

Commissioner Burnett  
Sent to Regular Mailing List

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

BULLETIN NUMBER 135

July 30, 1936

1. RULES CONCERNING CONDUCT OF LICENSEES AND THE USE OF LICENSED PREMISES - SALES ON CREDIT BY RETAIL LICENSEES PROHIBITED.

TO ALL RETAIL LICENSEES:

Liquor is a luxury. Sales made on credit to those who cannot afford to pay cash cause untold hardship. Wives and families have suffered because of liquor purchased at the expense of the necessities of life. Children have had to go hungry.

Moreover, putting it "on the cuff" eventually costs you both cash and customer.

The following rule is hereby promulgated effective August 1, 1936:

RULES CONCERNING CONDUCT OF LICENSEES  
AND THE USE OF LICENSED PREMISES

Rule 16: "No retail licensee shall sell, serve, deliver or allow, permit or suffer the sale, service or delivery, directly or indirectly, of any alcoholic beverage on credit or against deposit made in advance, or in exchange for any goods, wares or merchandise, or in payment of any services rendered; provided, however, a bona fide club entitled to a club license under the law and the State Rules and Regulations may sell on credit to its members, and a bona fide hotel may sell on credit to its duly registered guests."

D. FREDERICK BURNETT,  
Commissioner.

July 28, 1936.

2. SPECIAL RULING - WORLD WAR VETERANS -- ABROGATED.

TO ALL RETAIL CONSUMPTION LICENSEES:

The special ruling, made June 13, 1936, forbidding consumption licensees to extend credit to veterans, or to cash Adjusted Service Bonds or permit veterans to "set up the house" except for cash, has served its purpose and is now broadened by the promulgation today of Rule 16 Concerning Conduct of Licensees and the Use of Licensed Premises, to include all retail licensees (except clubs and hotels) and all sales on credit to whomsoever made.

The special ruling is, therefore, abrogated effective August 1, 1936.

D. FREDERICK BURNETT,  
Commissioner.

July 28, 1936.

New Jersey State Library

3. ADDRESS OF  
MRS. JOHN S. SHEPPARD  
MEMBER OF NEW YORK STATE LIQUOR AUTHORITY

-at-

NATIONAL CONFERENCE OF STATE LIQUOR ADMINISTRATORS

July 17, 1936

CONSTRUCTIVE LIQUOR CONTROL

I am going to speak on "Constructive Liquor Control" and I realize that this is a very large subject. Perhaps some of you will have in your mind the old saying, "I have bitten off more than I can chew", but, to be serious, this subject of constructive control of liquor must be considered by every person in the position of liquor control administrator. So, at least, my presenting the subject will call it to your attention, even if nothing more.

What has liquor control been in the past? Its prime concern has been for the revenue derived from licenses and taxes. Before Prohibition most of the liquor administrators were called Excise Commissioners, and the very word "excise" shows us where the emphasis was laid, because "excise" means "a tax upon". In England in 1660 the excise tax was levied for the express purpose of making up the deficiency in revenue which heretofore the King had received from the estates of wards of the Crown. In reading over these old laws we find special stressing of the question of revenue and little, if any, stressing of social aspects of the Law.

Failure to deal with these social aspects of the problem and the far-reaching effects of liquor and the liquor traffic on the life of the community and emphasizing merely the economic aspect, brought Prohibition to this country. After people realized that Prohibition was a failure and was no more a solution of the liquor problem than the old excise laws had been, they began to study this question of liquor control. In the campaign for Repeal, reference was constantly made to the Swedish plan, the English system, the Canadian system and the way that the liquor problem was handled in the various European countries. Careful thought was given to this matter and a determination was expressed to work out a system of control which would prevent the old evils from coming back. Special emphasis was laid on the fact that the saloon should not be allowed to return.

The importance of having new laws which would make the return of the old evils impossible was felt so strongly that in many of the States special commissions were appointed by the governor and the legislature to draft the new State liquor laws. In practically all of these commissions an attempt was made to have the various interests of the community represented - business men, lawyers, doctors and scientists were members of the commissions.

The laws were drafted and then what happened? By the time that most of these laws were ready, Repeal was an accomplished fact. People had succeeded in getting what they wanted and so were less concerned with the theory of control. You will remember that: "When the devil was sick, the devil a monk would be, but when the devil got well, devil a monk was he." So, when these laws, which had been so carefully drafted by the commissions, were presented to the legislature they were, in many instances, so greatly modified that it was hard to recognize the original plan.

