industry will not be contrary to public interest.

It is, therefore, on this 30th day of October, 1937, ORDERED that petitioner's disqualification from obtaining or holding a license or permit, because of the conviction set forth herein, be and the same is hereby removed in accordance with the provisions of Chapter 76, P. L. 1937.

D. FREDERICK BURNETT
Commissioner

BREWERIES - USE OF PATENTED APPARATUS FOR DISPENSING BEER - CONSIDERATIONS INVOLVED.

October 31, 1937.

Harr Kegtap System, Inc.,
Newark, N. J.

Gentlemen:

In response to your complaint against certain breweries and the Novadel-Agene Co., a thorough investigation was made resulting in the following report thereof by Chief Deputy Commissioner Nathan L. Jacobs, on January 6, 1937, reading:

"Harr Kegtap System, Inc. lodged complaint with the Department that certain breweries had refused to supply beer to retailers using its method of dispensing beer and had based their refusal upon contracts made with Novadel-Agene Corporation, distributor of the 'Kooler-Keg' system of dispensing beer. Thereupon investigation was instituted; the actual operation of the competing systems was observed, and public hearing was held.

"'Kooler-Keg' is a method of cooling and dispensing beer directly from the keg and is covered by Patent No. 2,051,013 issued by the United States Patent Office on August 11, 1936 to Herman E. Schulse. Heads and cooling coils are permanently fixed in kegs, which are pitched, sterilized and filled at the breweries and delivered to the retailers for attachment to the Kooler-Keg system. By written contracts with various breweries in New Jersey, Novadel-Agene Corporation has agreed to rent as many 'Kooler-Keg head assembly units' as are required at specified rentals for use in conjunction with the system. These contracts provide that the breweries will not 'knowingly infringe nor contribute to the infringement of either the equipment, installation or method inventions involved or knowingly make use of apparatus or methods which infringe any of them' and that Novadel-Agene Corporation will defend them against any infringement suits.

"Patent No. 2,021,305 dated November 19, 1935, and issued by the United States Patent Office to Herman H. Harr covers a container for dispensing beer, a faucet, and a draught pipe-line leading from the bottom of the container to the valve seat of the faucet. The dispensing system being marketed by Harr Kegtap System, Inc. pursuant to this patent, operates in similar fashion to the Kooler-Keg system. Kooler-Keg contends that the Harr system being marketed constitutes an infringement; Harr contends that its patent is being infringed by the use of the container incident to the Kooler-Keg system. Suits for patent infringement have been instituted by both parties and are awaiting hearing and determination by the United States District Court for the District of New Jersey.

"There is no evidence to substantiate the original complaint that the breweries have refused to deliver beer to retailers using the Harr system. On the contrary, the evidence indicates that they have, at all times, been willing to deliver beer to such retailers in standard kegs. They have, however,

refused to deliver beer to them in Kooler-Kegs or in kegs containing similar heads and coils. Such refusal is apparently grounded upon the fear that their delivery of Kooler-Kegs or kegs containing similar heads and coils might constitute either a violation of their contracts or contributory infringement under general principles of patent law.

"Counsel for the Harr system asserts that the arrangement between the Novadel-Agene Corporation and the breweries is antagonistic to control and suggests that by exclusive contracts dictation as to what beer shall be used by retailers will be enabled. I am inclined towards the opinion that the interests of control would be better served and the general legislative policy against brewery influence over retail outlets advanced by the free availability of competing liquor dispensing apparatuses. The question, nevertheless, remains as to the extent of jurisdiction which may be exercised by the Department.

"Counsel for the Harr interests does not suggest that the breweries may properly be compelled to deliver Kooler-Keg units to retailers using the Harr system. He asserts, however, that kegs containing coils and heads suitable for use in conjunction with the Harr system may be obtained either from the Harr company or in the general market and contends that the breweries should be required to furnish such kegs to retailers maintaining the Harr system. This contention would appear to meet with ready approval were it not for the following thoughts, which are submitted for your consideration and determination.

"(1) The contention may be advanced on behalf of the breweries, with substantial force, that they should have the absolute right to purchase or refuse to purchase such equipment at their pleasure. If this were the only obstacle, most of the difficulties would dissolve. In the first place the Harr Company, as was suggested by its counsel, might offer to furnish, for the present and without charge, such kegs to breweries for use in connection with the Harr system. In the second place, if a substantial number of retailers desired that they be furnished with such kegs adaptable for use in the Harr system, the self-interests of the breweries would result in accession to their wishes.

"(2) The real obstacle is the fear by the breweries that they will be held responsible, in the event they furnished competing kegs containing heads and coils similar to Kooler-Kegs, either under their contracts or upon general principles of law for infringement or contributory infringement. Determination of the validity of the patents and the questions of infringement and contributory infringement must await action by the Court, although it is possible that an Order by this Department, within statutory authority, would, in itself, be held to constitute a defense against suit for infringement or contributory infringement. Cf. Paterson vs. Kentucky, 97 U.S. 501 (1878); State vs. Smith, 184 Wis. 369, 199 N.W. 954 (1924)."

