

COMMISSIONER BURNETT
SENT TO REGULAR MAILING LIST

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

BULLETIN NUMBER 94

November 7, 1935.

1. AGE, RESIDENCE, CITIZENSHIP PERMITS - MORAL TURPITUDE -
FACTS EXAMINED - CONCLUSIONS.

September 10, 1935

RE: Application for A. R. C. Permit - Case No. 9

Application was filed for Age, Residence, Citizenship permit pursuant to the provisions of P. L. 1935, c. 257. The Questionnaire set forth that the applicant had been convicted of the crime of "receiving". Notice was served upon him to show cause why his application should not be denied on the ground that he had been convicted of a crime involving moral turpitude, and hearing was duly held.

From the evidence it appears that the applicant was convicted in a County Court in New York State in 1926 on an indictment charging robbery, first degree, and receiving stolen goods. Subsequently, in the year 1929, said County Court set aside the conviction for robbery and the applicant was re-sentenced to from ten (10) to twenty (20) years for receiving stolen goods. Thereafter he actually served seven and one-half (7½) years in prison.

The crime of receiving stolen goods involves moral turpitude (In re Thompson, 37 Cal. Appeals 344, 174 Pac. 86; In re Kirby, 10 So. Dak., 322, 39 LRA 856).

It is recommended that the application for A. R. C. Permit be denied.

EDWARD J. DORTON,
Attorney-in-Chief

Approved:

D. FREDERICK BURNETT
Commissioner

2. SOLICITORS' PERMITS - MORAL TURPITUDE - FACTS EXAMINED -
CONCLUSIONS

October 26, 1935.

RE: Application for Solicitor's Permit - Case No. 19.

Application was filed for Solicitor's Permit pursuant to the provisions of P. L. 1935, c. 256. Our investigation disclosed that the applicant in 1924 pleaded guilty to possession of liquor in violation of the National Prohibition Act and was sentenced to pay a fine of \$350.00. Our investigation also disclosed a criminal record against a person with a name similar to that of applicant. This criminal record sets forth that in 1924 said person was convicted in Wilmington, Delaware, for non-support; that in 1932 he was arrested in Newark, N. J., as a fugitive from

New Jersey State Library

justice (crime desertion) and was extradited to Wilmington, Delaware, where he was again sentenced to one year for non-support. The criminal record also disclosed that said person was arrested in 1934 in Wilmington, Delaware, for the crime of larceny.

Notice was served upon the applicant to show cause why his application should not be denied on the ground that he had been convicted of crimes involving moral turpitude and hearing was duly held.

At the hearing applicant admitted the conviction for possession of liquor in the year 1924. He testified that he had been operating a small store in Newark, N. J., selling near-beer, cigars and soda; that he had been in business only a few weeks before he was arrested for the illegal possession of liquor and that he went out of business immediately thereafter. This conviction alone does not involve moral turpitude.

The testimony at the hearing also disclosed that applicant had never been in the State of Delaware; that he was married to his present wife in 1917 and has lived with her in the State of New Jersey since that time. From this testimony it appears that the criminal record set forth above is not the criminal record of the present applicant.

It is recommended that the application for solicitor's permit be granted.

EDWARD J. DORTON
Attorney-in-Chief

APPROVED:

D. FREDERICK BURNETT
Commissioner

3. LICENSEES - DISPENSATION OF ALCOHOLIC BEVERAGES - NOT PERMISSIBLE FROM A FLOAT IN A HALLOWE'EN PARADE.

October 30, 1935.

TO: COMMISSIONER BURNETT:

FROM: M. J. Shapiro.

I received a telephone inquiry this morning from Julius Rosenberg, Esq., an attorney located at 23-25 Broadway, Camden, as to whether a retail licensee who plans to enter a float in a Hallowe'en parade may mount a keg of beer thereon and distribute the beer free of charge to the public directly from the float during the parade.

May I have your ruling on this inquiry?

Respectfully submitted,

MORTIMER J. SHAPIRO
Attorney

October 30, 1935.

MORTIMER J. SHAPIRO:

The application is denied.

Licensees will mind their own knitting and confine their business to the licensed premises.

The legitimate dispensation of beer is not to be debauched by any such proceeding.

D. FREDERICK BURNETT
Commissioner

4. LICENSEES - EMPLOYMENT OF MINORS - FATHER AND CHILD ACT.

October 30, 1935.

