STATE OF NEW JERSEY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

744 Broad Street, Newark, N. J.

BULLETIN NUMBER 66 March 16, 1935

1. APPELLATE DECISIONS - KIRCHIES VS. CLIFTON

ETHEL KIRCHIES, Appellant -vs- MAYOR AND CITY COUNCIL OF THE CITY OF CLIFTON, Respondent	ON APPEAL CONCLUSIONS

Irving L. Werksman, Esq., Attorney for Appellant
John C. Barbour, 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 #208 Crooks Avenue, Clifton, New Jersey.

Respondent contends that the application was properly denied because appellant's premises are within 200 feet of an existing licensed place. While denial of an application because of the existence of a sufficient number of places is proper where a general policy has been adopted by any municipality and uniformly applied, the evidence discloses that no such policy had been adopted in the City of Clifton and that licenses have been issued heretofore without regard to the number of places existing in the vicinity and often within 25 feet of existing licensed places. This contention cannot therefore be sustained. Zebrowski vs. Trenton, Bulletin #56, Item #9; Skwara, et al vs. Trenton, Bulletin #57, Item #7.

Respondent further contends that appellant's premises are situated close to a factory in which large machines are operated and the issuance of a license may cause carelessness and result in accident. It may very well be that a municipal policy not to issue licenses for premises too close to industrial plants, if uniformly applied, is valid. But no such policy has ever been adopted. The only member of the City Council who testified was asked whether any such policy had been adopted and frankly admitted that it had not and that he was unable to say whether the remaining members of the City Council were prepared to adopt it at this time. Throughout the City, licenses have been issued for premises as close to large industrial plants as are appellant's. Applicants for licenses should be treated alike. It is not fair to make fish of one and fowl of another. Tankle vs. Trenton, Bulletin #56, Item #10. This contention cannot be sustained.

Respondent finally contends that appellant is personally unfit to receive a license because prior to the filing of her application she attempted to purchase the business of the licensee located approximately 200 feet away and that when said

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licensee refused to sell, she threatened to apply for a license for her present premises and attract the customers. Appellant denies this entirely. There is no credible evidence to support it. Even if it did occur, it does not mark appellant as unfit to receive a license. The mere fact that a person prefers purchasing an established business rather than opening a new place is no indication of unfitness. The desire to attract customers is neither unusual nor reprehensible. The contention is untenable.

The action of respondent is reversed.

D. FREDERICK BURNETT,
Commissioner

Dated: March 8, 1935

2. APPELLATE DECISIONS - APGAR VS. TEWKSBURY TOWNSHIP

IRA RALPH APGAR,)
Appellant
-vs-)
 ON APPEAL
TOWNSHIP COMMITTEE OF) CONCLUSIONS
TEWKSBURY TOWNSHIP
(HUNTERDON COUNTY),)
Respondent

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Herbert T. Heisel, Esq., Attorney for Appellant
A. O. Robbins, Esq., by F. E. Suderly, 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 in Cokesbury, Tewksbury Township.

Respondent contends, inter alia, that the application was properly denied because of the disapproval of same by residents in the neighborhood and further that there existed no need for a licensed place at or near the premises sought to be licensed.

The population of Tewksbury is approximately 1100. No limitation on licenses had ever been set by resolution or ordinance. One license has been issued by the Township Committee. The testimony, however, disclosed that Tewksbury is essentially a rural farming community. The hamlet wherein the premises sought to be licensed are located lies partly in Clinton Township and partly in Tewksbury Township and is sparsely populated. It is residential in character and contains only one or two small stores. The residential character of the neighborhood was sufficient cause for the denial of the privilege sought. Vannozzi vs. Trenton, Bulletin #35, Item #7. A petition containing 36 or 38 signatures was filed in opposition to the issuance of the license. A member of the Township Committee testified as to the opposition of the residents.

Appellant contends that he is entitled to a license as he intends to run an hotel at the premises sought to be

licensed; that he expects to get transient business as the house is on the highway between Lebanon and Highbridge. While it has been decided because of the public function an hotel serves, that ordinarily it would not be fair to refuse a license to an hotel unless good cause is shown (A.B.C.Holding Co. vs. Newton, Bulletin #58, Item #1), nevertheless the testimony discloses that the premises in question contain only eleven rooms, have no improvements and are rented at only $20.00 a month and that extensive repairs would be necessary before they could be of service to the public. This is not the usual concept of an hotel. In these appeals, there are no magic words to be conjured. The mere invocation of the term "hotel" by an appellant is no more dispositive than the mere assertion by a respondent that a license would be "socially undesirable". Everything depends on the facts.

