

Commissioner Burnett
Sent to Regular Mailing List

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

BULLETIN NUMBER 103

January 24, 1936.

1. LICENSES - PLENARY RETAIL CONSUMPTION LICENSE MAY NOT BE
CONVERTED INTO PLENARY RETAIL DISTRIBUTION LICENSE

December 21, 1935

Thomas E. Duffy, Esq.,
Passaic, N. J.

Dear Sir:

Your inquiry as to whether a plenary retail consumption license may be converted into a plenary retail distribution license has been carefully considered.

The Control Act sets forth the various methods of dealing with the license. Thus, a license may be suspended or revoked; it may be voluntarily surrendered pursuant to Section 28; and it may be transferred pursuant to Section 23. Nowhere in the Act is there any express provision authorizing the conversion of a license into a different type of license. In Bulletin #97, Item #3, the Commissioner ruled that a plenary wholesale license could be converted into a plenary export wholesale license upon payment of the additional prorated fee. This ruling, however, was based upon the fact that both types of licensees could sell alcoholic beverages in identical manner pursuant to their licenses. The conversion was sought solely because the licensee desired to avail himself of a tax exemption afforded by the Beverage Tax Act to export wholesalers.

Plenary retail consumption licenses and plenary retail distribution licenses, however, are not substantially identical. They afford different privileges and are separately treated throughout the Act. No sufficient cause appears for implying authority to convert such licenses. Cf. Bulletin #45, Item #6.

It is the ruling of the Commissioner that plenary retail consumption licenses may not be converted into plenary retail distribution licenses.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

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

New Jersey State Library

2. PROHIBITED INTEREST IN RETAIL LICENSE - BREWERY OFFICER
MAY NOT ACQUIRE AND HOLD MORTGAGE ON LICENSED RETAIL ESTABLISH-
MENT

Gentlemen:

We should like to have your ruling on the following question:

A Company holds a fifty per cent stock ownership interest in B Company. B Company is engaged in the manufacture and sale of malt alcoholic beverages and is duly licensed by your Department.

A Company owns a certain piece of improved real estate in the City of Newark, title to which it acquired prior to December 6, 1933. There is conducted on the premises a tavern in which neither A nor B have any interest except that hereinabove set forth. The premises in question are subject to a mortgage held by a local bank, which mortgage was executed and delivered prior to December 6, 1933.

The bank has recently notified A Company that it considers the security inadequate and has requested that the debt (which is now past due) be either discharged or amortized in accordance with a plan submitted by the bank.

X, who is an officer of both A and B companies, conceives that the mortgage in its present amount is adequately secured by the property and represents a good investment. He contemplates, therefore, paying the mortgagee the amount presently due on the mortgage and taking an assignment thereof to himself.

Is this contemplated transaction in violation of the provisions of Section 40 of the Control Act?

We might add that the action of X is contemplated in utmost good faith; that he is not acting as an alter-ego for either A or B Company; that this mortgage, when and if assigned to him, will belong absolutely to him and will continue to be held by him as a personal investment of his own.

Very truly yours,

LINDABURY, STEELMAN, ZINK & LAFFERTY

January 4, 1936.

Lindabury, Steelman, Zink & Lafferty, Esqs.,
Newark, N. J.

Gentlemen:

The transaction outlined in your letter involves the purchase by an officer of a brewery of a mortgage on premises operated as a licensed establishment. Section 40

expressly prohibits an officer of a brewery from being interested directly or indirectly in the retailing of alcoholic beverages. The Commissioner has heretofore ruled that a mortgage constitutes such prohibited interest. See Bulletin #55, Item #12.

It may be suggested that the proposed transaction falls within the protection of the proviso contained in section 40. This proviso was intended to afford brewers an opportunity to liquidate their ownership of buildings operated as retail establishments. The contemplated transaction comes neither within its letter nor its purpose.