MR. BURNETT:

Mr. Einziger of the Monmouth Wine and Liquor Co., Broad and East Front Streets, Keyport, the holder of plenary retail consumption license No. 1, wants to know if he may employ on his licensed premises on October 30, 31 and November 1 and 2, a father and child act. The child, supposedly a mind-reading prodigy, is seven years old. He claims that he employs the father and that the child is merely in the father's employ. Re O'Gorman, Bulletin 82, item 16, holds that permits to employ minors are required for all persons under the control of the licensee and subject to him as master and that such permits are not required of persons not under the control of the licensee or subject to him as master.

MAURICE E. ASH
Senior Inspector.

October 30, 1935.

MR. ASH:

The application is denied.

A saloon is no place for any seven year old child. I shall not tolerate the employment of any infant of such tender age upon any licensed premises. For that purpose, irrespective of any previous rulings, I shall control the father, the child and the licensee.

D. FREDERICK BURNETT
Commissioner

5. APPELLATE DECISIONS - RETAIL LIQUOR DISTRIBUTORS vs. HELRICK -
MODIFICATION OF ORDER

Retail Liquor Distributors)	
Association of Atlantic City,)	
a corporation of New Jersey,)	
)	
Appellant,)	
)	
-vs-)	On Petition
)	
Board of Commissioners of the)	<u>ORDER</u>
City of Atlantic City and Abe)	
Helrick,)	
)	
Respondents.)	
)	

A petition, verified by the licensee, Abe Helrick, and consented to by the City Solicitor of Atlantic City, has been filed, alleging that the petitioner is desirous of opening a restaurant at #1324 Pacific Avenue, Atlantic City, and that application for transfer to such premises of his present license for premises located at #1326 Pacific Avenue, Atlantic City, has been duly filed, together with transfer fee; that if the applicant is compelled to refrain from doing business pending consideration of this application by the Board of Commissioners of Atlantic City, the good will which he has built up will be dissipated; and praying that the order of reversal be suspended pending determination of his application for transfer of license.

In Retail Liquor Distributors Association vs. Repetti, Bulletin #89, Item #12, the Commissioner suspended an order of reversal to permit the licensee to convert his premises into a delicatessen, thereby effecting compliance with the provisions of the Control Act. No good cause appears why similar relief should not be allowed in the instant case. The licensee obtained his license from the issuing authority in good faith and without intent to circumvent the law. Upon being advised of the Commissioner's determination, he ceased selling alcoholic beverages and applied for a transfer of license. Continuance of the present prohibition against sales of alcoholic beverages pending action on his application will result in economic loss to the licensee and will serve no useful purpose.

Accordingly, it is, therefore, on this 30th day of October, 1935,

ORDERED that the order of reversal herein, entered on the 20th day of September, 1935, be and the same hereby is suspended, and shall take effect on November 8th, 1935, provided that such reversal will be vacated and the appeal herein dismissed upon proof satisfactory to the Commissioner being furnished prior to said effective date that the license has been duly transferred in accordance with law to premises located at #1324 Pacific Avenue, Atlantic City, New Jersey, and to be conducted as a restaurant.

D. FREDERICK BURNETT
Commissioner

6. APPELLATE DECISIONS - RETAIL LIQUOR DISTRIBUTORS vs. BURG - WHEN SPECIAL PERMIT MAY ISSUE.

Retail Liquor Distributors)	
Association of Atlantic City,)	
a corporation of New Jersey,)	
)	
Appellant,)	
)	
-vs-)	On Petition
)	
Board of Commissioners of the)	<u>CONCLUSIONS</u>
City of Atlantic City and Leo)	
Burg,)	
)	
Respondents.)	
)	

A petition, verified by the licensee, Leo Burg, and consented to by the City Solicitor of Atlantic City, has been filed, alleging that the petitioner is desirous of altering his premises to the end that a store will be built separate and distinct from the premises where his delicatessen business is conducted; that application for a plenary retail distribution license, accompanied by proper license fee, has been duly filed with the respondent, Board of Commissioners of the City of Atlantic City; that if the applicant is compelled to refrain from doing business pending consideration of this application by the Board of Commissioners of Atlantic City, the good will which he has built up will be dissipated; and praying that the order of reversal be suspended pending determination of his application for a license.

