

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 837

MARCH 28, 1949.

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STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 837

MARCH 28, 1949.

1. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND AL & EDDIES TAVERN, INC.

UNION COUNTY RETAIL LIQUOR STORES )  
ASSOCIATION, )

Appellant, )

-vs- )

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY OF )  
ELIZABETH, and AL & EDDIES TAVERN, )  
INC., )

Respondents. )

ON APPEAL  
CONCLUSIONS AND ORDER

Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
Sidney Simandl, Esq., Attorney for Respondent Al & Eddies Tavern, Inc.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondent Al & Eddies Tavern, Inc.

The evidence herein discloses that the licensed premises at 742-748 Lidgerwood Avenue, Elizabeth, contain a public barroom with an entrance at the corner of Kenneth Avenue and Lidgerwood Avenue. Adjoining the public barroom and separated therefrom by a partition with a doorway therein is a room which is designated as a kitchen and "liquor department"; the "liquor department" being in the front near the entrance and display window and the kitchen in the rear. There is a separate entrance to this "liquor department" from Lidgerwood Avenue.

P. L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that, since July 8, 1947, the "liquor department" was in a room other than the public barroom and that alcoholic beverages were sold in the "liquor department". Thus, the question remaining for determination is whether or not alcoholic beverages were "displayed for sale" in the "liquor department" prior to May 28, 1948.

P. L. 1948, c. 98 is entitled "AN ACT....supplementing Chapter One of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

The president of the respondent licensee testified herein that since July 8, 1947, alcoholic beverages were displayed for sale in the "liquor department". Introduced in evidence was a photograph, taken June 15, 1948, which shows the display window and interior of the "liquor store" with shelves but with no alcoholic beverages on display. The respondent licensee's president admitted that no alcoholic beverages were displayed in the show window on June 15, 1948, but he testified that the liquor had been temporarily removed from the window, on that date, so as to permit repairs to the burglar alarm system. The appellant adduced no evidence to disprove this testimony and I am unable to find that it was not a true statement of fact.

It is my finding, on the evidence before me in this case, that, within the meaning, intent and purpose of P. L. 1948, c. 98, alcoholic beverages were sold and displayed for sale, prior to May 28, 1948, upon a portion of the licensed premises other than the public barroom. The respondent licensee complied with the requirements of State Regulations No. 32. The action of the respondent Board will be affirmed.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Board in granting the "broad package privileges" to the respondent Al & Eddies Tavern, Inc., be and the same is hereby affirmed, and the appeal be and the same is hereby dismissed.

ERWIN B. HOCK  
Director.

2. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND CHRONE.

UNION COUNTY RETAIL LIQUOR  
STORES ASSOCIATION,

Appellant,

-vs-

ON APPEAL  
CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC  
BEVERAGE CONTROL OF THE CITY OF  
ELIZABETH, and JOSEPH CHRONE,

Respondents.)

Julius R. Pollatschek, Esq., Attorney for Appellant.

Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.

Sidney Simandl, Esq., Attorney for respondent Joseph Chrone.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondent Joseph Chrone.

The evidence herein discloses that the licensed premises at 169 Elmora Avenue, Elizabeth, consist of a public barroom with an entrance at the corner of Elmora Avenue and Pennington Street, a second room designated as "booth service room", and a third room designated as "Package Store". There is a separate entrance on Pennington Street to the booth service room and a patron entering the booth service room may pass through said room and enter the "Package Store" without entering the public barroom. To reach the "Package Store" from the public barroom, one must pass through the booth service room. The "Package Store" contains a counter and display case and is separated from the booth service room by a partition containing a door.

P. L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that alcoholic beverages were sold and displayed for sale in the "Package Store" prior to May 28, 1948. Thus, the question remaining for determination is whether or not such "Package Store" was "upon a portion of the licensed premises other than the public barroom".

P. L. 1948, c. 98 is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

I believe that the "Package Store" here under consideration must be deemed to be in a room separate from the barroom. It is my finding that such "Package Store", within the meaning, intendment and purpose of P.L. 1948, c. 98, was upon a portion of the licensed premises other than the public barroom. The respondent licensee complied with the requirements of State Regulations No. 32. The action of the respondent Board will be affirmed.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Board in granting the "broad package privilege" to the respondent Joseph Chrone be and the same is hereby affirmed, and the appeal be and the same is hereby dismissed.

