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REPORT ON ALCOHOLIC BEVERAGE
CONTROL & TAXATION.

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REPORT

ON

Alcoholic Beverage Control and Taxation

*prepared and
submitted by*

THE ALCOHOLIC BEVERAGE COMMISSION

THOMAS N. McCARTER
Chairman

TO THE ONE HUNDRED AND FIFTY-SEVENTH LEGISLATURE
OF THE STATE OF NEW JERSEY

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November 20, 1933.

*To the Senate and General Assembly of
the State of New Jersey:*

Pursuant to the direction of the Commission created by Joint Resolution to investigate, inquire into and report concerning proposed legislation for the regulation and taxation of traffic in alcoholic beverages, I herewith transmit to your honorable bodies the report of the said Commission, together with a draft of proposed statutes to carry out the provisions recommended in said report.

Very truly yours,

THOMAS N. McCARTER,
Chairman,
Alcoholic Beverage Commission.

REPORT

November 20, 1933.

*To the Senate and General Assembly of
the State of New Jersey:*

On the 9th day of October, 1933, the following Joint Resolution was passed by the Legislature and signed by the Acting Governor:

"BE IT RESOLVED by the Senate and General Assembly of the State of New Jersey:

1. There is hereby created a commission to investigate, inquire into and report concerning proposed legislation for the regulation and taxation of traffic in alcoholic beverages. Said commission shall consist of seven citizens of the State, to be appointed by the Governor.
2. The said commission shall organize by the selection of a chairman and secretary, and is authorized to obtain from the Attorney-General such assistance as may be necessary.
3. The said commission shall embody its recommendations in a report to be submitted to the Legislature on November fourteenth, one thousand nine hundred and thirty-three.
4. There is hereby appropriated the sum of five thousand dollars (\$5,000.00) for the expenses of said commission.
5. This resolution shall take effect immediately."

And on the same day the Acting Governor appointed the following Commission:

Dr. Robert C. Clothier, New Brunswick
Dr. Harvey N. Davis, Hoboken
Wm. C. Heppenheimer, Jr., Jersey City
Dr. Andrew F. McBride, Paterson
Thomas N. McCarter, Newark
Mrs. Reeve Schley, Far Hills
Col. H. Norman Schwarzkopf, Trenton

On Tuesday, the 17th day of October, the members of the Commission were summoned to Trenton by the Governor for purposes of organization. The Commission organized by the election of Thomas N. McCarter as Chairman; Dr. Andrew F. McBride as Vice-Chairman, and Frank J. Davis as Secretary, and immediately thereafter commenced to hold meetings in connection with the performance of its duties. These meetings have been held frequently and as often as the other engagements of the commissioners would admit. There have been in all eight (8) meetings. On Thursday, October 26th, the Commission held an all-day public hearing in the Public Service Auditorium, 80 Park Place, Newark, notice of which hearing was given the widest publicity in all the newspapers of the State. The hearing was attended by eighty-three persons. Those present included some who represented themselves only; others represented various organizations and thus spoke for considerable numbers of people. One member of the Assembly and one municipal official attended. The Commission feels constrained to record its disappointment at the relatively small number who attended this hearing upon a subject of such vital consequence to all the people of the State, and especially that there were not more municipal officials suf-

ficiently interested in the matter to aid the Commission with their views.

The Commission has gone about its labors with a deep realization of the seriousness of the problem entrusted to it and with a determination to perform so far as has been within its power in the time allotted a piece of constructive work for the benefit of the State. It has been greatly handicapped by the shortness of the time within which it can function. It quickly found that it would be impossible to make its report upon November 14th, the date mentioned in the Resolution, but was equally determined that the report must be filed as soon as possible thereafter in order that the Legislature might have time to act on or before December 5th, when it is anticipated that the repeal of the Eighteenth Amendment will have been consummated.