The licensee obtained his license from the issuing authority in good faith and without intent to circumvent the law. Upon being advised of the Commissioner's determination, he ceased selling alcoholic beverages, commenced alterations and filed application for a new license for separate premises. Continuance of the present prohibition against sales of alcoholic beverages pending action on his application will result in economic loss to the licensee and will serve no useful purpose. Unlike Retail Liquor Distributors Association vs. Repetti, Bulletin #89, Item #12, the applicant will not ultimately sell alcoholic beverages pursuant to the license originally issued to him and in premises meeting the requirements of section 13(1). Instead, he desires to do business ultimately under an entirely new license at different premises.

Consequently, the reversal may not be suspended and ultimately vacated as was done in the Repetti case. However, a special permit will be granted to the applicant, upon payment of \$10.00 permit fee, authorizing the sale of alcoholic beverages for consumption off the licensed premises, pending determination of his application for a retail distribution license by the Board of Commissioners of Atlantic City on November 7, 1935.

D. FREDERICK BURNETT
Commissioner

Dated: October 30, 1935.

7. REVOCATION PROCEEDINGS - RULE 4 CONCERNING LICENSEES AND USE OF LICENSED PREMISES - WHEN PROPER.

October 24, 1935.

Municipal Board of Alcoholic Beverage Control,
City Hall,
Newark, N. J.

Gentlemen: attention: Harry Reichenstein, Secretary

You are aware, of course, of last night's tragedy at Palace Tavern, Park Street, Newark, License 819-C issued to Jack Freedman and Louis Rosenthal.

My inspectors report that the Dutch Schultz mob had been eating at that tavern every night at least as far back as Saturday, the 19th; that the practice was to allow Schultz and one of his bodyguards to occupy the rear room; that the door was then closed and his other two bodyguards sat in front of the door in the barroom; that persons wishing to be served in the back room were told that a private party was being held there; that Jack Freedman, co-owner and also bartender admits that he knew who Schultz was; that Schultz had been a patron of the establishment for two weeks past; that the waiter and cook knew Schultz as a patron for a period of two weeks, and each had received generous gratuities from him; that Schultz made use of this back room twice a day.

I direct that you institute forthwith proceedings to ~~revoke~~ the Palace Tavern License for violation of the rules concerning conduct of licensees and the use of licensed premises, viz.: Rule 4:

"No licensee shall allow, permit or suffer in or upon the licensed premises any known criminals, gangsters, racketeers, pick-pockets, swindlers, confidence men, prostitutes, female impersonators, or other persons of ill-repute."

I urge that you immediately contact and utilize the full police resources of the City to gather and develop such other facts as may support the charge.

Herewith is a copy of the report (original to the Prosecutor) of Chief Inspector Sydney B. White who heard the firing at 10.17 p.m. and, noting that it involved a licensed premise, rushed to the tavern, called the police and ambulance, and gathered first-hand information, which I hope will be of help to you. Note particularly his statement that, lying in front of Otto Berman, were several account sheets showing race track and other gambling transactions and personal loans totaling many hundreds of thousands of dollars which papers were seized by him in manner to preserve to develop latent fingerprints and delivered to the Newark Police Department.

My men are still working on the case and I will transmit to you by messenger as I do this letter all further facts which may be of help to you.

Very truly yours,
D. FREDERICK BURNETT
Commissioner

P.S.: Mr. White telephones that Bernard Rosencrantz, one of the bodyguards, had an Essex County Deputy Sheriff's badge in his possession, Shield #76.

8. REVOCATION PROCEEDINGS - RULE 4 CONCERNING LICENSEES AND THE USE OF LICENSED PREMISES - WHEN NOT PROPER.

UNITED STATES DISTRICT COURT

District of New Jersey

Chambers of
Judge ClarkNewark, N.J.
October 29, 1935.Hon. D. Frederick Burnett
State Alcohol Commissioner
744 Broad Street,
Newark, N. J.

Dear Commissioner:

I have observed your prompt and effective action in closing the tavern where Schultz was shot. As you know, my mind has been officially directed towards the circumstances of his presence in New Jersey. I have been wondering, therefore, what you or some other official could and should do about the Robert Treat Hotel. The newspapers reported that he and his companions were living there openly. If that is true I think some action is indicated. Clearly guests in a hotel do not expect the entertainment afforded by gang massacre.