Appellant was granted an adjournment at the hearing, in order to produce testimony to disprove the contentions of the Township as to the need for the license in question. On the adjourned date, he failed to produce any such testimony. On the other side, 17 witnesses came from Tewksbury to Newark to testify in support of the denial of the license. The burden of proof that public necessity and convenience would be better served by a licensed premises at the location sought has not been sustained. Haenelt v. Haworth, Bulletin #57, Item #11.

The action of respondent is affirmed.

D. FREDERICK BURNETT,
Commissioner

Dated: March 8, 1935

3. APPELLATE DECISIONS - KARPF VS. CAMDEN

SAM KARPF CO.,
Appellant
-vs-
BOARD OF COMMISSIONERS OF THE CITY OF CAMDEN (CAMDEN COUNTY), NEW JERSEY,
Respondent

ON APPEAL
CONCLUSIONS

Meyer L. Sakin, Esq., Attorney for Appellant
Lewis Liberman, Esq., Attorney for Respondent

BY THE COMMISSIONER:

This is an appeal from the denial of an application for a plenary retail distribution license for premises located at #109 Broadway, Camden.

Respondent's sole contention is that the application was properly denied because of the number of places already licensed and in alleged too close proximity. Respondent therefore urges undesirability. Appellant claims discrimination.

The fitness of the persons interested in appellant corporation and the suitability of the premises sought to be

licensed, aside from their location, are unquestioned.

Appellant's premises are located along the main business street of Camden, in what is almost exclusively a retail shopping district. The nearest licensed premises are approximately 560 feet away. In similar neighborhoods elsewhere in the municipality respondent has issued licenses for premises in much closer proximity to each other than are appellant's premises to the nearest licensed place. Thus, licenses have been issued at #136 and #201 Broadway. Another license has been issued for #6 Broadway, three stores away from licensed premises at #600 Federal Street. In addition to the license at #600 Federal Street respondent has issued licenses for #548 and #558 Federal Street.

No reason is suggested, or apparent from the record, why the licensing of appellant's premises would be detrimental to the welfare of the community any more than the issuance by respondent of the other licenses referred to. A municipal policy with reference to the number of licensed places desirable in any given neighborhood must be uniformly applied throughout the municipality to all other neighborhoods of the same class. This is but one aspect of the general rule that all municipal policies, in order to be valid, must be uniformly applied. Tankle vs. Trenton, Bulletin #56, Item #10; Barbuto vs. Trenton, Bulletin #56, Item 5. Respondent's failure heretofore to apply its alleged policy in neighborhoods substantially similar to that in which appellant's premises are located renders its contention in the instant case untenable. Zebrowski vs. Trenton, Bulletin #56, Item 9; Skwara, et al vs. Trenton, Bulletin #57, Item 7.

The action of respondent Board is reversed.

D. FREDERICK BURNETT,
Commissioner

Dated: March 9, 1935

4. APPELLATE DECISIONS - BATTAGLIA VS. GLASSBORO

SANTO BATTAGLIA,
Appellant
-vs-
BOROUGH COUNCIL OF THE BOROUGH OF GLASSBORO,
Respondent

ON APPEAL
CONCLUSIONS

William A. Gravino, Esq., Attorney for Appellant
George B. Marshall, Esq., Attorney for Respondent

BY THE COMMISSIONER:

This is an appeal from the denial of a plenary retail consumption license for premises located at 303 West High Street, Glassboro.

Respondent contends that the application was properly denied for the reason, among others, that there is one licensed place of business in the vicinity of the premises sought to be licensed and the issuance of an additional license for premises

therein located would be socially undesirable and is opposed by the residents thereof.