However, in spite of all these unfortunate happenings an encouraging attitude is shown in many of the new liquor laws. This new attitude, concerned with the social implications of the law, is shown primarily in the statements of policies in the new State laws. In 13 State laws there are statements of policy which are definitely social, as in the Colorado Law: "This Act shall be deemed an exercise of the police powers of the State for the protection of the economic and social welfare, the health and peace and morals of the people of the State."

This social aspect is also clearly set forth in the statement of policy in the New York State Law: "It is hereby declared as the policy of the state that it is necessary to regulate and control the manufacture, sale and distribution within the state of alcoholic beverages for the purpose of fostering and promoting temperance in their consumption and respect for and obedience to law. \* \* \* The restrictions, regulations and provisions contained in this chapter are enacted for the protection, health, welfare and safety of the people of the state." These quotations are typical of the attitude expressed in the laws of the 13 States to which I have referred.

Now these statements of policy are splendid if the ideas expressed in them are carried out by the provisions of the law and its administration, but we must admit, I am afraid, that many of these statements of policy are like New Year's resolutions - they voice the aspirations of the law-makers, or, perhaps, it is only what the law-makers want to have people think their aspirations are - but the practical carrying out of these idealistic policies is not seriously considered. In many cases, therefore, these liquor laws profess one thing and are in practice something entirely different.

To go back to the encouraging side of the picture, however, a change in attitude toward liquor control to-day is shown in the title of the administrators of the law. No longer are they called excise commissioners, but they are called control administrators or commissioners, and the duties assigned to these commissioners show the broad scope of their responsibilities. For instance, in Minnesota, one of the functions of the State Commission is to carry on a course of temperance education. In many of the other States the promotion of temperance is definitely stated as a duty of the Commission.

Now what is our goal in this matter of liquor control? It certainly is not just revenue - although it is desirable that liquor should be sold legally and that the income from licenses, taxes, et cetera, should go to enrich the State rather than to enrich bootleggers and gangsters. The ultimate goal of liquor control is to promote the welfare of the people of the whole State. In order to do this, control must be such that it guards against damage to the health, the moral and the economic security of the people of the State. If this is to be accomplished, we must have constructive control of the liquor traffic.

The violent changes which have taken place in this country in the liquor situation in the past, certainly show that liquor control has not been constructive, but has been merely palliative - just makeshift control. There have been periods of the most liberal laws, and then, because of abuses under these laws, stringent and restrictive regulations have followed. For instance, in 1850 thirteen States went Dry, and then, within an incredibly short time, all of them gave up their Prohibition Laws, except Maine. And so it has gone, with every few years a wave of Prohibition which has quickly receded.

One trouble is that many of the movements for reform in the liquor laws have not been wise or practical and, so, have not accomplished what the public expected of them. The public has then lost its interest in the matter and relapsed into such apathy that all the bad elements in the liquor industry have again come into power and the old abuses have been worse than ever. And so we have gone around this cycle again and again, always coming back to exactly where we started from. Control which is no more effective than this is not constructive. If we cannot do any better than that, I think we are wasting our time in working at liquor control. But in spite of all our handicaps I do believe that the spirit which is shown in the new laws and in the new liquor boards indicates that we can do better than that; that we can really have constructive control of liquor, and that this problem can be in large measure solved.

If we are going to succeed two things must be done: the first is that we must have liquor laws which are sane and practical. Who have usually dictated the so-called reforms in the liquor laws of the past? These reforms were, in general, dictated by fanatical Drys who believed only in total abstinence. No one can doubt their good intentions but the results of their efforts were certainly not successful. These reforms were impractical and were not in accord with the wishes of the great majority of the people. For that reason the laws which embodied them could not be enforced and opened opportunities for graft and corruption which in many instances disorganized the police forces and brought all law enforcement into contempt.

A few of these undigested reform provisions of the old laws have been carried over into the new laws of the States, and so we have petty little restrictions which accomplish nothing and merely irritate and antagonize people.

If we are going to have constructive liquor control, every provision of the law must be considered in the light of experience, practicability and the wishes and desires of the people. The laws should not be dictated by groups who admittedly represent a small proportion only of the community, and no changes should be made at the dictation of either the Drys or the liquor interests. We must study all liquor control systems, giving special, careful attention to those systems in operation in our own country. If our laws are not adapted to the conditions of climate, of customs, of racial and religious groups which exist in the different States, they will not promote social welfare.