I have made some cursory examination of the law applicable. You are more familiar, of course, with your powers under the Alcoholic Beverage Control Act than I am. As I gather it, your most effective power lies in revocation for violation of your own regulations, the Act itself being pretty general. I have not a copy of those regulations and do not know whether they cover the presence on licensed premises of persons known to the owners thereof to have criminal records. Further I am not familiar with the current legal interpretation of the words "licensed premises" of the Act, so I am not certain whether or not the presence of said ex-convicts in parts of the hotel other than the bar comes under your jurisdiction.

Quite apart from your power to revoke the "plenary consumption license". I have been wondering about the power of the local authorities. Although the statute (New Jersey Compiled Statutes, Part 3, section 186, pages 3501-2) permits it, my examination of the city ordinances (confirmed by city authorities) indicates to my amazement that there is no ordinance licensing or regulating (except as to sanitary matters) hotels, even though there is, mirabile dictu, an ordinance requiring a license to practice phrenology (ordinance, March 13, 1919). Furthermore, the only ordinance prohibiting and punishing the gathering of disorderly persons specifies houses, shops, and stores and omits inns (ordinance, April 25, 1918). The statutes of the State are similarly silent.

Fortunately, however, the public does not seem unprotected. You are, I am sure, familiar with the ancient and famous case of State v. Williams (30 N.J.L. p. 102--1862). There the Supreme Court upheld an indictment for keeping a disorderly house and Chief Justice Whelpley in an eloquent passage laid down the common law doctrine. He said:

"Any place of public resort, whether an inn, a dwelling house, a storehouse, or any other building, or garden, is a public nuisance, in which illegal practices are habitually carried on, or when it becomes the habitual resort of thieves, drunkards, prostitutes, or other idle, vicious, and disorderly persons, who gather together there for the purpose of gratifying their own depraved appetites, or to make it a rendezvous where plans may be concocted for depredations upon society, and disturbing either its peace or its rights of property.

"Such collections of persons can have no other effect than to debauch and deprave the public morals, although they may be quiet and orderly places, so far as mere noise and confusion is concerned; although the most scrupulous cleanliness may be observed, and they may be magnificent in ornament, and luxurious in their provisions for mere sensual gratifications, they are notable nuisances at common law, because they are nocumtenti, nuisances, that is, injurious to the public health, public quiet, or public morals".
(at. p. 104)

This case has been many times approved (cf. State v. Martin, 77 N. J. L., p. 632).

As there can be no question but that Schultz and his companions come within the category of "idle, vicious, and disorderly persons" prescribed by these cases, it is my judgment that the persons concerned in the management of the Robert Treat Hotel are certainly subject to investigation.

As you will remember, an actual massacre took place in the Elizabeth Cartaret Hotel in Elizabeth in April, 1935. I have never heard that anything was done to investigate or punish the proprietors. It is time, I think, that our New Jersey hotels be forced to exercise a little more discrimination in the acceptance of guests.

I quite realize that action against the Robert Treat Hotel may injure innocent bondholders. The public interest must, of course, be paramount to that of those who have invested in what may be an enterprise managed inconsistently with such interest. As a matter of fact, the bondholders will be ultimately benefited by any exposure and correction of the conditions outlined.

I am sending a copy of this letter to the Prosecutor.

Yours sincerely,

WILLIAM CLARK

October 30, 1935.

Dear Judge Clark:

Thanks for yours of the 29th.

I carefully considered this matter on October 24th at the time I directed revocation proceedings against the Palace Tavern.

If there had been any cause against the Hotel, the same course would have been pursued. I found, however, that the two situations were radically different.

The jurisdiction of this Department is grounded on Rule 4 Concerning Conduct of Licensees and the Use of Licensed Premises, reading:

"No licensee shall allow, permit or suffer in or upon the licensed premises any known criminals, gangsters, racketeers, pick-pockets, swindlers, confidence men, prostitutes, female impersonators, or other persons of ill-repute."

I concluded that similar proceedings would not be warranted against the Hotel for the following reasons:

(1) The reports of Sydney B. White, Inspector-in-Chief, of October 24th and 29th (copies enclosed) do not show any prima facie violation of the Rule or connivance in harboring racketeers or damning knowledge. I will not be swept off my feet in the natural hysteria arising from the gang massacre to make charges against anyone unless convinced there is, at least a prima facie case. Bona fide licensees are as much entitled to protection as the guilty to prosecution. Hindsight was ever better than foresight, but to judge one's conduct fairly, we must put ourselves in his place at the time it occurred.