The right of a municipality to deny an application where the granting thereof would result in the existence of too many licenses in a particular vicinity is settled. Bader vs. Camden, Bulletin #44, Item #8; Furman vs. Springfield, Bulletin #49, Item #6; Clement vs. Loder, Bulletin #52, Item #5; Faccidomo vs. Union Beach, Bulletin #55, Item #8. In determining whether a sufficient number of licensed places exist in any given vicinity the physical nature of the neighborhood as well as the temper of the persons residing therein should be considered. Shinn vs. Camden, Bulletin #64, Item #8.

Glassboro is a community with a population of approximately 5000. Appellant's premises are located at the end of the principal business street in a neighborhood, according to the testimony of one of the members of the Township Committee, composed of 75% residences and 25% stores. Photographs of the neighborhood introduced in evidence confirm the accuracy of this estimate. A large percentage of the population of Glassboro is on Emergency Relief. Petitions were introduced in evidence both for and against the issuance of a license to appellant.

Within approximately one block from appellant's premises is a place of business now operated under a plenary retail consumption license. A member of the Township Committee testified that this licensed place is adequate to supply the demands of the residents of the vicinity. Appellant introduced no contrary testimony. In fact the only witness called by appellant on this issue testified that in his opinion there are a sufficient number of licensed places now operating in the community. In view of the foregoing it cannot be said that respondent's determination that the existing licensed place in the vicinity of appellant's premises is adequate to supply the demands of the residents thereof and that the issuance of additional licenses would be socially undesirable was unreasonable.

The evidence discloses, however, that after appellant's application was denied, two additional licenses were issued by respondent at the other end of the town and that elsewhere in the municipality respondent has issued three licenses for premises within one block of each other. Appellant argues that respondent has not uniformly applied its alleged policy and therefore should not be permitted to assert it now. Kaplan vs. Trenton, Bulletin #41, Item #9; Sam Karp Co. vs. Camden, Bulletin #66, Item #3. These licenses, however, were all issued for premises in other portions of the municipality and there is nothing in the record to indicate that the neighborhoods in which they have been issued are similar to the neighborhood in which appellant's premises are located. Although a particular locality in a municipality is abundantly supplied with licensed places so that the issuance of an additional license is undesirable, nevertheless, licenses may properly be issued for other portions of the municipality. The mere fact, therefore, that more licenses have been issued in another neighborhood than presently exist in the vicinity in which appellant's premises are located, does not indicate that respondent is arbitrarily and without uniformity applying an alleged municipal policy in unfair discrimination of applicants in the

absence of a showing that the two neighborhoods are similar.

Likewise the issuance of two licenses after appellant's application was denied is of no significance since these licenses were not issued for premises in the vicinity of appellant's and there is nothing to show that they were issued for premises in a vicinity already adequately provided for.

Accordingly, the action of respondent is affirmed.

D. FREDERICK BURNETT,
Commissioner

Dated: March 9, 1935

5. BULLETIN ITEMS SUPERSEDED

The ruling made in Re: Municipal Ordinances - Sunday Sales - No Power to Discriminate Between Classes of Alcoholic Beverages, Bulletin 64, item 6, abrogates Paragraph 11 (b) of the examples of municipal regulations set forth as having been approved by the Commissioner in conjunction with the sample form of municipal ordinance, Bulletin 53, item 9.

6. LICENSEES - EMPLOYEES - QUALIFICATIONS - EFFECT OF CONVICTION FOR VIOLATION OF FORMER NATIONAL PROHIBITION LAW

March 11, 1935

Dear Sir: Re Blank

I have your letter of February 20th inquiring whether you may be employed as a bartender by a licensee in spite of your conviction some five or six years ago for a violation of the Prohibition Law.

Section 23 of the Control Act provides "No person who would fail to qualify as a licensee under this act shall be knowingly employed by or connected in any business capacity whatsoever with the licensee."

The answer to your inquiry will therefore depend upon whether you would fail to qualify as a licensee under the Control Act.

Section 22 of the Act sets forth the qualifications of applicants for licenses as follows:

> "No retail license shall be issued to a natural person unless he is a citizen of the United States and shall have been a resident of the State of New Jersey for at least five years continuously immediately prior to the submission of the application. No license of any class shall be issued to any individual who is an alien; to any person under legal age; or to any person who has been convicted of a crime involving moral turpitude or who has committed two or more violations of this act."