It is the Commissioner's ruling that acquisition of the mortgage under the circumstances outlined in your letter would constitute a prohibited interest under the Control Act.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

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

3. WAREHOUSE RECEIPTS LICENSE - RULES GOVERNING WAREHOUSE RECEIPTS LICENSES NOT APPLICABLE TO ISSUANCE OF RECEIPTS BY OPERATOR OF WAREHOUSE

Dear Commissioner: Re: The American Distilling Company

Our above client is the holder of the following New Jersey licenses:

Rectifier & Blender License
Plenary Export Wholesale License
Public Warehouse License

Said client's attention has been called to Section 73 of the Control Act, as amended June 8, 1935, requiring a Warehouse Receipts License to engage in the sale of receipts, certificates, contracts or other documents given upon the storage of alcoholic beverages. In the course of its business the American Distilling Company has occasion to sell its products, which are stored either in bulk or otherwise in its United States Bonded Warehouse operated in conjunction with the Hoboken plant. Customers do not always require immediate delivery of products purchased, and in such event a negotiable warehouse receipt is issued by our client evidencing the sale of alcoholic beverages stored in its said warehouse.

We have been called upon to request that you favor us with a ruling indicating whether or not, under the circumstances above outlined, it is in your opinion necessary for The American Distilling Company to make application for a Warehouse Receipts License.

Thanking you for your courtesy in this regard, we remain

Very truly yours,

McDERMOTT, ENRIGHT & CARPENTER

January 9, 1936.

McDermott, Enright & Carpenter, Esqs.,
Jersey City, N. J.

Gentlemen: Re: American Distilling Company

Section 73 of the Control Act provides that liquor warehouse receipts may not be sold except pursuant to a warehouse receipts license. It does not refer to the issuance of warehouse receipts as distinguished from the sale thereof. Consequently, when the American Distilling Company, the holder of a rectified and blender license, sells alcoholic beverages stored in its government bonded warehouse, and issues warehouse receipts to the purchaser of the alcoholic beverages, it is not violating the provisions of section 73. In the event the receipts are thereafter sold, this section is operative in so far as such sales are concerned.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

By: Nathan L. Jacobs
Chief Deputy Commissioner
and Counsel

4. MUNICIPAL LICENSE FEES AND TAXES - THE ACTUAL FIGURES.

January 15, 1936.

Herewith Schedule showing municipal receipts for retail alcoholic beverage license fees for the first six months of the current fiscal year, complete to January 1, 1936.

As these license fees are normally paid at the beginning of the fiscal year, the total for the half year represents the great bulk of the fees that will be so collected.

These license fees of four million dollars odd are, of course, in addition to the state license fees and income of this Department, which, for the same period, amounted to \$520,945.22, and to state taxes on alcoholic beverages, which, for the same period amounted to \$3,484,264.54.

Taxes, unlike license fees, accrue month by month. The total state taxes on alcoholic beverages for the calendar year 1935 reached the sum of \$6,341,182.61 against \$4,698,616.88 for the calendar year 1934 or an increase of \$1,642,565.73.

D. FREDERICK BURNETT
Commissioner

NUMBER OF MUNICIPAL ALCOHOLIC BEVERAGE LICENSES ISSUED AND AMOUNT OF FEES PAID FOR SUCH LICENSES FOR THE PERIOD-JULY 1, 1935 TO JAN. 1, 1936, AS PER CERTIFICATIONS RECEIVED FROM THE ISSUING AUTHORITIES