(2) I have no jurisdiction except over "the licensed premises" which are described in the application of the Hotel as "Coffee Room on lower floor - Main Dining Room on main floor - Ball Room". Hence, under the license issued (1) no alcoholic beverages could be sold in any rooms, except those specified; (2) The hotel as such is not part of the licensed premises. The staff reports do not show that, at any time, the dead racketeers congregated upon or were sold any beverages on the licensed premises.

(3) There is a substantial distinction between taverns and saloons on the one side and hotels on the other. A tavern is under no obligation to serve anyone. A hotel is bound to afford lodging to the public. It is not my function to regulate the conduct of hotels apart from sale of alcoholic beverages until, at least, it first appears that such conduct is inseparably involved with or so closely related to the operation of the licensed premises that there is fair ground to extend and exercise my jurisdiction, in which case I will not hesitate to act instantly.

If any facts, additional or contrary to those reported by my men, come to your attention which warrant revocation proceedings, I will welcome their immediate transmission.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

9. MUNICIPAL ORDINANCES - ISSUANCE OF PLENARY RETAIL CONSUMPTION LICENSES TO HOTELS AND RESTAURANTS EXCLUSIVELY APPROVED - ISSUANCE OF PLENARY RETAIL DISTRIBUTION LICENSES TO HOTELS AND RESTAURANTS EXCLUSIVELY DISAPPROVED.

October 30th, 1935.

Mr. George H. Hubbard,
Borough Clerk;
Woodcliff Lake, New Jersey.

Dear Sir:

I have before me for consideration the resolution passed by your Borough Council fixing plenary retail consumption and distribution license fees and regulating the sale of alcoholic beverages.

Section 6 provides: "that a plenary retail consumption distribution license shall be issued for the sale of alcohol beverages only in a hotel, inn or restaurant, and in no other place."

Section 7 provides: "That before any applicant shall become entitled to a license it must be established to the entire satisfaction of the governing body that the premises to be licensed is a bona fide hotel, or inn, or restaurant and not merely a place for the sale of alcohol beverages."

I take it that Section 6 is intended to apply both to plenary retail consumption and plenary retail distribution licenses. There is no license called a "plenary retail consumption distribution". Presumably you have inadvertently omitted the conjunctive "or" which would make the section read "Plenary retail consumption or distribution license".

Now Section 2 of this resolution fixes fees for two classes of licenses, to wit: plenary retail consumption and plenary retail distribution. Each of the succeeding resolutions, that of June 11, 1934 and that of May 13, 1935 do likewise. This express statement, to my mind, evidences the willingness of the Council to issue upon proper application both classes of licenses. Otherwise there would be no point in stating them and fixing fees therefor.

Sections 6 and 7, as worded, limit the issuance of either plenary retail consumption or plenary retail distribution licenses to hotels, inns or restaurants. I have heretofore approved municipal regulations and affirmed municipal policies confining plenary retail consumption licenses to hotels and restaurants. See Di Bono vs. Bridgeton, Bulletin #30, item 9, and Zuch vs. Wayne, Bulletin #73, item 7. To that extent, yours also are approved. But the restriction of plenary retail distribution licenses to hotels, inns or restaurants raises another question.

I do not think that the keeping of a hotel or restaurant is a proper criterion by which to measure the qualifications of applicants for distribution licenses. Consumption and distribution licenses serve distinctly different purposes. The former is intended principally to license sales of alcoholic beverages for consumption on the licensed premises; sales in

original containers for consumption off the licensed premises, while they may constitute a substantial part of the business, are merely incidental when the relative importance of the privileges conferred is considered. The latter is expressly for the purpose of selling alcoholic beverages in original containers for consumption off the licensed premises, which sales may be allowed in conjunction with the conduct of other mercantile businesses or may be required to be conducted upon premises, often called "package goods stores", selling alcoholic beverages exclusively. The statute confers upon your Borough Council the power to exercise, by ordinance, this option or to go even farther and to prohibit, by ordinance, the issuance of plenary retail distribution licenses entirely.

Perhaps the Borough Council has substantial reasons for the regulation of which I am not presently aware. If so, I would like to know them. But as they now stand Sections 6 and 7, so far as they limit the issuance of plenary retail distribution licenses to hotels, inns or restaurants, are disapproved.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

10. GENERAL NOTICE - ELECTION LAW RULES - ALL LICENSEES - CHIEFS OF POLICE

November 2, 1935.