You do not state whether you are a citizen and the length of time you have been a resident of New Jersey. I cannot, therefore, express any opinion with reference to these aspects of the question.

The only thing I can discuss is whether your conviction for a violation of the Prohibition Act in and of itself disqualifies you. If the conviction was for a crime involving moral turpitude then it does; otherwise it does not.

The courts have generally defined a crime involving moral turpitude as something immoral in itself regardless of the fact that it is punished by law. There is no hard and fast rule as to what constitutes moral turpitude. It cannot be measured by the nature or character of the offense, unless, of course, it be an offense inherently criminal, the very commission of which implies a base and depraved nature. The circumstances attendant upon the commission of the offense usually furnish the best guide.

I believe and have, therefore, ruled that a single violation of the prohibition law, unless accompanied by aggravating circumstances, does not constitute moral turpitude. I cannot, however, give you a definite opinion on your case unless I know whether there were any aggravating circumstances connected with the violation of which you were convicted. If you care to do so you may write me, setting forth the time and place of the conviction and the circumstances surrounding the same so that the matter may be investigated and a determination made as to whether you are disqualified.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

7. LICENSES - SPECIAL CONDITIONS - MUST BE DEFINITE

March 11, 1935

Mr. John L. Haney,
City Clerk,
Trenton, N. J.

Dear Sir:

I have the resolution passed by your Board of Commissioners on February 21, 1935, authorizing the issuance of two plenary retail consumption licenses and imposing upon the license to be issued to Frank Girard, 622 South Clinton Avenue, the special condition: "If and when the premises are put in condition satisfactory to the Board of Commissioners."

When imposing conditions to the issuance of licenses they should be worded to indicate the specific requirements which must be complied with prior to the issuance of a license. In fairness to the applicant he should know, when his application is conditionally refused, exactly what will be required of him. When no standards are set, there is no way he may know what or how he must change or renovate. Whenever it is determined to issue a license subject to conditions, those conditions should be prescribed as definitely as the nature of the case will admit. The only question then remaining will be whether reasonably satisfactory compliance has been made.

I make these observations to avoid complaints and misunderstanding by applicants in future cases and, perhaps, avoid appeals. In the instant case they have ceased to be of moment

because it appears from your later resolution of March 1, 1935, that whatever standards the Board had in mind had been met with the exception of the second floor, and hence the license was ordered issued, conditioned "that the second floor of such premises may not be used for any purpose while such license is in effect." This special condition is approved as submitted.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

8. MUNICIPAL ORDINANCES - LICENSING POWER - NOT DELEGABLE

March 11, 1935

Peter Heinz, Town Clerk,
Guttenberg, N. J.

Dear Sir:

Section 3 of the resolution of December 11, 1933 authorizes the chairman of the License Committee and the Town Clerk to sign and issue licenses. If all that this means is that these officers are to perform the ministerial acts of signing and delivering licenses after the Mayor and Board of Council, sitting as the governing body, have specifically adjudicated in each individual instance that they should be issued, well and good. If it is meant to delegate to or confer upon these officials the power to decide whether or not a particular license shall be issued, it is not valid. I cannot approve the section as it now reads because of the ambiguity in its language and meaning. These officials are authorized to sign and issue licenses "after application filed pursuant to the statute". This would seem to imply that the only prerequisite to issuance of a license by these officials was the filing of a proper application. It does not say "after the application has been approved by the Mayor and Board of Council". Nor are there any words to that effect. I doubt that the resolution really intended to dispense with that essential requirement but the trouble is it does not mention it at all and the only requirement it does insert is merely that a proper application be filed. It conveys the erroneous impression that the designated officials may issue licenses if such application be filed. And this is heightened by Section 4 which authorizes the Chairman of the License Committee to make such investigations as may be necessary "prior to the issuance of such licenses".

All this can be cured by adding at the end of Section 3 the words "and after approval of such license by the Mayor and Board of Council".

The reason for this ruling is that the statute, Section 18, makes the administration of the issuance of all retail licenses, other than retail transit, the duty of the governing body of each municipality, except in such cases where it has been delegated to Municipal Boards of Alcoholic Beverage Control duly created pursuant to the Act. While there is no objection to the Board of Council designating the chairman of the License Committee and the Town Clerk as its agents to sign licenses in its behalf, no right exists to delegate the function of issuing licenses otherwise than to the extent expressly mentioned. As the

Town of Guttenberg has no Municipal Board, it follows that licenses may be issued only upon the affirmative vote of the Board of Council.