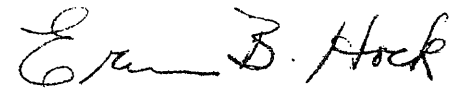
BULLETIN NUMBER 103

SHEET #5

County	CLASSIFICATION OF LICENSES										No. Surrendered Expired	No. Licenses in Effect 1/1/36	Total Fees Paid
	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption				
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	458	\$ 172,982.12	37	\$ 14,331.11	14	\$ 935.00	13	\$ 575.00	5	\$ 498.96	5	522	\$ 189,322.19
Bergen	765	250,812.31	205	48,561.21	45	3,834.60	50	2,316.65	7	1,106.25	24	1,048	306,631.52
Burlington	167	51,773.22	16	3,281.45	20	2,095.08	1	25.00	0		0	204	57,174.75
Camden	445	172,056.02	42	14,228.50	53	4,572.56	0		2	216.82	3	539	191,073.90
Cape May	121	42,265.30	9	3,073.70	3	300.00	0		0		5	128	45,639.00
Cumberland	84	25,592.52	9	1,550.00	21	2,139.05	0		0		0	114	29,281.57
Essex	1,449	728,911.09	269	125,240.84	79	10,538.84	40	2,027.36	3	1,262.10	6	1,834	867,980.23
Gloucester	113	31,479.91	9	1,175.00	5	240.42	0		3	450.00	3	127	33,345.33
Hudson	1,675	689,329.88	224	90,883.15	48	5,456.23	98	4,011.44	1	262.50	12	2,034	789,280.02
Hunterdon	73	18,608.39	1	200.00	1	160.00	0		0		1	74	18,968.39
Mercer	440	162,034.27	30	5,764.45	56	4,764.79	0		0		0	506	172,563.51
Middlesex	567	221,299.43	26	7,843.45	37	3,450.00	2	100.00	5	785.47	8	629	233,478.35
Monmouth	456	179,825.90	70	18,332.87	30	3,214.25	12	510.00	17	4,373.22	20	565	206,256.24
Morris	306	91,341.12	61	15,200.00	25	1,859.78	1	35.00	13	1,894.55	19	387	110,330.44
Ocean	118	56,802.62	24	8,760.00	6	600.00	7	255.50	25	6,199.00	26	154	72,617.12
Passaic	888	336,539.92	86	24,118.76	27	3,515.00	26	1,225.00	5	975.00	6	1,026	366,373.68
Salem	51	16,221.67	3	425.00	5	300.00	0		1	66.64	1	59	17,013.31
Somerset	174	58,452.65	19	4,273.73	10	731.24	1	30.00	0		0	204	63,492.62
Sussex	127	29,149.60	7	1,153.00	5	260.00	0		2	233.36	3	138	30,795.96
Union	552	271,241.39	103	36,500.00	64	6,940.84	19	875.00	1	184.03	2	737	315,741.26
Warren	131	37,122.79	8	1,446.00	15	1,770.00	2	85.00	2	281.25	3	155	40,705.04
TOTALS	9,160	\$3,643,842.61	1,258	\$426,347.22	549	\$57,677.68	272	\$12,070.95	92	\$18,789.15	147	11,184	\$4,158,727.61

D. FREDERICK BURNETT, Commissioner:

Herewith report complete for the six months period July 1st, 1935 to Jan. 1st, 1936.

Respectfully submitted,

 Deputy Commissioner

5. SOLICITORS' PERMITS - VIOLATION OF RULES - REVOCATION
PROCEEDING - MARYLAND CLUB DISTILLING CORPORATION

In the Matter of Proceedings)
to revoke Plenary Wholesale)
License #W-2, issued to)
Maryland Club Distilling)
Corporation, 995 Broad Street,)
Newark, New Jersey.)
-----)

CONCLUSIONS AND ORDER

Jerome B. McKenna, Esq., Attorney for Department

John J. Meehan, Esq., Attorney for Maryland Club Distilling Corporation, Licensee

Bernard M. Shanley, 3d, Attorney for 997 Broad Street, Inc.,
Owner of licensed premises

Charges and notices to show cause why the plenary wholesale license #W-2 issued to Maryland Club Distilling Corporation, 995 Broad Street, Newark, New Jersey, should not be suspended or revoked were duly served upon the licensee and the owner of the licensed premises. Upon the return date of the notices, a hearing was held and the licensee and owner appeared by counsel and were afforded full opportunity to be heard.

Charges #1 and #2 and supplemental charges #1 to #10 inclusive, allege that the licensee permitted Max Silverman, Emanuel Kremer, E. Scoby, Joseph Lesser, Al Selsbe and John Kohlbusch to solicit on its behalf, orders for the purchase of alcoholic beverages by certain retail licensees and delivered alcoholic beverages to such licensees pursuant to orders taken by the aforementioned persons. The charges further allege that the persons above named did not hold solicitors' permits and that the foregoing conduct was in violation of rule #6 of the Commissioner's Rules and Regulations Governing Solicitors' Permits (Bulletin #81, Item #2), which provides as follows:

"No licensed New Jersey manufacturer, wholesaler or retailer shall allow, permit or suffer, in his behalf, any individual to offer for sale or solicit any order in the State of New Jersey for the purchase or sale of any alcoholic beverage, whether such sale is to be made within or without the State, unless such person has a solicitor's permit."