But can constructive liquor control come through law alone, no matter how good these laws may be? I believe that no person who has thought about this subject feels that it can. It can only come through the cooperation and support of enlightened public opinion. Therefore, the second thing needed for constructive control is to change the pattern of mind of the public, and education toward this end is an important responsibility of control commissions.

To help in this work of arousing public interest in liquor control, the commissions in each State might well have advisory boards of representatives of the medical profession, the legal profession, leading industrialists, heads of labor groups, heads of police departments and members of Boards of Education. These advisory boards should also include representatives of the liquor industry, for the reputable people in the liquor business are as anxious as any other public-spirited citizens to have effective and adequate liquor control, and the stability of the control system is of paramount importance to them.

To judge of the permanent value of the provisions of the present liquor laws, liquor control commissions must check up on the effects of the law, and questionnaires sent to different groups of people in the community are a valuable means of accomplishing this. We must know what the professions, the Granges, heads of factories, labor leaders, police commissioners, mayors and social service workers find the effect of the law to be. In this way we will get a picture which will show us whether or not the law is accomplishing its purpose of constructive control. If it is not accomplishing its purpose, we will have an indication of the changes which are needed in the law.

The stability of the laws are threatened at every session of the Legislature by changes which are dictated by special groups entirely for their own benefit. An alert public interest in this matter of control would demand that no changes be made in the law which are not for the benefit of the people of the whole State, and would make impossible the disastrous and thoughtless changes which have characterized liquor control in the past.

What is the greatest obstacle which stands in the way of permanent and constructive liquor control? It is the apathy of the general public. It is not enough, therefore, for liquor control boards to study this problem and work out a constructive solution. That is merely the first step. The most important thing is to enlist the help of enlightened people in the community - and this will include the enlightened people in the liquor industry - people who appreciate how short-sighted it is to let the welfare and economic security of the whole State suffer because our liquor laws are dictated by the greedy liquor interests on the one hand or by the fanatical Drys on the other - both these groups working through unprincipled politicians who are thinking more of votes than of the public welfare.

Our work, then, as commissioners is not only to administer the law but to arouse and educate public opinion so that it will demand and support a permanent and constructive system of control.

ADDRESS OF  
ERNEST C. KENNEDY,  
of  
NATIONAL DISTILLERS PRODUCTS CORPORATION

-at-

NATIONAL CONFERENCE OF STATE LIQUOR ADMINISTRATORS

July 17, 1936

THE DISTILLING INDUSTRY

Mr. Chairman and Gentlemen of the Conference: Those of us who are engaged in the distilling industry believe we are warranted in the assertion that we have progressed materially toward setting our house in order since the first Conference of State Liquor Administrators was held in Chicago on the grounds of the Century of Progress in 1934.

We believe that we have developed, not merely a better understanding with you gentlemen who are charged with governmental regulation of the entire alcoholic beverage industry, but we feel

that we have established numerous, sound principles of self-regulation of the manufacturing and original distribution of our products.

We have passed through the period of trial and error, and of confusion, often of chaos. We think the time has arrived when certain basic principles of procedure are being given practical effect for the co-operation with National and State administrators, for development of a well-ordered industry, worthy of official respect, and, above all, one to merit the confidence of the American public.

Substantial portions of our earnings have been plowed back into restoration of old plants, and construction of new ones.

We have steadily accumulated reserves of whiskey stocks, and 1936 has witnessed a widespread stepping up in the ages of the younger straight whiskies offered to the public. Competition will continue to force that, thereby promoting a constant improvement in the products offered the public and at prices heretofore not possible.

It is no part of the planning of the distilling industry to make of the American people a nation of hard drinkers. Therefore, current talk of an excessive over-production of whiskies is not warranted by the facts. Stocks in distillers' warehouses are larger than at some stages, just prior to the adoption of national prohibition, but it must be kept in mind that until we reach the latter part of 1937, or the early months of 1938, we must keep on placing reasonable amounts of whiskey in storage to have a balanced supply of four-year-old, bottled in bond, merchandise, to be withdrawn thereafter in orderly sequence.

Except in a few instances, production and withdrawals were about balanced prior to prohibition, and the stocks in bond were fairly regular. But, we had to start from scratch in the late months of 1933, putting away whiskies which could not be offered as bottled-in-bond, until the corresponding period of 1937.