From this report it appeared that the gist of the controversy was a question of validity of patents and of liability for infringement, and that suits were then pending in the U. S. District Court for determination of that very question. So far as regulatory control under State license was concerned, there was no proof that anyone was dictating to retailers whose beer they must buy or any refusal by brewers to supply unless

prescribed apparatus were used. On the contrary, the evidence indicated that the breweries had been willing at all times to furnish beer to all retailers using the Harr system, providing only that the delivery was made in regular containers. There was no discrimination. The only refusal was to deliver beer in patented kegs in violation of the patent. The only questions were those of patent law.

I would therefore, on general principles, have dismissed the complaint at that time, were it not for the thought that the then pending Federal suits might, perhaps, bring out other matters cognizable by this Department. I therefore held it awaiting determination of the patent suit. That matter has been determined this week and nothing has appeared therein warranting any action by this Department.

The complaint is therefore dismissed.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

10. APPELLATE DECISIONS - SKILOWITZ vs. DEERFIELD TOWNSHIP

JACK SKILOWITZ,)
Appellant,)
-vs-)
TOWNSHIP COMMITTEE OF DEERFIELD, CUMBERLAND COUNTY,) ON APPEAL
) CONCLUSIONS
Respondent.)
)

D. J. Novaria, Esq., Attorney for Appellant

Harold A. Horwitz, Esq., Attorney for Respondent

BY THE COMMISSIONER:

This is an appeal from the denial of a renewal of a plenary retail distribution license for premises located on Irving Avenue, at Carmel, Deerfield Township. The denial was by a divided vote of the Committee of two to one.

Respondent contended that the denial was justified because appellant had not conducted his licensed premises in a proper manner during the last licensing period.

No member of the Township Committee appeared at the hearing on appeal to place upon the record the reason why the license was denied. As a matter of fact, only one witness was produced by respondent, a Mr. Morris April who testified that he resided next door to the licensed premises; that the appellant's business had been "very loosely conducted"; that there were

many people drinking on the street about the licensed premises and on the premises; and that loud and offensive language could be heard, which he considered detrimental and harmful to the children of the community. However, on cross-examination, he stated that he had never been in the licensed premises; that he had never seen any liquor actually consumed in the licensed premises proper; that his information to the effect that minors drank in the store was hearsay.

Appellant denied that his business had been improperly conducted. He produced at the hearing, one Joseph Brock, who testified that he is tax assessor of Deerfield Township and has been a constable in that Township for the past twenty-two (22) years. Mr. Brock stated that he had never received any complaint about the licensed premises, either from Mr. April or from anyone else; that to his personal knowledge, the place had always been properly conducted; that the reputation of appellant is very good; that to his knowledge, no charges had ever been preferred against Mr. Skilowitz, either in the police court of Deerfield or before the Township Committee; nor to his knowledge had any complaints ever been made against any person for having conducted himself improperly either in or about the licensed premises.

In this posture of the case, the evidence falls far short of the definite and convincing proof that should support a finding that the licensee has been guilty of such improper conduct as to deprive him of a renewal of his license. Speranza vs. Monroe, Bulletin 144, Item 8; Auletto vs. Camden, Bulletin 137, Item 3; Pingatore vs. Red Bank, Bulletin 133, Item 3; Ford vs. Knowlton, Bulletin 84, Item 5; Yole vs. Trenton, Bulletin 45, Item 2.

Accordingly, the action of the respondent Township Committee is reversed. Respondent is directed to issue the license applied for.

D. FREDERICK BURNETT
Commissioner

Dated: October 31, 1937.

11. RULES GOVERNING WINE PERMITS - RULE 9 - AMENDMENT.

October 30, 1937.

MEMO TO: D. FREDERICK BURNETT, Commissioner.

FROM: Erwin B. Hock, Deputy Commissioner.

RE: Wine Permits.

At the present time we are receiving a large number of applications for Special Wine Permits. Rule 9 of Rules Governing Wine Permits prohibits the issuance of such permit to any person who has committed a violation of the Control Act involving the possession or operation of an

illicit still, the possession of illicit alcoholic beverages other than wine, or the sale of any illicit alcoholic beverages.

I find that in a number of cases the violation may have been committed more than a year ago or even two and three years ago. I do not believe that this restriction should prohibit the issuance of a Wine Permit indefinitely because, even in the case of a licensee whose license is revoked, the disqualification only remains for two years. The policy of the Department has always been liberal in the issuance of Wine Permits. Permanent disqualification because of a violation under Rule 9 does not seem to fit in with such policy.

Under the circumstances, I believe that the disqualification insofar as Wine Permits is concerned should be for one fiscal year only. In other words, an applicant for a Special Wine Permit would become eligible for such permit if a full fiscal year had elapsed since his commission of the violation.

I recommend that this procedure be adopted immediately.

Respectfully submitted,

ERWIN B. HOCK

As these permits cover the making of wine for home consumption only, the statute provides that they may be issued without investigation, inspection, hearing or advertisement.