Considerable testimony was introduced with respect to the alleged solicitation on behalf of the licensee by Max Silverman. The catering manager of the Robert Treat Hotel testified that he placed an order for two cases of Maryland Club whiskey with Max Silverman on October 6, 1935 and that on October 9, 1935 five cases were delivered to him by the licensee, Maryland Club Distilling Corporation. On behalf of the licensee testimony was introduced to the effect that Max Silverman was at no time in its employ; that the order in question was received over the telephone

and that its clerk, who received the order, assumed it came directly from the Robert Treat Hotel. The sale was credited to the licensee's office manager, Emanuel Kremer, who, it is conceded, knew Mr. Silverman. The inference is strong that Mr. Silverman's solicitation was with the knowledge of the licensee, despite the absence of direct testimony. However, in view of the later findings herein, no determination need be made on the issue of whether the unlicensed solicitation by Mr. Silverman was with the knowledge of the licensee.

It is conceded that Emanuel Kremer, the manager of the licensee's Newark office, visited retail licensed establishments and took orders for alcoholic beverages on behalf of the licensee. I am satisfied that in the course of these visits the purchase of the licensee's products was solicited within the meaning of the Act. Mr. Kremer did not hold a solicitor's permit authorizing him to solicit, on behalf of the licensee, although he was aware of the statutory requirement, having obtained a solicitor's permit in connection with a previous employment.

It is admitted that E. Scoby, John Kohlbusch, Al Selsbe and Joseph Lesser were permitted to solicit the purchase and sale of alcoholic beverages, although they did not hold solicitors' permits. The explanation with respect to E. Scoby and John Kohlbusch is that they were only employed for a day. The explanation with respect to Al Selsbe and Joseph Lesser apparently is that the licensee understood that they had filed applications and that such filing permitted them to solicit pending issuance of the permits. The records of this Department disclose that no applications were filed by Al Selsbe and Joseph Lesser until a substantial period after the solicitation complained about. The explanations are without force. Under the terms of the regulations, the licensee must, under no circumstances, permit solicitation on its behalf unless solicitors' permits are first obtained.

The foregoing clearly displays a reckless disregard by the licensee of the requirement that it shall not permit salesmen to act on its behalf unless they first obtain solicitors' permits. The purpose of the statutory provision relating to solicitors' permits appears from the following excerpt of the Commissioner's Report to the Governor and Legislature, dated February 5, 1935:

"Wholesale liquor dealers report that certain salesmen are engaging in threats, 'muscling in', and other practices which were common to Prohibition days, but have no place in liquor traffic today. They further report that if these salesmen were required to obtain permits and their records were disclosed, they would no longer be permitted to continue in the industry. The Commissioner should not only have complete information with respect to such employees, but should also have direct control over them."

The regulations are calculated to effectuate the foregoing purpose and must be strictly observed. Deliberate violations must entail substantial punishment if the rules are to be effective.

Charges #11 to #13, inclusive, alleged that the licensee permitted its alcoholic beverages to be transported by an unlicensed transporter. Under the Control Act a licensee may deliver alcoholic beverages in its own vehicles provided they

bear proper transportation insignia. The licensee obtained transportation insignia for two vehicles and delivered them to the Dispatch Delivery Service, Inc. for attachment to its trucks. At the hearing the licensee introduced an agreement Dated August 19, 1935, under which the Dispatch Delivery Service, Inc. purports to lease two trucks designated therein to the licensee, to be operated by the licensee's employees. Apparently this agreement was designed to comply with the Commissioner's ruling that a vehicle leased by a licensee for a substantial period of time and actually operated by the licensee, is its own vehicle within the meaning of the Act. See Bulletin #33, Item #8.