The underlying purpose of the Commission has been to recognize that within a short time some form of the liquor industry would be legal, and it has been the aim of the members of the Commission to so harmonize their various views upon this most difficult subject as to enable the Commission to recommend some kind of legislation that would be in the interest of true temperance. To that end we have set up a plan which if enacted into law and carried out according to its true intent by the officials entrusted with the operation thereof will make relatively easy the sale and consumption of beer, ale and natural light or fermented wines; and make relatively difficult the sale and consumption of distilled liquors and fortified or treated wines. We have provided for the issuance of licenses by State authority for brewers of beer and ales and for the manufacturers of fermented wines, and for the distribution thereof at moderate rates. And we have provided for the issuance of retail licenses for the sale thereof by reputable concerns at li-

cense fees of \$100, reserving, however, to the governing body of a municipality in which the licensed place is located the right either to lower this license fee to a minimum of \$50 or to raise it to a maximum of \$200, as the character of the locality, the population, the density thereof, and various other factors are considered. Said licenses to be issued to taverns, hotels, restaurants and clubs, for consumption upon the premises; with provision for the issuance of licenses for the sale of these articles by reputable concerns not for consumption on the premises. We have provided for the issuance of licenses by State authority to distillers and manufacturers of fortified wines. And then we have likewise provided for the issuance of retail licenses of an all-inclusive character; that is to say, for the sale not only of beers, ales and fermented wines, but for distilled liquors and fortified or treated wines at much higher rates, the license fee being \$1,000, reserving also to the governing body of a municipality in which the licensed place is located the right either to lower this license fee to a minimum of \$500 or to raise it to a maximum of \$1,500, depending upon similar conditions to those hereinabove set forth in reference to licenses for beers, ales and fermented wines. Here again we have provided for licenses for the sale of these articles by reputable concerns not for consumption on the premises. It is part of our plan that all these retail license fees shall inure to the benefit of the municipality within which the licensed place is located. The brewers' or manufacturers' license fee and the distributor license fee will inure to the benefit of the State at large. We also recommend the imposition of an excise tax of $3\frac{1}{3}\text{¢}$ per gallon for beers and ales; and 10¢ per gallon for naturally fermented wines, to accrue to the benefit of the State; and 40¢ per gallon for all other wines, and \$1.00 per gallon for

distilled and all other liquors, likewise to accrue to the benefit of the State. In the fixing of these various excise taxes and elastic license fees, our first thought has been to recommend amounts that would not result in prohibitive prices to the consumer and thus encourage the continuation of bootlegging and speakeasies. We are not unmindful of the desirability of revenue from this business for the benefit of the State and the municipalities, but we believe revenue to be secondary in importance as compared with the destruction of bootlegging, racketeering and speak-easies. We have also provided for the licensing of dining-cars and boats.

We have been very careful in our recommendation as to the setting up of local boards of alcoholic beverage control, entrusted with the power to grant retail licenses of any kind. In every case we recommend a board to consist of three persons, not more than two of whom shall belong to the same political party, and at least one of whom shall be a woman. We provide that in municipalities having a population of forty thousand or more there shall be a municipal board of alcoholic beverage control, to be appointed by the Mayor of such municipality. And that as to all other municipalities, there shall be set up in each county a county board of alcoholic beverage control, consisting of three persons, as above set forth, to be appointed in each case by the Justice of the Supreme Court presiding over the circuit in which the particular county is located. The retail licenses are in the first instance to be granted by these local boards, but they do not become fully effective until approved as hereinafter set forth. We have provided for the creation of a State Department of Alcoholic Beverage Control, with an executive and administrative head consisting of a single person known as the Commissioner,

to be appointed by the Governor, by and with the advice of the Senate, for a term of seven years, at a compensation of \$15,000 per year. We recommend that this Commissioner be given the most important powers, such as the approval of all licenses issued by the local boards; the right to revoke the same; and in extreme cases the right to grant licenses where the local board has in the Commissioner's judgment arbitrarily or improperly refused to grant a license.