ERWIN B. HOCK  
Director.

3. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND RAHNN.

UNION COUNTY RETAIL LIQUOR )  
STORES ASSOCIATION, )

Appellant, )

-vs- )

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY OF )  
ELIZABETH, and WILLIAM A. RAHNN, )

Respondents. )

ON APPEAL  
CONCLUSIONS AND ORDER

Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
Sidney Simandl, Esq., Attorney for Respondent William A. Rahnn.

BY THE DIRECTOR:

This is an appeal from the action of respondent Municipal Board in granting "broad package privileges" to respondent William A. Rahnn.

The evidence herein discloses that the licensed premises at 701-703 East Jersey Street, Elizabeth, contain three rooms which are separated by partitions containing passageways permitting free access from one part of the licensed premises to any other part. One of these rooms, which is designated as the public barroom, has an entrance at the corner of East Jersey Street and 7th Street. The second room, designated on the sketch as "A", is located to the rear of the barroom and contains a small cabinet in which bottled liquor is displayed. The third room, which is designated on the sketch as "B", has a separate entrance on East Jersey Street. This room contains tables and chairs, but there are cabinets containing bottled liquor in each of two windows facing on East Jersey Street. Patrons entering room "B" may purchase package goods without entering the barroom. In the

event that such a sale is made, the liquor is taken from either of the window cabinets.

P. L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that, prior to May 28, 1948, Room "B" was not in a portion of the barroom and that alcoholic beverages were sold in Room "B". Thus, the question remaining for determination is whether or not alcoholic beverages were "displayed for sale" in Room "B" prior to that date.

P. L. 1948, c. 98 is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

There were no wall shelves, in Room "B", for displaying alcoholic beverages and, obviously, the two display cabinets in the windows of the room did not give that room the character and appearance of an extensive package store establishment. The appellant, however, adduced no evidence to disprove the testimony that alcoholic beverages were in fact "displayed for sale" in Room "B". It is my finding that, within the meaning, intent and purpose of P.L. 1948, c. 98, alcoholic beverages were sold and displayed for sale upon a portion of the licensed premises other than the public barroom. The respondent licensee complied with the requirements of State Regulations No. 32. The action of the respondent Board will be affirmed.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Board in granting the "broad package privileges" to the respondent William A. Rahnn be and the same is hereby affirmed, and the appeal be and the same is hereby dismissed.

ERWIN B. HOCK  
Director.

4. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND NEABOR.

UNION COUNTY RETAIL LIQUOR )  
STORES ASSOCIATION, )  
Appellant, )  
-vs- ) ON APPEAL  
MUNICIPAL BOARD OF ALCOHOLIC ) CONCLUSIONS AND ORDER  
BEVERAGE CONTROL OF THE CITY OF )  
ELIZABETH, and WILLIAM F. NEABOR, )  
Respondents.)  
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Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
Sidney Simandl, Esq., Attorney for Respondent William F. Neabor.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondent William F. Neabor.

The evidence herein discloses that the licensed premises at 401 East Jersey Street, Elizabeth, consist of a public barroom, a separate room to the rear thereof which is designated as "Package Goods Dept." and a third room which is designated as a back room. The three rooms are separated by partitions, reaching from floor to ceiling, with doorways between. There are two entrances to the licensed premises - one entrance leading to the public barroom and the other entrance leading through a vestibule to the "Package Goods Dept."

P. L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that the partitioning was effected and that alcoholic beverages were sold and displayed for sale in the "Package Goods Dept." for a year prior to May 28, 1948. Thus, the question remaining for determination is whether or not such "Package Goods Dept." was "upon a portion of the licensed premises other than the public barroom".

P. L. 1948, c. 98 is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide

that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

I believe that the "Package Goods Dept." here under consideration must be deemed to be a room separate from the barroom. It is my finding that such "Package Goods Dept.", within the meaning, intentment and purpose of P.L. 1948, c. 98, was upon a portion of the licensed premises other than the public barroom. The respondent licensee complied with the requirements of State Regulations No. 32. The action of the respondent Board will be affirmed.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Board in granting the "broad package privilege" to the respondent William F. Neabor be and the same is hereby affirmed, and the appeal be and the same is hereby dismissed.