In accordance with the liberal policy indicated by the statute, the foregoing suggestion is approved except as to "fiscal" year. The rule will therefore be amended to permit issuance of such wine permits under the circumstances above stated provided that twelve months have elapsed since the commission of the violation.

D. FREDERICK BURNETT
Commissioner

12. TIED HOUSES - CHATTEL MORTGAGES - THE PROHIBITION OF THE STATUTE IS AGAINST TIED HOUSES AND NOT AGAINST THE MERE GIVING OF CHATTEL MORTGAGES TO PERSONS OTHER THAN MANUFACTURERS AND WHOLESALERS

Gentlemen:

I desire to ascertain whether or not there is any ruling of your department limiting the right of a bottled-goods store to chattel mortgage their fixtures or bottled liquor.

My client understands that there is a ruling of your department forbidding the execution of a chattel mortgage by a bottled-goods store.

Sincerely yours,

Sidney B. Rosenthal

November 1, 1937.

Sidney B. Rosenthal, Esq.,
Paterson, N. J.

Dear Sir:

Perhaps your client had in mind decisions made, in which it was ruled that wholesalers may not hold chattel mortgages on fixtures or liquor in retail premises. The licenses of wholesalers were suspended because of such illegal interest in Re Bade, Bulletin 127, Item 6 and in Re Carabelli, Bulletin 174, Item 15, copies of which are enclosed.

Hence, your client could not execute a chattel mortgage on his fixtures or bottled liquor to a manufacturer or wholesaler because of the provisions of Section 40 of the Alcoholic Beverage Control Act, which is Chapter 436, P. L. 1933, as amended and supplemented.

Aside from this there is nothing to prevent your client from executing a chattel mortgage upon his fixtures or bottled liquor providing Section 40 is not violated directly or indirectly. If he does execute such mortgage, however, he must disclose the interest of the chattel mortgagee in answering Question 7 in his application for any renewal of his license if such chattel mortgage remains in effect at the time he applies for his renewal.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

13. ENFORCEMENT DIVISION ACTIVITY REPORT FOR OCTOBER 1 to 31, 1937

TO: D. FREDERICK BURNETT, Commissioner

ARRESTS: Total number of persons - - 71
Licensees - 4 Non-licensees -67

SEIZURES: Stills - total number seized - 17
Capacity 1 to 50 gal. - 12
Capacity 50 gal. & over- 5

Motor Vehicles - total number seized - 4
Trucks - 0 Pleasure cars - 4

Alcohol
Beverage alcohol - - - 321 gallons
Denatured alcohol- - - 5 gallons

Mash - total number of gallons - 56,205

Alcoholic Beverages
Beer, Ale, etc. - - - - - - 382 Bottles
Wine - - - - - - - - - - - -121 Gallons
Whiskies & other Hard
Liquors - - - - - - - - - 707 Gallons

ENFORCEMENT DIVISION ACTIVITY REPORT Cont'd.

RETAIL INSPECTIONS:

Licensed premises inspected - - - - -	2244
Illicit (Bootleg) liquor - - - - -	4
Gambling violations - - - - - - - - -	85
Sign Violations - - - - - - - - - -	63
Unqualified employees - - - - - - -	80
Other violations- - - - - - - - - -	71
Total violations found	303
Total number of bottles gauged	14,679

COMPLAINTS:

Investigated and closed - - - - - -	329
Investigated, pending completion- -	276

LABORATORY:

Number of samples submitted - - - -	109
Number of analyses made - - - - - -	102
Number of poison liquor cases - - -	0
Number of cases of denaturants- - -	3
Acetone cases - 1	
Isopropyl cases-2	
Number of cases of alcohol, water and artificial coloring - - - -	7
Number of cases of moonshine (Home-made finished product of illicit still) - - - - - - -	19

Respectfully submitted,
E. W. Garrett
Deputy Commissioner

14. RETAIL LICENSEES - GIFTS - BOTTLES OF WINE MAY NOT BE GIVEN AWAY WITH SALES OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION AT CHRISTMAS OR ANY OTHER TIME - BOTTLES OF WINE, HOWEVER NOMINAL THE COST, ARE NOT ADVERTISING NOVELTIES.

Dear Mr. Burnett:

Will you kindly inform me as to whether it is permissible to give bottles of wine away as gifts at Christmas time.

Very truly yours,
George E. Morstadt,
President of Family Liquor Store, Inc.

November 1, 1937.

Family Liquor Store, Inc.,
Atlantic City, N. J.

Gentlemen:

Rule 20 of the State Rules Concerning Conduct of Licensees (copy enclosed) prohibits retail licensees from offering or furnishing any gifts or similar inducements with the sale of any alcoholic beverage for consumption off the licensed premises, excepting only advertising novelties of nominal value.

You may not, therefore, give away bottles of wine as gifts, at Christmas or any other time. Bottles of wine, however nominal the cost, are not advertising novelties. Such gifts would be in violation of the rule and cause for the revocation of your license.

Very truly yours,

L. Kendall Burnett

Commissioner