I cordially recommend, therefore, that the provision authorizing the chairman of the License Committee and the Town Clerk to issue licenses be amended at once along the lines above suggested.

Furthermore, if any licenses have in fact been so issued without having been expressly authorized or ratified by the Board of Council sitting as the governing body of the municipality, it follows that all such licenses were improperly issued. Hence, to the extent that they may be now in force and effect, they should be submitted at once to the Board of Council in order that all such issuances be either ratified or reconsidered, as the governing body may decide.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

9. APPELLATE DECISIONS - BUMBALL VS. BERNARDSVILLE

PAUL BUMBALL, Appellant
-vs-
MAYOR AND COMMON COUNCIL OF THE BOROUGH OF BERNARDSVILLE (SOMERSET COUNTY), Respondent

ON APPEAL
CONCLUSIONS

Appearance:
Arthur A. Palmer, Esq., Attorney for Appellant

BY THE COMMISSIONER:

This is an appeal from the denial of an application for a plenary retail consumption license. No question is raised as to the character of appellant or as to the suitability of the premises. The sole issue is whether the denial on the alleged ground that a sufficient number of licenses had been issued in Bernardsville and the issuance of an additional license would be socially undesirable, was reasonable and proper.

In June, 1934 respondent adopted an ordinance regulating the issuance of licenses under the Control Act. This ordinance, however, contained no limitation of the number of licenses. After appellant's application was filed, respondent, being of opinion that a sufficient number of licenses had been issued in Bernardsville, adopted a resolution that no further alcoholic beverage licenses be approved or issued.

Before considering the resolution on its merits, three preliminary points raised by appellant must be determined:

1. That an ordinance cannot be repealed or modified by a

mere resolution but only by an act of like formality to that required for the enactment of the original ordinance. American Malleables Co. vs. Bloomfield, 83 N.J.L. 728. The instant resolution, however, does not repeal or in any wise change the previous ordinance. That ordinance was silent on the point. The resolution supplements and adds but does not amend or modify. The power to limit the number of licenses is expressly conferred upon the issuing authority of each municipality. Control Act, Section 37. There is no requirement that this power shall be exercised only by ordinance. The express requirement of an ordinance in other specified cases implies that the power to limit the number of licenses may be exercised either by ordinance or by resolution.

2. That the resolution should not be allowed to operate upon an application filed before its enactment. This point has heretofore been adjudicated by the Commissioner. Franklin Stores Co. vs. Elizabeth, Bulletin 61, Item 1. That decision held that the real question on appeal is whether the Commissioner should order the license to issue NOW, rather than whether the respondent erred in refusing it at the time. As was said in that case:

> "The spirit and not the letter of the law should dominate. Sound public policy requires that if a special privilege is to be given, the grant must be consonant with such policy at the time the grant is made. Whether a license should be issued is not a game of legal wits or abstract logic, but, rather, a solemn determination on all the concrete facts, whether presented originally or on appeal, whether or not it is proper to issue that license. It is not a mere umpire's decision whether or not some administrative official previously made a move out of order or erred in technique or did something which by strict rules he had no right to do, but rather a final adjudication whether the license should be issued NOW."

Hence the fact that the resolution was not enacted until after the application was filed does not preclude its consideration on appeal.

3. That the resolution did not limit the number of licenses. If a resolution that no further licenses be issued does not limit the number of licenses to be issued, what does it do? The power to limit includes the power to determine the out of bounds, to circumscribe, or restrict. It may but does not necessarily mean to fix or determine the exact number. Anything that fixes a maximum places a limit. The number is limited whenever no more may be issued. The limitation of the number of licenses may take any one of several forms possible.

Coming then to the merits, the question to decide is whether the resolution was enacted in the reasonable exercise of a proper discretion and in good faith.