TO ALL LICENSEES, CHIEFS OF POLICE AND ENFORCEMENT OFFICIALS:

The Rules provide:

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

Tuesday, November 5, 1935, is Election Day. The polls are open from 7 a.m. to 8 p.m.

Honest licensees will cooperate, not only by closing their own places tight as in the past, but also by reporting cheating competitors.

Unless we can assure a sober election by strict enforcement of a simple rule, we cannot hope to cope with the graver phases of the present challenge to society. The way to begin is to begin. The full help of the police is asked.

D. FREDERICK BURNETT
Commissioner

11. ELECTION DAYS - GIFTS OF LIQUOR BY CANDIDATES FOR POLITICAL OFFICE.

November 5, 1935.

Mr. Shapiro,
Hotel Newarker,
Newark, N.J.

Dear Sir:

I have your telephone inquiry of today forwarded by Mr. Garrett of my staff, requesting special permission to give away beer at a Democratic rendezvous at the above hotel.

So far as the Alcoholic Beverage Law is concerned, there is nothing to prevent an out and out gift at any time, providing the transaction is really bona fide.

But what about the Corrupt Practices Act?

Very truly yours,
D. FREDERICK BURNETT
Commissioner

12. REFUNDS - FORM - ON DENIAL OF APPLICATION TO EMPLOY PERSONS WHO FAIL TO QUALIFY AS TO AGE OR RESIDENCE OR CITIZENSHIP.

August 20, 1935

Refunds to be made upon the denial or withdrawal of applications for Permits to Employ Persons who fail to qualify as to Age or Residence or Citizenship will in form be as follows:

"Refund granted pursuant to rules and regulations re Permits to Employ Persons Who Fail to Qualify As to Age or Residence or Citizenship promulgated by the State Commissioner of Alcoholic Beverage Control on Aug. 20, 1935 under authority conferred by C. 256, P.L. 1935 supplementing C. 436, P.L. 1933 (Bulletin , item)

Application for Permit to Employ Persons Who Fail to Qualify as to Age or Residence or Citizenship made (date)

Application denied (or withdrawn)
(date)

Fee paid (date	\$1.00	
Less service charge	<u>.50</u>	
Refund		\$.50"

ERWIN B. HOCK
Deputy Commissioner

APPROVED

D. FREDERICK BURNETT
Commissioner

13. MUNICIPAL RECORDERS' COURTS - JURISDICTION OVER LIQUOR CASES.

October 18, 1935.

Hon. William A. Closter,
Recorder,
Borough of Florham Park, N. J.

Dear Sir:

Pursuant to the Commissioner's letter to you of October 3d, I have considered your inquiry as to the extent of your jurisdiction to hear liquor cases.

Clearly, you have authority to take a complaint for violation of any section of the Control Act and hold the defendant for the Grand Jury the same as in any other criminal case.

On the question of your right to try a defendant upon waiver of indictment and trial by jury, reference must be made to the statutory provisions pertaining to your Court. P.L. 1931, c.92, p. 156, provides that in boroughs having a population of over 1000 the Recorder may try all cases of assault, simple assault and battery, etc. "and also other criminal offenses, the penalty for which does not exceed a fine of \$100. or imprisonment for a term not exceeding six months *** provided the person or persons charged with any such offense shall, in writing, waive indictment and trial by jury". Aside from cases arising under section 47, violators of the Control Act as amended and supplemented, may not be tried in your court since the maximum penalties which may be imposed are in excess of the foregoing.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

By: Nathan L. Jacobs
Chief Deputy Commissioner
and Counsel

14. RULES GOVERNING SIGNS AND OTHER ADVERTISING MATTER - EXTERIOR SIGNS READING "SCHLITZ GRILL" PROHIBITED IF ERECTED AFTER PASSAGE OF CONTROL ACT.

October 19, 1935.

Mr. Joseph F. Kilpatrick,
Pleasantville, N. J.

Dear Sir:-

Rule #2 of the rules governing signs and other advertising matter prohibits the display on the exterior of the licensed premises of any sign or other advertising matter bearing the name, brand or trade-mark of any manufacturer or wholesaler of any alcoholic beverages. It is designed mainly to aid in the elimination of the "tied house" and its attendant abuses.