I am satisfied from the testimony, however, that no bona fide arrangement for the operation of the trucks by the licensee was ever entered into and that in fact the trucks were operated on behalf of Dispatch Delivery Service, Inc., an unlicensed transporter, by drivers in its employ and acting under its directions. It is not disputed that the licensee knowingly permitted its alcoholic beverages to be transported in the trucks in question.

The licensee contends that the foregoing violations were committed by its employees without its knowledge. Whether the corporate officers located outside New Jersey were aware of the violations need not be considered for it is clear that the manager in charge of its New Jersey office and business acted in gross disregard of the Commissioner's regulations. The licensee must be held responsible for his conduct. See Re Kneller, Bulletin #49, Item #4.

I believe that the nature of the offenses does not warrant a revocation of the license with the consequent two year statutory disqualification. I do believe, however, that a suspension should be imposed.

It is, on this 17th day of January, 1936,

ORDERED that plenary wholesale license #W-2 issued to Maryland Club Distilling Corporation be and the same hereby is suspended for a period of thirty days, commencing the 24th day of January, 1936.

D. H. DENCO BURMAN
Commissioner

6. REVOCATION--EFFECT--RENDERS LICENSEE INELIGIBLE FOR TWO YEARS FOR EMPLOYMENT IN ANY BUSINESS CAPACITY BY ANY OTHER LICENSEE.

January 15, 1936

Dear Sir:

Since the advent of repeal, I have maintained a tavern at 610 Lafayette Ave., Hawthorne, N. J. On Wednesday, November 24, 1935, due to an infraction of the rules on part of my employee selling beer to a minor, the Commissioners of Hawthorne revoked my licenses. At present, I have an opportunity to work in a tavern owned by Mr. Anthony Philipo, 1 Main Street, Paterson, N. J. I write this letter seeking official sanction as to the legality of my securing and maintaining the position offered me.

Very truly yours,

ALBERT BADER

January 20, 1936.

Mr. Albert Bader,
Hawthorne, N. J.

Dear Sir:

I have yours of the 15th.

The revocation of your license rendered you ineligible to hold any other license of any kind or class under the Alcoholic Beverage Act (Sec. 28) for a period of two years.

The Control Act (Sec. 23) also provides:

"No person who would fail to qualify as a licenseeshall be knowingly employed by or connected in any business capacity whatsoever with the licensee".

It therefore follows that for the period of two years you are not only disqualified as a licensee but may not be employed in any business capacity whatsoever by any licensee whether in Hawthorne, Paterson, or elsewhere in the State.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

7. LIST OF MUNICIPALITIES WHICH EITHER PROHIBIT SALE OF ALCOHOLIC BEVERAGES OR IN WHICH LICENSES HAVE NOT BEEN ISSUED

January 22, 1936.

Emmet Dougherty, Secretary
Distilled Spirits Institute
1129 National Press Building
Washington, D. C.

Dear Sir:

I have yours of January 18th, inquiring as to the municipalities in this State which either prohibit the sale of alcoholic beverages or in which licenses have not been issued.

My records indicate that the following municipalities have prohibited within their jurisdiction the retail sale of alcoholic beverages:

COLLINGSWOOD, Borough of Camden County
By Referendum of 11/5/35 pursuant to Section 43 of the Alcoholic Beverage Control Act: "Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?"
Vote - Yes 774
No 3859

EAST MILLSTONE, Town of Somerset County
Resolution adopted by the Board of Commissioners on September 10, 1934, provides that no licenses be issued for the sale or distribution of alcoholic beverages, all applications be rejected and the sale of alcoholic beverages be prohibited in the Town of East Millstone.

ELMER, Borough of Salem County
Resolution adopted by the Borough Council on November 13, 1934 provides that no licenses for the sale of alcoholic beverages be issued in the Borough of Elmer.

HADDONFIELD, Borough of Camden County
By referendum of 11/6/34 pursuant to Section 43 of the Alcoholic Beverage Control Act: "Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?"
Vote - Yes 817
No 2987

HADDON HEIGHTS, Borough of Camden County
Resolution adopted by Borough Council on February 7, 1934 provides that the sale of alcoholic beverages at retail except for consumption on railroad trains, airplanes and boats be prohibited.