The industry thus, was virtually re-born. Only now, is it beginning to learn to walk. These prophets of disaster with more of an eye to Wall Street stock quotations than to the future development of a stable industry would have us believe that distilled spirits soon may become a glut on the market, and that a veritable deluge of whisky is about to descend upon us, submerging the industry and flooding the American home.

No one, capable of thinking two thoughts in a row, who will look at the practical economics of the existing situation, and the logical outlook, can harbor any such illusions. We believe the industry will keep its head, and not step beyond the saturation point in production.

We, in National Distillers, feel that we have a pardonable pride in the part our Companies have taken in the development of fair trade practices, honesty and decency in advertising and informative labeling. We realize, however, that no one company standing alone could set itself as the guardian of the morals of an entire industry, and we certainly have not wished to do so. Full credit must go, therefore, not merely to the overwhelming majority of our competitors who have shared our views and fought, side by side with us, but to the directing genius in the whole, gratifying enterprise, Dr. James M. Doran, supervising Director of the Distilled Spirits Institute. If you gentlemen feel that you have had grief aplenty in bringing about intelligent regulation and effective enforcement, I should hesitate to have you glance at Dr. Doran's diary of daily headaches.

Since it is through advertising and selling that the distiller is brought into the most direct contact with the public, which you administrators are charged with protecting, I should like to segregate those topics from the multiplicity of questions which press daily for solution by governmental agencies and the industry itself.

The first subject I wish to discuss is "Truth in Whiskey Advertising".

Now, truth is an important thing. All of us are in favor of it.

"Truth in Advertising" was quite a popular slogan twenty-five or thirty years ago. Remembering that, you might almost feel that there is a self-indictment in talking about "Truth in Whiskey Advertising". You may feel that there is a suggestion that other advertising is truthful, but that up to this time, whiskey advertising has lagged behind the parade.

That is rather an unfortunate suggestion, and one which, I believe, is entirely unjustified. Compared to the run-of-the-mine of advertising, what we as an industry have been publishing, stacks up exceedingly well.

As I think about this subject, it seems to me that we need to focus upon something more than bleak and sterile truth. We are in a peculiar business, unlike that of almost any other advertiser. We need something even more than truth which will get by a board of censorship, something more admirable than mere avoidance of falsehood. We need "a delicate sense of what is just and right; shorn of meanness, deceit, or unfairness" -- and if you will look in your dictionary under "H", you will find that those words constitute the definition of the word "honor".

What I wish to discuss, therefore, is "honor in whiskey advertising" -- or, to enlarge the subject still further, "honor in whiskey advertising and selling".

Whiskey advertising today is surrounded by a tremendous amount of regulation; hard and fast rules, laid down by Federal and State authorities. It would give a Philadelphia lawyer a headache to keep track of all of them, and, even then, what is legal in one State is forbidden in another. For instance, we are forbidden to publish prices in some States, and forbidden to leave them out somewhere else. All of this points to a fairly obvious moral that we might set up standards for ourselves, which would make this maze of regulations unnecessary.

The question is this. How can we go about it?

In advertising, the answer is fairly simple. We need to be guided not so much by a rule of "what can we get away with", but by an enlightened conception of what is likely to annoy people; what could reasonably be criticized; what is good taste and good sportsmanship. We cannot hope to please every one. There are bigoted people who will always find fault with anything we do. We need, however, to keep our eye on the vast majority of fair-minded citizens, and publish advertising which will give no needless offense to them. We need merely to conform to the principles of honor.

The job, however, is one which extends beyond advertising. Public opinion regarding the whiskey business will always be affected by the actions of a group much larger than the distillers. For every one distiller, there are hundreds of dealers, and the way they

conduct their business can also influence popular thinking towards the liquor industry.

It has, I suppose, been inevitable during the first few years, since repeal, for the sale of whiskey to be surrounded by a certain amount of confusion. There has probably never been a time when a business as large as ours came into existence practically overnight.

But, we have had enough experience, now, to lay down a few rules. One of the simplest rules is that the man who tries to beat the game will end up by harming not only himself, but the industry as a whole.