ERWIN B. HOCK  
Director.

5. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND KOCKELMANN.

UNION COUNTY RETAIL LIQUOR )  
STORES ASSOCIATION, )  
 )  
Appellant, )  
 )  
-vs- )  
 )  
MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY OF )  
ELIZABETH, and ADAM KOCKELMANN, )  
 )  
Respondents. )

ON APPEAL  
CONCLUSIONS AND ORDER

----- )  
Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
Sidney Simandl, Esq., Attorney for Respondent Adam Kockelmann.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondent Adam Kockelmann. The license in question has been transferred since the hearing to Frederick Knopp for the same premises.

The evidence herein discloses that the licensed premises at 819-821 East Jersey Street, Elizabeth, consist of two principal rooms, with a doorway between. One room, with an entrance at 819 East Jersey Street, is the public barroom. The other room, with a separate entrance at 821 East Jersey Street, contains tables and chairs, and two shelves, along the walls, on which bottled liquor is displayed. Connected with this room is a small "storage" room with shelves holding bottled liquor.

P.L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:



"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that alcoholic beverages were sold and displayed for sale in the rooms at 821 East Jersey Street prior to May 28, 1948. Thus, the question remaining for determination is whether or not such room was "upon a portion of the licensed premises other than the public barroom".

P. L. 1948, c. 98 is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

I believe that the room at 821 East Jersey Street, here under consideration, must be deemed a room separate from the barroom. It is my finding that such room, within the meaning, intendment and purpose of P.L. 1948, c. 98, was upon a portion of the licensed premises other than the public barroom. The action of the respondent Board will be affirmed. The respondent licensee complied with the requirements of State Regulations No. 32.

Accordingly, it is, on this 17th day of March, 1949;

ORDERED that the action of the respondent Board in granting the "broad package privilege" to the respondent Adam Kockelmann be and the same is hereby affirmed, and the appeal be and the same is hereby dismissed.

ERWIN B. HOCK  
Director.

6. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND ZACK.

UNION COUNTY RETAIL LIQUOR )  
STORES ASSOCIATION, )  
Appellant, )  
-vs- )  
MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY )  
OF ELIZABETH, and JEROME J. ZACK, )  
Respondents.)

ON APPEAL  
CONCLUSIONS AND ORDER

Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
Sidney Simandl, Esq., Attorney for Respondent Jerome J. Zack.  
Samuel Moskowitz, Esq., Attorney for New Jersey Retail Liquor  
Stores Association.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondent Jerome J. Zack.

The evidence herein discloses that the licensed premises at 901 Magnolia Avenue, Elizabeth, consist of two rooms separated by a partition. The front room clearly appears to be a public barroom. The rear room, in which some tables are located, has a rear entrance. In the rear room additional partitions have been erected, setting off a section designated as "Package Goods Department". This department contains shelves on which bottled goods are displayed. There is no entrance from the street to the "Package Goods Department" but a patron may enter the "Package Goods Department" through either of two doors, one of which opens into the public barroom and the other of which opens into the rear room.

P. L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that alcoholic beverages were sold and displayed for sale in the "Package Goods Department" prior to May 28, 1948. Thus, the question remaining for determination is whether or not such "Package Goods Department" was "upon a portion of the licensed premises other than the public barroom".

P.L. 1948, c. 98 is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

I believe that the "Package Goods Department" here under consideration must be deemed to be in a room separate from the barroom. It is my finding that such "Package Goods Department", within the meaning, intent and purpose of P.L. 1948, c. 98, was upon a portion of the licensed premises other than the public barroom. The respondent licensee complied with the requirements of State Regulations No. 32. The action of the respondent Board will be affirmed.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Board in granting the "broad package privilege" to the respondent Jerome J. Zack be and the same is hereby affirmed, and the appeal be and the same is hereby dismissed.

ERWIN B. HOCK  
Director.

7. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND STEVENS.