- HARRISON, Township of Gloucester County
 By referendum of 11/6/34 pursuant to Section 43 of the Alcoholic Beverage Control Act: "Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?" Vote - Yes 330
 No 384
- HOPEWELL, Township of Cumberland County
 By referendum of 11/5/35 pursuant to Section 43 of the Alcoholic Beverage Control Act: "Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?" Vote - Yes 233
 No 358
- INTERLAKEN, Borough of Monmouth County
 Ordinance adopted by the Borough Council on May 26, 1930, in effect prohibits the sale of alcoholic beverages and the use of any building or structure for that purpose within the Borough.
- LAWRENCE, Township of Cumberland County
 Resolution adopted by the Township Committee on May 7, 1934 provides that the sale of all alcoholic beverages for consumption on or off the licensed premises be prohibited until a referendum upon the question shall have been voted in the affirmative.
- LINWOOD, City of Atlantic County
 By referendum of 11/5/35 pursuant to Section 43 of the Alcoholic Beverage Control Act: "Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?" Vote - Yes 287
 No 346
- MANNINGTON, Township of Salem County
 Motion made and carried by the Township Committee on January 18, 1935 that no license be granted to any applicant in the Township of Mannington.
- MOORESTOWN, Township of Burlington County
 By referendum of 11/5/35 pursuant to Section 43 of the Alcoholic Beverage Control Act: "Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?" Vote - Yes 710
 No 1990
- PENNINGTON, Borough of Mercer County
 Resolution adopted by the Borough Council on February 5, 1934 provides that the sale of all alcoholic beverages at retail except for consumption on railroad trains, airplanes and boats be prohibited.

- PITMAN, Borough of Gloucester County
The sale of alcoholic beverages was prohibited by ordinance of August 14, 1933. Clerk's letter of December 6, 1934 advised that no other action than that of August 14, 1933 has been taken and no licenses have been issued.
- SHILOH, Borough of Cumberland County
Resolution adopted by the Borough Council on December 7, 1933 provides that the sale of alcoholic beverages at retail except for consumption on railroad trains, airplanes and boats be prohibited.
- STOE CREEK, Township of Cumberland County
Resolution adopted by the Township Committee on March 5, 1934 provides that no licenses shall be granted in the Township.
- UPPER DEERFIELD, Township of Cumberland County
By referendum of 11/6/34 pursuant to Section 43 of the Alcoholic Beverage Control Act: "Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?" Vote - Yes 318
No 351
- UPPER FREEHOLD, Township of Monmouth County
Ordinance adopted by the Township Committee on June 2, 1934 provides that no license of any kind for the sale of alcoholic beverages be issued.
- UPPER PITTSBORO, Township of Salem County
Resolution adopted by the Township Committee on May 6, 1935 provides that the sale of alcoholic beverages at retail except for consumption on railroad trains, airplanes and boats be prohibited.
- WASHINGTON, Township of Gloucester County
By referendum of 11/6/34 pursuant to Section 43 of the Alcoholic Beverage Control Act: "Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?" Vote - Yes 348
No 388
- WENONAH, Borough of Gloucester County
The Clerk advised on February 9, 1934 that the charter of the Borough and all original deeds prohibit the manufacture or sale of alcoholic beverages within the Borough limits.
- WOOLWICH, Township of Gloucester County
Resolution adopted by the Township Committee on December 4, 1933 provides that no liquor licenses be issued in the future.

Our records also show that the following municipalities have not issued any licenses for the retail sale of alcoholic beverages. Nor do I have from them any resolutions or ordinances either authorizing the issuance of such licenses or prohibiting retail sales, presently effective.

AUDUBON, Borough of	Camden County
BLOOMSBURY, Borough of	Hunterdon County
CALIFON, Borough of	Hunterdon County
COMMERCIAL, Township of	Cumberland County

Resolution adopted by the Township Committee on January 19, 1934 provides that no license be issued for the sale or dispensing of any alcoholic beverages containing more than one-half of one per cent alcoholic content in the Township of Commercial for the year of 1934.