Your inquiry is whether the regulation prohibits the display of your sign reading "Schlitz Grill". If you operated your place of business under this trade name and displayed the sign in question previous to the adoption of the Control Act on

December 6, 1933, it would be unfair to require its present removal. However, if the sign was first displayed after the adoption of the Control Act, different considerations apply. Licensees erecting signs after the passage of the Control Act did so at their peril and with knowledge that they might be affected by subsequent regulations. No one connected with your establishment bears the name "Schlitz" and your trade name would universally be taken to refer to Schlitz beer. Its continued maintenance would be in direct conflict with the purpose of rule #2.

Accordingly, it is the ruling of the Commissioner that in the event your sign reading "Schlitz Grill" was erected on the exterior of your licensed premises after the passage of the Control Act on December 6, 1933, it may not be maintained under the provisions of the rules governing signs and other advertising matter.

Very truly yours,

D. FREDERICK BURNETT
Commissioner.

By: Nathan L. Jacobs,
Chief Deputy Commissioner
and Counsel.

15. ALIENS - WHEN NOT EXCLUDED FROM PRIVILEGES UNDER THE CONTROL ACT -
TREATY PROVISIONS

MEMO TO: E. B. HOCK

Please refer to my memorandum of October 10th
(Bulletin #92, Item #7).

The Secretary of State advises that the provisions of the treaties with Great Britain, Irish Free State and Italy should be interpreted, notwithstanding differences in phraseology, in the same manner as were the treaties with Germany and Japan. See Bulletin #24, Item #5; Bulletin #84, Item #15. He further advises that the treaty with Great Britain covers nationals of Scotland, but does not apply to nationals of Canada.

In view of the foregoing interpretations by the Secretary of State, you are hereby advised that alien nationals from the following countries are protected by treaty provisions and may not, therefore, be excluded from obtaining licenses or being employed by licensees solely on the ground that they are such aliens:

Argentina,
Austria,
Belgium
Bolivia
Borneo
China
Colombia
Costa Rica
Danzig
Denmark
Egypt
El Salvador
Estonia
Ethiopia

Great Britain, including nationals
of Scotland and other British
territory in Europe, but not in-
cluding nationals of British
territory not in Europe, such
as Canada
Honduras
Hungary
Irish Free State
Italy
Japan
Latvia
Liberia
Norway

Finland
Germany

Paraguay
Poland
Siam
Spain
Switzerland
Turkey
Yugoslavia

In order to effectuate its policy in favor of the engagement of citizens of this country in the alcoholic beverage industry, and to avoid evasions by use of the corporate device, section 22 of the Control Act provides that no license of any class shall be issued to a corporation where the holder of 10% or more of its stock shall fail to qualify as an individual applicant. This provision, however, was not intended to have any application to situations where the stockholder would qualify, whether as a result of a treaty provision or otherwise, as an individual applicant. Accordingly, it is the Commissioner's ruling that aliens from the countries listed above, qualifying as individual licensees under treaty provisions, may hold stock in corporate licensees.

Dated: November 4, 1935.

NATHAN L. JACOBS
Counsel

16. LIQUOR TRADE ASSOCIATIONS - POLITICS - OFFICIAL ENDORSEMENT OF POLITICAL CANDIDACIES IS NOT AGAINST THE LETTER BUT IS AGAINST THE SPIRIT OF THE CONTROL ACT.

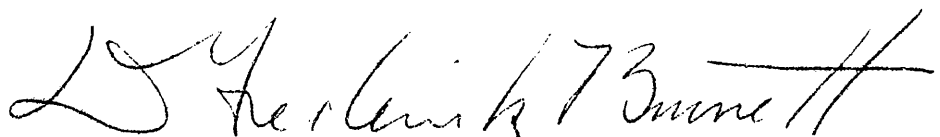
November 5, 1935.

I am in receipt of letter inquiring whether a declaration by a tavern owners association in favor of a political candidate violates the alcoholic beverage control act.

It does not.

BUT, although there is nothing to prohibit it in the letter of the law, it is against the spirit of the act as it has been administered.

True, everyone has a right to vote for whom he chooses and to join with others and to organize their votes. But it is deplorable shortsightedness for any organization of liquor dealers, as such, to enter politics. History shows that the public will resent this. So too, I believe the great body of right thinking liquor dealers themselves will resent the inference that their votes can be bartered and delivered.



Commissioner

New Jersey State Liquor