UNION COUNTY RETAIL LIQUOR  
STORES ASSOCIATION,

Appellant,

-vs-

MUNICIPAL BOARD OF ALCOHOLIC  
BEVERAGE CONTROL OF THE CITY OF  
ELIZABETH and JOSEPH P. STEVENS,

Respondents.

ON APPEAL  
CONCLUSIONS AND ORDER

Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
John L. McGuire, Esq., Attorney for Respondent Joseph P. Stevens.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondent Joseph P. Stevens.

The evidence herein discloses that the licensed premises (400 Magnolia Avenue) consist of a barroom and a large other room, adjoining the barroom, which is designated as "Package Department" and to which there is a separate entrance directly from the street.

P.L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that alcoholic beverages were sold and displayed for sale in the "Package Department" prior to May 28, 1948. Thus, the question remaining for determination is whether or not such "Package Department" was "upon a portion of the licensed premises other than the public barroom".

P.L. 1948, c. 98 is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.). Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

I believe that the "Package Department" here under consideration must be deemed to be a room separate from the barroom. It is my finding that such "Package Department", within the meaning, intent and purpose of P.L. 1948, c. 98, was upon a portion of the licensed premises other than the public barroom. The respondent licensee complied with the requirements of State Regulations No. 32. The action of the respondent Board will be affirmed.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Board in granting the "broad package privilege" to the respondent Joseph P. Stevens be and the same is hereby affirmed, and the appeal be and the same is hereby dismissed.

ERWIN B. HOCK  
Director.

8. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. LINDEN AND CAGGIANO.

UNION COUNTY RETAIL LIQUOR  
STORES ASSOCIATION,

Appellant,

-vs-

MUNICIPAL BOARD OF ALCOHOLIC  
BEVERAGE CONTROL OF THE CITY OF  
LINDEN, and FRANK CAGGIANO and  
LOUISE CAGGIANO, t/a CAGGY'S TAVERN,

Respondents.

ON APPEAL  
CONCLUSIONS AND ORDER

Julius R. Pollatschek, Esq., Attorney for Appellant.  
Lewis Winetsky, Esq., Attorney for Respondent Municipal Board.  
Sidney Simandl, Esq. and Stephen Orlando, Esq., Attorneys for  
Respondents Frank Caggiano and Louise Caggiano.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondents Frank Caggiano and Louise Caggiano.

The evidence herein discloses that the licensed premises at 114 West Elizabeth Avenue, Linden, consisted of a public barroom and a section which had been partitioned off from the public barroom and designated as "liquor store". A plywood partition, nine feet six inches long and four feet from the window space and extending part way to the ceiling, was erected behind one of the front windows of the barroom. In this area, which is designated as "liquor store", bottled alcoholic beverages were displayed on shelves erected on the partition and in the window. There was no entrance from the street to the "liquor store". A patron might purchase package goods by entering the "liquor store" through an opening between the partition and the front window.

P.L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that alcoholic beverages were sold and displayed for sale in the so-called "liquor store" prior to May 28, 1948. Thus, the question remaining for determination is whether or not such "liquor store" was "upon a portion of the licensed premises other than the public barroom".

P.L. 1948, c. 98, is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R.S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

I believe that the "liquor store" here under consideration was in a portion of the barroom. It is my finding that such "liquor store", within the meaning, intendment and purpose of P.L. 1948, c. 98, was not upon a portion of the licensed premises other than the public barroom. The action of the respondent Board will, therefore, be reversed.

Subsequent to the hearing held herein, the license in question was transferred by respondent Municipal Board from 114 West Elizabeth Avenue to 100 East Elizabeth Avenue, Linden. Since, in this proceeding, the action of respondent Board in granting the "broad package privilege" will be reversed, and the notation on the license certificate, pursuant to Rule 4 of State Regulations No. 32, will be deleted, it follows that, hereafter, respondents Frank Caggiano and Louise Caggiano may sell package goods only from the public barroom of their licensed premises at 100 East Elizabeth Avenue, Linden.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Municipal Board in granting the "broad package privileges" to the respondents Frank Caggiano and Louise Caggiano, t/a Caggy's Tavern, be and the same is hereby reversed.

ERWIN B. HOCK  
Director.

9. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND HRABAR.