Resolution adopted by the Township Committee on February 15, 1935 provides that no license be issued for the sale or dispensing of alcoholic beverages in the Township of Commercial during the year 1935.

By referendum of 11/5/35 pursuant to Section 42 of the Alcoholic Beverage Control Act: "Shall the retail sale of all kinds of alcoholic beverages, for consumption on the licensed premises by the glass or other open receptacle pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?"

Vote - Yes	394
No	936

DELANCO, Township of	Burlington County
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By referendum of 11/5/35 pursuant to Section 42 of the Act: "Shall the retail sale of all kinds of alcoholic beverages, for consumption on the licensed premises by the glass or other open receptacle pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?"

Vote - Yes	395
	616

ELK, Township of	Gloucester County
FAR HILLS, Borough of	Somerset County
GREENWICH, Township of	Cumberland County

Resolution adopted by the Township Committee on January 26, 1934 provides that no licenses for the sale of alcoholic beverages be granted or issued in the Township of Greenwich during the year 1934.

Resolution adopted by the Township Committee on February 4, 1935 provides that no licenses for the sale of alcoholic beverages be granted or issued in the Township of Greenwich during the year 1935.

By referendum of 11/5/35 pursuant to Section 42 of the Alcoholic Beverage Control Act: "Shall the retail sale of all kinds of alcoholic beverages, for consumption on the licensed premises by the glass or other open receptacle pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?"

Vote - Yes	183
No	263

HI NELLA, Borough of	Camden County
HOLLAND, Township of	Hunterdon County
LOWER ALLOWAYS CREEK, Township of	Salem County
MAURICE RIVER, Township of	Cumberland County

Resolution adopted by the Township Committee on February 6, 1934 provides that no licenses were to be issued for the year 1934.

By referendum of November 6, 1934 pursuant to Section 42 of the Alcoholic Beverage Control Act: "Shall the retail sale of all kinds of alcoholic beverages, for consumption on the licensed premises by the glass or other open receptacle pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?"

Vote - Yes 361

No 500

OLDMANS, Township of	Salem County
PAHAQUARRY, Township of	Warren County
PORT REPUBLIC, City of	Atlantic County
QUINTON, Township of	Salem County
RIVERTON, Borough of	Burlington County
SADDLE RIVER, Borough of	Bergen County
SOUTH HARRISON, Township of	Gloucester County
WEST AMWELL, Township of	Hunterdon County
WILLINGBORO, Township of	Burlington County

Our records further show that the following municipalities have not presently outstanding any retail licenses although their respective governing bodies have adopted resolutions fixing retail license fees:

HARDING, Township of	Morris County
MILLSTONE, Borough of	Middlesex County
WASHINGTON, Township of	Burlington County

In Cape May and Ocean Counties, retail licenses are issued by county authority, that is the Judge of the Court of Common Pleas, and not by each municipality. According to my records, no licenses are presently outstanding in the following Cape May and Ocean County municipalities:

Cape May County

Cape May Point, Borough of
 North Cape May, Borough of
 Ocean City, City of

Clerk advised under date of January 19, 1934 that the sale of alcoholic beverages was prohibited by deed and by ordinance adopted October 11, 1909.

South Cape May, Borough of
 West Cape May, Borough of
 West Wildwood, Borough of

Ocean County

Harvey Cedars, Borough of
 Island Heights, Borough of
 Mantoloking, Borough of
 Pine Beach, Borough of

Very truly yours,

D. FREDERICK BURNETT

Commissioner

8. EMPLOYEES - REQUIREMENT THAT EMPLOYEES OF RETAIL LICENSEES BE RESIDENT WITHIN STATE FOR FIVE YEARS APPLIES ESPECIALLY TO ALIENS PROTECTED BY TREATY PROVISIONS AND CITIZENS.

January 4, 1936.