The said Commissioner should also have the power to prescribe in detail the conditions surrounding the legalized sale of liquor, such as, for example, the proper identification of all persons engaged in the business; the prohibition of screens; back-rooms; family entrances; sale of liquor to minors; the hours during which it shall be lawful or unlawful to dispense any kind of liquor on weekdays and Sundays where not prohibited; and all other rules and regulations legitimately concerned with the operation of this business. We have thought it best to clothe the Commissioner with these powers rather than attempt to set them all out in a statute. We have reached this conclusion because we are of the opinion that, as in almost every other walk of life, experience will be the best teacher.

We have not attempted to limit the sale of liquor in licensed places to any particular building with a certain number of rooms in it, or to any restaurant equipped to serve a certain number of people, because we are of the opinion that these distinctions are illusory and while they may actually exist at the time the license is granted they become a dead letter thereafter. We feel that the success or failure of the plan that we have set up will very largely depend upon the personnel of the local boards and their responsiveness to public sentiment in their respective localities; and even more especially to the personnel, to the

integrity and to the underlying purpose of temperance to be possessed and practiced by the State Department of Alcoholic Beverage Control. We have, in addition, provided the machinery whereby the people of any municipality who desire to forbid the issuance of either or both kind of licenses within the bounds of such municipality may by popular vote so determine, with the qualification that in any such municipality, notwithstanding such license prohibition, it shall be lawful to deliver liquors from licensed localities to the homes of residents for their personal use, but under no circumstances for sale. We have further provided similar machinery whereby the people of any municipality may by popular vote prohibit the sale of beers, ales and fermented wines, and of distilled liquors and fortified wines, on Sunday.

Submitted herewith and made a part hereof are drafts of three acts which we think, taken collectively, embody the foregoing recommendations. The first act covers the subject generally and provides for the machinery and administration of liquor control. The second act relates to the taxation of liquors; and the third act repeals all hitherto existing legislation inconsistent with the plan recommended, our object being so far as possible to make the new proposed legislation comprehensive of the whole subject. The drafts of bills submitted herewith embody in concrete form the general ideas above set forth and are, we believe, in shape for immediate adoption if it so please the Legislature. The basic plan of the Commission is properly set out and we ask indulgence for whatever relatively inconsequential errors may appear.

We do not feel that we are possessed of complete wisdom in our recommendations, made after so short a study, upon a subject that has rocked the world for ages, but we do feel that we have produced a well-balanced plan with which the

State may safely begin anew a rigid control over what should hereafter be a legitimate and not an outcast industry, and that it is a plan which while probably not satisfactory to extremists is one that we hope will meet with general approval. Furthermore, it will easily lend itself to amendment for purposes of improvement as experience thereunder may indicate to be wise.

The Commission desires to make acknowledgment of the assistance rendered by Mayor LaBarre of Trenton; Assemblyman McCampbell, of Monmouth County; and all others who participated in the public hearing; to those who have communicated with it in writing, and to Commissioner Mulrooney, of New York, and Dean Gauss, of Princeton, who personally appeared before the Commission and gave us the benefit of their judgment and experience. The Commission has had the co-operation and assistance of J. H. Thayer Martin, State Tax Commissioner, and is under a special obligation to Judge George W. Grimm, Jr., of the Beverage License Tax Division of the State Tax Department, for his invaluable assistance; to certain members of the clerical force of the New Jersey State Police and to the State Tax Department for their tireless efforts; to the Commission on Revision and Consolidation of the Public Statutes; to D. Frederick Burnett, whom the Commission employed as its counsel, and to the Secretary of the Commission.

ALCOHOLIC BEVERAGE COMMISSION OF
NEW JERSEY,

By THOMAS N. McCARTER, *Chairman*
ROBERT C. CLOTHIER
HARVEY N. DAVIS
WM. C. HEPPENHEIMER, JR.
ANDREW F. McBRIDE
KATE PRENTICE SCHLEY
H. NORMAN SCHWARZKOPF