UNION COUNTY RETAIL LIQUOR  
STORES ASSOCIATION,

Appellant,

-vs-

MUNICIPAL BOARD OF ALCOHOLIC  
BEVERAGE CONTROL OF THE CITY OF  
ELIZABETH, and JOHN HRABAR,  
t/a THE ROOST,

Respondents.

ON APPEAL  
CONCLUSIONS AND ORDER

Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
Jacob L. Triarsi, Esq., Attorney for Respondent John Hrabar.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondent John Hrabar.

The evidence herein discloses that the licensed premises (154 First Street) consist of a barroom in the rear of which is a shelved section, designated as "Package Department", where bottled liquor has been displayed for a number of years. Early in May 1948, partitions, extending to a height of approximately four feet (the testimony states "waist high"), were erected around a portion of this "Package Department". There is an opening in the partition of approximately six feet. There is a front door leading directly to the bar. There is also a side door. A patron entering through the side door may, by turning left, proceed to the "Package Department" but such patron may, by turning right and without passing through any further aperture, proceed directly to the bar; and, similarly, a patron who has entered by the front door or who stands at the bar may proceed to, and find himself in, the "Package Department" without passing through any aperture.

P.L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant does not deny that alcoholic beverages were sold and displayed for sale in the "Package Department" prior to May 28, 1948. Thus, the sole question for determination is whether or not such "Package Department" was "upon a portion of the licensed premises other than the public barroom".

P. L. 1948, c. 98, is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

At the hearing herein the respondent John Hrabar was asked: "If you were to stand behind the counter set up in your so-called liquor store and look to the front of the licensed premises, what part of the premises could you observe?" Mr. Hrabar answered: "The bar, also the front of the tavern." When asked: "Could you see the bar?", he answered: "Well, you could over that partition; the partition is not sufficiently high enough to obstruct the bar."

I believe that the "Package Department" here under consideration was in a portion of the barroom, despite the side door and despite the improvised, low partitions which were erected shortly before the May 28th deadline. It is my finding that such "Package Department", within the meaning, intendment and purpose of P.L. 1948, c. 98, was not upon a portion of the licensed premises other than the public barroom. The action of the respondent Board will, therefore, be reversed.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Municipal Board in granting the "broad package privileges" to the respondent John Hrabar, t/a The Roost, be and the same is hereby reversed.

ERWIN B. HOCK  
Director.



10. APPELLATE DECISIONS.- UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND WHELAN.

UNION COUNTY RETAIL LIQUOR  
STORES ASSOCIATION,

Appellant,

-vs-

MUNICIPAL BOARD OF ALCOHOLIC  
BEVERAGE CONTROL OF THE CITY OF  
ELIZABETH and EDWARD JOSEPH WHELAN,  
trading as WHELAN'S 901 CLUB,

Respondents.)

ON APPEAL  
CONCLUSIONS AND ORDER

Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
Sidney Simandl, Esq., Attorney for Respondent Edward Joseph Whelan.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondent Edward Joseph Whelan.

The evidence herein discloses that the licensed premises at 901 Flora Street, Elizabeth, consist of a public barroom in the rear of which is a small shelved area behind a partition several feet high, that area being designated as "Package Department". There are two entrances to the licensed premises. A main entrance leads to the front portion of the barroom; a side entrance to the barroom leads to the "Package Department". Adjoining the side entrance is a window containing a display of package goods and a sign bearing the words "Liquor Store". A patron entering the side entrance would walk through the rear part of the barroom before reaching the "Package Department".

P.L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that alcoholic beverages were sold and displayed for sale in the "Package Department" prior to May 28, 1948. Thus, the question remaining for determination is whether or not such "Package Department" was "upon a portion of the licensed premises other than the public barroom".

P.L. 1948, c. 98, is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

I believe that the "Package Department" here under consideration was in a portion of the barroom. It is my finding that such "Package Department", within the meaning, intendment and purpose of P. L. 1948, c. 98, was not upon a portion of the licensed premises other than the public barroom. The action of the respondent Board will, therefore, be reversed.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Municipal Board in granting the "broad package privileges" to the respondent Edward Joseph Whelan, t/a Whelan's 901 Club, be and the same is hereby reversed.

ERWIN B. HOCK  
Director.