Gentlemen:

Sometime ago we were in communication with your office concerning the use of men in our stores bordering on the New York State line in northern Bergen County. As you no doubt surmise we have men living in New York State working in Jersey stores and of course the same holds true for the other way around. We made a number of changes in order that certain of our stores would be in a position to handle alcoholic beverages and that none of the personnel would violate the ruling in regard to non-residents handling alcoholic beverages.

It is therefore somewhat of a surprise to us to note the contents of Bulletin number 94, item 15 giving citizens of certain foreign nations more rights to do business in this State than citizens of our own country. We of course realize that the Commissioner had no control of treaties made by the State Department, but doesn't the ruling put more of a hardship on our own citizens than those of other countries?

Very truly yours,

THE GREAT ATLANTIC & PACIFIC TEA COMPANY

January 13, 1936.

The Great Atlantic & Pacific Tea Company,
Paterson, N. J.

Gentlemen:

I have your letter of January 4th.

Section 22 of the Control Act provides that no retail license shall be issued to a natural person unless he is a citizen of the United States and shall have been a resident of the State of New Jersey for at least five years continuously immediately prior to the submission of the application. Section 23 provides that, aside from certain exceptions therein set forth, no person failing to qualify as a licensee shall be knowingly employed by or connected in any business capacity whatsoever with the licensee.

Consequently, under the terms of the statute, a retail licensee may not employ any person in the sale of alcoholic beverages unless such person is (1) a citizen, and (2) a resident for five years.

Because of Treaty provisions with certain countries, aliens from such countries may not be discriminated against solely because of such alienage. See Bulletin #24, Item #5; Bulletin #94, Item #15. They are, however, subject to the same restrictions and qualifications as citizens of the United States. Consequently, an alien protected by such Treaty must comply with the five year residence requirement applicable to citizens. I, therefore, do not agree with your concluding remark that the Treaty results in a greater "hardship on our own citizens than those of other countries".

Very truly yours,
D. FREDERICK BURNETT
Commissioner

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

3. MORAL TURPITUDE - WHAT CONSTITUTES - MERELY GIVING A WORTHLESS CHECK IS NOT MORAL TURPITUDE.

January 21, 1936.

Dear Sir: re: Blank

An application for a transfer of Plenary Retail Consumption License held by Blank has been received.

The reason for this letter is that Mr. Blank has been arrested for passing a worthless check, and has been forced to make restitution and pay the sum of \$5.00 for costs of court, but as the Council had him appear before it in meeting to give an explanation and his explanation being that he had purchased an ice box on the installment plan, the same being altogether too expensive and that he had paid a considerable sum on it and was endeavoring to keep it for a future sale, but was unable to meet one of the payments on time.

Mr. Blank in explaining to the collector the circumstances was asked to give a post dated check, which he very foolishly did, and which check was immediately deposited with the result being that it was protested and a complaint entered against Mr. Blank.

Our Council Board is not positively sure that it would be right to grant his petition or to refuse it and start proceedings to revoke his license, the members feeling that his explanations do not show any good sign of Moral Turpitude.

It would please our Mayor and Council very much if you would render a ruling on this case.

Mr. Blank has made restitution of the money and has complied with the rules of your department regarding his request for the transfer.

Respectfully yours,
ALEXANDER CLIFFORD
Borough Clerk

January 23, 1936.

Alexander Clifford, Borough Clerk,
Haledon,
New Jersey.

Dear Mr. Clifford:


I have yours of the 21st re Blank.

Under the circumstances detailed, the failure to pay a post dated check, in effect, a promissory note, does not constitute moral turpitude. He didn't separate anybody from their property or acquire anything by giving the check. Nobody changed their position in reliance on the check. All that appears is a mere failure to have funds in the bank to pay the check when it came due. How many of us in these hard days are

unable to meet our obligations in full as they mature! We must have a kindly, sympathetic, common sense understanding of the financial problems with which our fellowmen are afflicted.

If that is all there is to it, I conclude that it does not amount to moral turpitude or show the applicant's unworthiness to be a licensee or to receive a transfer.

Very truly yours,

A handwritten signature in cursive script, appearing to read "L. William Bennett". The signature is written in dark ink and is positioned above the typed name of the Commissioner.

Commissioner