Initially, under Mr. Choate, and now under Captain Alexander, and his associates in the Federal Alcohol Administration, there has been, and is being developed, a code of advertising regulations, which we believe must operate eventually for the best interests of the forward-looking elements in the industry, and guarantee the perpetuation of those things which the great body of American people had in mind when they voted to terminate the tragic era of prohibition and voted in good faith to a legitimate industry a reestablished franchise which we are in equally good faith obligated to justify and to cherish.

The salutary purposes of those regulations are not challenged by any distiller who has a semblance of concern over the moral and social consequences involved, nor are they disputed, evaded or circumvented by any distiller who is capable of pursuing a policy of enlightened selfishness.

They are written, interpreted and enforced for his own best interests, for the protection of the honest and upright manufacturer and merchant against the shady practices of the cheat and the chiseler and the fellow who cuts sharp corners in his business affairs.

Those of us who are in the business of producing and selling alcoholic beverages because we believe we are in it to stay and to pass along to our descendants, reputations of integrity and decency, have been obliged to compete every day of every week, and every hour of every day, with some who viewed repeal simply and solely as a God-given get-rich-quick opportunity -- a pot of gold at the end of a Repeal rainbow.

With such men, the distillers, the rectifiers, the jobbers and the retailers who look to the future, have as much contempt as you gentlemen who have dedicated your public service for the restriction and the elimination of them.

We cannot be indifferent to the public reaction to the mass of liquor advertising appearing in daily newspapers, especially on Thursdays and Fridays of every week. We cannot, however, excuse our newspaper friends from high pressure solicitation of that profitable lineage.

We cannot deny that our respective advertising agencies have wracked their brains for trick catch-lines, and phrases to stimulate sales, while skirting the edges of the regulations.

We cannot justify the attempts of those who seek some petty trade advantage over competitors through having a pretty girl in an abbreviated bathing suit, when ethics and decency and ordinary common sense support Dr. Doran against that sort of advertising,

even though Federal and State laws and regulations countenance such stupid, ill-advised and ill-fated opportunities for the professional drys to scoff at Repeal of the Eighteenth Amendment, and Repeal's social and economic advantages to the American people.

We cannot do these things, I assert, not because it has been from the beginning, the policy of National Distillers to look beyond the pennies of the moment to the golden opportunity of the future, but because it is an indisputable fact that if distillers are to be honored in the future with a voice at such meetings as you gentlemen are holding here in Providence, we must search our own consciences instead of seeking to have your State laws and your regulations modified on the side of greater leniency for the questionable manufacturer or distributor and against the best interests of the American consumer.

The distilling industry takes pride from the fact that long prior to the enactment by Congress of the Federal Alcohol Administration Act, a voluntary censorship of distillers' advertising was voted unanimously, at a meeting held at White Sulphur Springs, in October, 1934. It was long before the F. A. C. A. adopted such a code, and many months before the Congress of the United States voted authority to the F. A. A. to prescribe and enforce such a code.

And what happened?

Well, under that voluntary censorship, the distillers, or, at least the great majority of them, religiously submitted all their advertising copy to Dr. Doran in advance of publication, and abided by the judgment of his office as to what constituted good faith and good taste.

Other branches of the industry were under no such obligation. Theirs was the privilege to let their consciences be their guides. Theirs was the opportunity, if they embraced it, to enjoy a golden opportunity at the expense of the distillers who were observing those self-imposed restrictions. To say that such a state of affairs was irksome to the more reputable distillers is to put it mildly.

The whole code of high purpose, public relations and constructive effort has been imperiled.

It is that thought that I wish to bring, today, to the attention of you gentlemen who devise State regulations and who, in a large measure, guide legislatures in formulating State liquor control laws.

The Federal Alcohol Administration can go so far, but no further. The recent decisions of the Supreme Court of the United States have set arbitrary limitations on the scope of its authority. The advertising of a distiller may conform to the spirit as well as to the letter of the F. A. A., yet the F. A. A. has no control of the advertising of a retailer. The distillers may adopt a code of ethics against illustrations of women in liquor ads, against Sunday advertisements and against use of radio.

But it cannot control advertising in those fields by a retailer or any other purely intra-state distributor. It is up to the State boards and commissions. We believe that most of your State liquor control laws are sufficiently broad or flexible to enable you to do so.

The code of advertising ethics we recommend is one which we think well may commend itself to all forward-looking students of the problems growing out of Repeal. It is one we believe is so simple in its application, and so well grounded in plain, common sense as to invite no fears that it involves censorship of the American press. No invasion of the freedom of the press is intended or implied.