11. APPELLATE DECISIONS -- UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND HIGGINS.

UNION COUNTY RETAIL LIQUOR )  
STORES ASSOCIATION, )

Appellant, )

-vs- )

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY OF )  
ELIZABETH, and JOHN F. HIGGINS, )

Respondents. )

ON APPEAL  
CONCLUSIONS AND ORDER

-----)  
Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
Nathan Reibel, Esq., Attorney for Respondent John F. Higgins.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondent John F. Higgins.

The evidence herein discloses that the licensed premises at 401 Magnolia Avenue, Elizabeth, consist of a public barroom with an entrance on Magnolia Avenue, and a back room with an entrance on Fourth Street. The back room contains tables and chairs, a piano and a music box, but there are no shelves, or cabinets, or any other of the customary and proper appliances for display of bottled liquor. The respondent licensee testified that he displays bottles "right in the boxes", or on a "couple of tables", but in the photograph of the room submitted to the respondent Board, and in evidence herein, no bottles are visible.

The licensee testified that for many years he has been selling package goods in the back room to those who use the Fourth Street

entrance. Indicative of the "back room's" nature and use (as shown by a photograph, introduced in evidence, of the back room taken from a point in the barroom) is a sign reading "COUPLES ONLY".

P.L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that alcoholic beverages were sold in the back room of the licensed premises prior to May 28, 1948; and it appears from the evidence that the back room was not a portion of the public barroom. Thus, the question remaining for determination is whether or not there was the statutorily required "display for sale" of alcoholic beverages in original containers for off-premises consumption.

P.L. 1948, c. 98, is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

It is my finding that within the meaning, intendment and purpose of P.L. 1948, c. 98, alcoholic beverages in original containers for off-premises consumption were not here displayed for sale, upon a portion of the licensed premises other than the public barroom, prior to May 28, 1948. The action of the respondent Board will, therefore, be reversed.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Municipal Board in granting the "broad package privileges" to the respondent John F. Higgins be and the same is hereby reversed.

ERWIN B. HOCK  
Director.

12. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND KOSTY AND RUTKOWSKI.

UNION COUNTY RETAIL LIQUOR  
STORES ASSOCIATION,  
  
Appellant,  
  
-vs-  
  
MUNICIPAL BOARD OF ALCOHOLIC  
BEVERAGE CONTROL OF THE CITY OF  
ELIZABETH, and STEPHEN KOSTY and  
EMIL RUTKOWSKI, t/a TWIN CITY  
TAVERN,  
  
Respondents.

ON APPEAL  
CONCLUSIONS AND ORDER

Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
Sidney Simandl, Esq., Attorney for Respondents Kosty and Rutkowski.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondents Stephen Kosty and Emil Rutkowski.

The evidence herein discloses that the licensed premises at 741 Edgar Road, Elizabeth, consisted of a public barroom, with an area, behind a partition, designated as "Package Department" and containing shelves holding bottles of liquor. The partition appeared to consist of solid boards to a height of approximately four feet, and lattice work extending to a height of about three feet above the solid boards and to within several feet of the ceiling. In a window located in the "package department" there was a display of liquor which was visible from the street. There was no entrance from the street to the "package department". A patron in the licensed premises might purchase package goods through an opening in the partition.

P.L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that alcoholic beverages were sold and displayed for sale in the "Package Department" prior to May 28, 1948. Thus, the question remaining for determination is whether or not such "Package Department" was "upon a portion of the licensed premises other than the public barroom".

P.L. 1948, c. 98 is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

I believe that the "Package Department" here under consideration was in a portion of the barroom. It is my finding that such "Package Department", within the meaning, intendment and purpose of P.L. 1948, c. 98, was not upon a portion of the licensed premises other than the public barroom. The action of the respondent Board will, therefore, be reversed.

Subsequent to the hearing held herein, the license in question was transferred by respondent Municipal Board to 727 Edgar Road, Elizabeth. Since, in this proceeding, the action of respondent Board in granting the "broad package privilege" will be reversed and the notation on the license certificate, pursuant to Rule 4 of State Regulations No. 32, will be deleted, it follows that, hereafter, respondents Stephen Kosty and Emil Rutkowski may sell package goods only from the public barroom of their licensed premises at 727 Edgar Road, Elizabeth.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Municipal Board in granting the "broad package privileges" to the respondents Stephen Kosty and Emil Rutkowski, t/a Twin City Tavern, be and the same is hereby reversed.