The population of Bernardsville according to the last census is 3,336. It is served by seventeen retail licensees--eight plenary retail consumption, eight plenary retail distribution and one club license--an average of one license to each two hundred of population, counting men, women and children. One of these consumption licenses was issued for premises within 325 feet of appellant's premises; another within 500 feet. The figures speak for themselves. They are dispositive of the reasonableness of the limiting resolution. Licenses must eventually be limited as a matter of social policy. The difficulty is to find and fix the proper limits without being arbitrary either in principle or in application. In this case, the eloquent figures and the actual experience support the conclusion that further issuance of licenses in Bernardsville will be socially undesirable.

There is no question but that the resolution was enacted in good faith, and not as a blind or subterfuge to conceal some unfair discrimination. In answer to the question: "Will you give us the reason as to why that application was turned down by the municipality?", the Commissioner of Public Safety testified:

> "It goes back - probably a long story - to the beginning of the granting of licenses. There has been some discussion from the beginning as to how many we should have, that there should be a limit sometime, and the number of licenses mentioned is in effect, nearly all given at one time; since that time there has been no application for licenses. When we realized that there was at least two more coming up the last few weeks we thought it was time to stop, without any personalities involved as to the applications made. If we didn't stop some place, we didn't know how many more we would have, and we thought the number we had was certainly sufficient, if not too many."

The Mayor testified:

> "Q. There isn't any legal or personal objection to the appellant?
>
> A. No, sir. I don't understand that is in question. My feeling is that the liquor industry is one which is admitted to have a public interest, and the governing body has to consider the interests of the community at large rather than the right of the person to engage in the business for his own profit -
>
> THE HEARER: And that is the reason why the answer is made by your community that those holding plenary retail consumption licenses are amply sufficient to meet all the legitimate needs of the Borough by reason of the size of the Borough and the character of its population, and that the issuance of additional licenses would be socially undesirable?
>
> THE WITNESS: That is correct."

Appellant insisted he had as much right to a license as any person theretofore licensed. True, but no one has a "right"

to a license. It is at most a privilege conferred by the State which the issuing authority may deny in the exercise of sound discretion. Meehan v. Jersey City, 73 N.J.L. 382.

Appellant has not shown that the action of respondent was arbitrary or contrary to the best interests of the community at large or motivated by anything but an honest and sound exercise of discretion.

The action of respondent is affirmed.

D. FREDERICK BURNETT,
Commissioner

Dated: March 12, 1935

10. SPECIAL PERMITS - PREMISES - PREMISES ON WHICH DEALINGS IN ILLICIT LIQUOR HAVE BEEN CONDUCTED ARE NOT ELIGIBLE FOR SPECIAL PERMITS FOR SOCIAL AFFAIRS

March 14, 1935

Columbus Club, Inc.,
82 Washington Road,
Sayreville, N. J.

Gentlemen:

I have your application for special permit for the dance on St. Patrick's Day at the Wagon Wheel Inn.

There is no question at all about your organization or any of the particulars of your application except that it is to be held at the Wagon Wheel Inn. This Inn was raided by my men on March 7th for violation of Section 48 which prohibits the owning, possessing, keeping and storing of illicit alcoholic beverages with intent to sell.

The arrests made and the seizures effected are being certified to the Township Committee of East Brunswick Township for the institution of revocation proceedings.

Such dealings in illicit liquor render the premises ineligible not only for license but for any special permit for social affairs.

If you will arrange to hold your dance at premises where there is no question of violation of the law, your application for special permit will be approved forthwith.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

11. SPECIAL PERMITS - IMPORTATION FROM FOREIGN COUNTRY BY HOLDER OF ALCOHOLIC BEVERAGE IMPORT PERMIT

March 15, 1935

L. Bamberger & Co.,
Newark, N. J.

Gentlemen:

Your verified petition sets forth that you are the

holder of a plenary retail distribution license and an alcoholic beverage import permit issued by the Federal Alcohol Control Administration; that in the ordinary course of your business you sell many alcoholic beverages not purchasable from manufacturers and wholesalers situated in New Jersey, some of which are not purchasable in the United States; that you desire to purchase in foreign countries certain alcoholic beverages specifically described in a schedule annexed to the petition; and prays for a special permit authorizing the importation of said alcoholic beverages from time to time until July 31, 1935, subject to such regulations as may be imposed by this Department.