ERWIN B. HOCK  
Director.

13. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND MANNION.

UNION COUNTY RETAIL LIQUOR  
STORES ASSOCIATION,

Appellant,

-vs-

MUNICIPAL BOARD OF ALCOHOLIC  
BEVERAGE CONTROL OF THE CITY OF  
ELIZABETH, and FRANK G. and  
MARGARET E. MANNION, t/a SHAMROCK  
BAR,

Respondents.

ON APPEAL  
CONCLUSIONS AND ORDER

Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
Sidney Simandl, Esq., Attorney for Respondents Frank G. and  
Margaret E. Mannion.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondents Frank G. and Margaret E. Mannion.

The evidence herein discloses that the licensed premises at 12 South Broad Street, Elizabeth, had been conducted for the past seven or eight years in the same manner in which they are presently conducted. The public bar, except as to the entrances thereto at either end, runs the full length of the premises. It appears that over the approximate center of the bar is a wooden crosspiece, about eighteen inches wide and several feet from the ceiling, extending from the wall behind the bar to the opposite wall. Connecting with this crosspiece and extending to the floor is a wooden partition which apparently runs to the wall opposite the bar and which commences at a point several feet from the front of the bar. Along the wall behind one-half of the bar are shelves containing bottles of liquor. This area has been designated as a "Package Department". It appears that there are two entrance doors to the licensed premises, one at each end. Thus a patron may enter through the door near the bottle display and purchase package goods without passing beneath the crosspiece which is over the bar, i.e., without being upon that part of the premises wherein no bottles are displayed. But the bartender may move freely from one end of the bar to the other and serve drinks over the entire bar. Similarly, since the indicated partition does not extend to the bar but, instead, commences several feet from the front thereof, patrons may move freely from one end of the bar to the other and stand and drink at any point along the bar.

P. L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used

to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that alcoholic beverages were sold and displayed for sale in the "Package Department" prior to May 28, 1948. Thus, the question remaining for determination is whether or not such "Package Department" was "upon a portion of the licensed premises other than the public barroom".

P.L. 1948, c. 98, is entitled "AN ACT...supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

I believe that the "Package Department" here under consideration was in a portion of the barroom. It is my finding that such "Package Department", within the meaning, intent and purpose of P.L. 1948, c. 98, was not upon a portion of the licensed premises other than the public barroom. The action of the respondent Board will, therefore, be reversed.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Municipal Board in granting the "broad package privileges" to the respondents Frank G. and Margaret E. Mannion, t/a Shamrock Bar, be and the same is hereby reversed.

ERWIN B. HOCK  
Director.

14. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND TEN PIN BAR, INC. (Case #1)

Case No. 1

UNION COUNTY RETAIL LIQUOR )  
STORES ASSOCIATION, )

Appellant, )

-vs- )

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY OF )  
ELIZABETH, and TEN PIN BAR, INC., )

Respondents. )

ON APPEAL  
CONCLUSIONS AND ORDER

Julius R. Pollatschek, Esq., Attorney for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.  
Jacob L. Triarsi, Esq., Attorney for Respondent Ten Pin Bar, Inc.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Municipal Board in granting "broad package privileges" to the respondent Ten Pin Bar, Inc.

The evidence herein discloses that the licensed premises at 10-12 Center Street, Elizabeth, consisted of bowling alleys, and a public barroom at one end of which was a small, shelved, closet-like area designated as "Package Department". There was no entrance from the street to the "Package Department".

P.L. 1948, c. 98, became effective, upon approval by the Governor, on May 28, 1948. Section 1 of that act reads:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner."

The appellant introduced no evidence to offset evidence herein that alcoholic beverages were sold and displayed for sale in the "Package Department" prior to May 28, 1948. Thus, the question remaining for determination is whether or not such "Package Department" was "upon a portion of the licensed premises other than the public barroom".