The present petition differs from the petition granted in Bulletin #57, Item #16, only in the fact that there the alcoholic beverages had been purchased prior to the filing of the petition, whereas here the purchase of the described beverages is contemplated. In view of the reasons underlying the granting of the petition passed upon in Bulletin #57, Item #16, the difference is without significance. As was there indicated, the objectives of the rules of July 2d, 1934, governing the importation of alcoholic beverages into New Jersey are not, in any substantial sense, defeated by the granting of a special permit to the holder of an alcoholic beverage import permit to import beverages purchased in a foreign country. The payment of taxes will be assured and the foreign vendors, not licensed in New Jersey, will not, in any real sense, be permitted to do business here. Whether the rules of July 2d should be modified to permit importations from foreign countries by New Jersey licensees authorized to so import without special permit has been receiving consideration, but the Commissioner is not yet satisfied that such modification will be in the best interests of control.

The granting of the present application will in nowise be inconsistent with the Commissioner's ruling in Bulletin #46, Item #5. There a retail licensee sought a special permit to import 50,000 gallons of beer, 12500 gallons of liquor, 7500 gallons of distilled wines and 800 gallons of sparkling wines during a period of six months. Unlike the present case, the petition there did not set forth that the petitioner was the holder of an alcoholic beverage import permit, that the alcoholic beverages were to be purchased in foreign countries or imported under such permit, and did not set forth any specific description of the beverages about to be purchased.

The petitioner's application for a special permit has been granted by the Commissioner with the proviso that the alcoholic beverages must be imported on or prior to June 30, 1935 since petitioner's retail distribution license expires on such date.

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

12. PROPOSED RULES GOVERNING SIGNS AND OTHER ADVERTISING MATTER

March 15, 1935

This Department has given intensive study to the matter of signs and other advertising matter in licensed retail establishments. An open meeting, attended by representatives of all the various industries affected, was held to discuss proposed regulations, and numerous suggestions were there made which have been carefully weighed and pondered. The provisions contained in pertinent federal codes and the regulations of other states have been examined and carefully considered.

Before finally passing on the draft of the proposed rules governing signs and other advertising matter which have been prepared by the Department Counsel, Mr. Jacobs, the Commissioner deems it advisable, in view of the economic considerations as well as the control features involved, to submit them to the public and to the several industries in the beverage trade, and therefore invites immediate constructive criticism and suggestion.

THE PROPOSED RULES

1. No manufacturer or wholesaler shall, in any one license year, furnish or deliver to any retail licensee, directly or indirectly, by sale, loan, gift or otherwise, any signs or other advertising matter, the aggregate cost of which exceeds $100.00 with respect to each licensed premises, and no retail licensee shall permit or suffer the display of any signs or other advertising matter furnished or delivered in violation of this regulation.

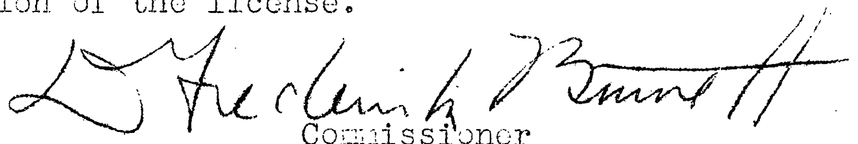
2. No retail licensee shall permit or suffer the display, on the exterior of the licensed premises, of any signs or other advertising matter bearing the name, brand or trademark of any manufacturer or wholesaler of any alcoholic beverage.

3. No licensee authorized to sell alcoholic beverages at retail for consumption on the licensed premises shall, directly or indirectly, advertise, or permit or suffer the advertising of, the price of any alcoholic beverage or size of container thereof, on the exterior of the licensed premises or in the show-window or door thereof.

4. No retail licensee shall permit or suffer in or on the licensed premises any sign or other matter advertising the sale of any particular brand or type of alcoholic beverage unless such brand or type of alcoholic beverage is actually available for sale at such premises.

5. Any signs or other advertising matter in possession of a retail licensee and located on the licensed premises on the date hereof may be retained for a period of sixty (60) days, but must be dismantled and removed from the licensed premises at or prior to the expiration of said period in all cases where their continued possession would violate any of the foregoing regulations.

6. Violation of any of the foregoing regulations shall be cause for revocation of the license.



Commissioner

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