P.L. 1948, c. 98, is entitled "AN ACT....supplementing Chapter one of Title 33 of the Revised Statutes". The act's direct, applicable supplementation is of R. S. 33:1-12(1) and 33:1-12(2) which provide that a retail consumption license entitles the holder "to sell any alcoholic beverages for consumption on the licensed



premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises". (Underscoring added.) Manifestly, the supplement's purpose is one of restriction of the consumption license's broad package privilege. And the supplement's exceptive proviso must be taken in harmony and rational connection with the act's general purpose, considered in its entirety.

At the hearing herein the respondent licensee's bartender was asked: "If a patron stands before your bar and desires to purchase a bottle of liquor to take out do you sell it to him over the bar or do you direct him to the package department?" The bartender answered: "I leave the bar and I direct him to the package department. There's enough room for two people in there, no more."

It is my finding that this so-called "Package Department", within the meaning, intendment and purpose of P.L. 1948, c. 98, was not upon a portion of the licensed premises other than the public bar-room. The action of the respondent Board will, therefore, be reversed.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the action of the respondent Municipal Board in granting the "broad package privileges" to the respondent Ten Pin Bar, Inc., be and the same is hereby reversed.

ERWIN B. HOCK  
Director.

15. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION  
v. ELIZABETH AND TEN PIN BAR, INC. (Case #2)

Case No. 2

UNION COUNTY RETAIL LIQUOR )  
STORES ASSOCIATION, )

Appellant, )

-vs- )

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY OF )  
ELIZABETH, and TEN PIN BAR, INC., )

Respondents. )

ON APPEAL  
CONCLUSIONS AND ORDER

Julius R. Pollatschek, Esq., Attorney for Appellant.

Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.

Jacob L. Triarsi, Esq., Attorney for Respondent Ten Pin Bar, Inc.

BY THE DIRECTOR:

Subsequent to the hearing in the prior appeal between the same parties, decided herewith, the licensed premises at 10-12 Center Street were wholly destroyed by fire. On January 25, 1949, respondent Board duly transferred the plenary retail consumption license, with "broad package privilege", held by respondent Ten Pin Bar, Inc., from 10-12 Center Street to 706½ Elizabeth Avenue, Elizabeth. The petition of appeal herein seeks, among other things, an order by the Director requiring the respondent Board to delete the "broad package privilege" from the license in the event the granting of said privilege is reversed in the prior appeal.

The only theory upon which respondent Ten Pin Bar, Inc. can sell alcoholic beverages in original containers for off-premises consumption in any portion of the licensed premises other than the public barroom at 706½ Elizabeth Avenue is that the "broad package privilege" was granted for 10-12 Center Street and continued in effect at 706½ Elizabeth Avenue upon the transfer of the license. P.L. 1948, c. 98, provides in effect that the privilege shall continue "notwithstanding renewal or transfer of the license either from person to person or place to place". Thus, if the action of respondent Board had been affirmed in the prior appeal, the "broad package privilege" could be exercised at 706½ Elizabeth Avenue. Since, however, the action of respondent Board has been reversed in the prior appeal, the "broad package privilege" must be deleted from the license. It follows that the licensee may hereafter sell package goods only in the public barroom of premises at 706½ Elizabeth Avenue.

Accordingly, it is, on this 17th day of March, 1949,

ORDERED that the notation made pursuant to Rule 4 of State Regulations No. 32 on the face of the license certificate be deleted forthwith by respondent Board from the license certificate issued to Ten Pin Bar, Inc., for premises 10-12 Center Street and transferred to 706½ Elizabeth Avenue.

ERWIN B. HOCK  
Director.

16. STATE LICENSES - NEW APPLICATIONS FILED.

Merchants Refrigerating Company  
106-114 Avenue "C"  
Newark, N. J.

Application for Public Warehouse License filed March 18, 1949.

Harrison Motor Freight  
140 Central Ave.  
Hillside, N. J.

Application for Transportation License filed March 22, 1949.

Famous Brands, Inc. (holder of State Beverage Distributor's License  
SBD-150)

140 - 8th St.

Jersey City, N. J.

Application for additional warehouse at 384 Warren Street,  
Jersey City, N. J., filed March 23, 1949.

*Erwin B. Hock*  
Director.