It is a recognition of the proprieties, not a gesture of reform, nor a by-product of fear.

Here is the suggested creed;

1. We believe there should be no illustrations of women in liquor advertising; no copy appealing especially to women buyers, nor any reference to women, as substantial purchasers or consumers of alcoholic beverages.

2. We believe that there should be no illustrations of children, nor youthful persons, nor any copy carrying any sort of appeal, expressed or implied, to youthful drinkers.

3. We believe there should be no liquor advertising in college dailies, college comic periodicals, or college athletic programs, or similar publications likely to draw their readers from among college students.

4. We believe there should be no liquor advertising in Sunday newspapers, nor in any publications which bear a Sunday date-line, irrespective of the fact that the latter may be distributed or circulated on week-days.

5. We believe there should be no advertising in religious publications of any sort, irrespective of the fact that such advertisements are solicited by those publications, and that there should be no advertising in programs or souvenir booklets at church charity functions.

6. We believe there should be no liquor advertising over the radio because the radio carries its message directly into the home of the conscientious abstainer, as well as that of the honest liberal.

7. We believe that there should be no illustrations of drinking at bars (except possibly in the liquor trade papers), and no illustrations of night club scenes of an hilarious or convivial nature.

8. We believe that there should be no illustrations of drinking scenes, except within the home, club lounges, locker rooms, etc., and then only when confined to the most dignified and decorous surroundings.

9. We believe that there should be no illustrations of picnic or bathing scenes indicative of outdoor drinking except scenes on porches of dignified homes or those descriptive of the traditional hospitality of a host.

10. We believe there should be no liquor advertising associating itself with Santa Claus, Easter rabbits, cherry trees or similar symbols of national holidays, nor any characterizations which might be mistaken for a well-known citizen or public official, except those illustrations of persons or scenes on any authorized label.

11. We believe there should be no illustrations of aviators in or out of uniform which might carry the implication that pilots use alcoholic liquors, on duty or off.

12. We believe there should be no illustrations of ships' officers or seamen or of locomotive engineers or other crewmen which might carry an implication of drinking on the part of such men responsible for the safety of human lives.

13. We believe that there should be no illustrations of Army, Navy or Marine Corps Officers or enlisted men, except for publication in service papers, such as the Army and Navy Journal.

14. We believe that there should be no use made in advertising of such phrases as "not a headache in a hogshead", "Older men know; younger men are learning", or similar slogans.

In its general aspects, this code now is before the Distilled Spirits Institute. Due to their experiences under the F. A. C. A. codes, some distillers are reluctant to bind themselves to it when competitors in other branches of the industry are free to do as they please. It is presented here today solely on the individual responsibility of National Distillers.

We favor it.

We propose to adhere to it, if we have to stand alone, which we are sure we will not.

The Federal Alcohol Administration lacks authority to enforce such a code uniformly throughout the industry.

Practically all of the State Administrators have such power.

We commend it to your consideration.

I thank you, Ladies and Gentlemen, for your attention.

5. LICENSEES - WHERE MEMBER OF LICENSE ISSUING AUTHORITY IS INTERESTED IN THE LICENSE - REASONS FOR THE \$10.00 STATE FEE.

July 9, 1936

Dear Sir:

The Clubs who have received their club licenses through your office, have called the Committee's attention to the fact that their club licenses have cost them \$75.00 and \$10.00, a total of \$85.00, and other club licenses in Riverside only cost \$75.00, and because a member of the governing body is a member of their club, they are penalized \$10.00, and there isn't anything that they can do about the membership, as one of them is a retired fireman and his membership is good for life, and another is an insurance member of the Moose, and another is a member of long standing, and they can not dismiss them.

I have explained the rules and regulations as clearly as I am able. They seem to feel they are being penalized because a member of the governing body belongs to their club. They feel that the people choose these members and elect them to office, and are not controlled by the clubs.

Will you send me your explanation of the above grievance and oblige

Yours truly,  
F. S. GROGAN,  
Township Clerk.

July 28, 1936

Mr. Francis S. Grogan,  
Township Clerk,  
Riverside, New Jersey.

Dear Mr. Grogan:

I have yours of the 9th re the fees required of licensees who must apply for their license to the Commissioner because of the provisions of Section 18A of the Control Act.

Section 18A provides as follows:

"No license shall be issued under the act to which this act is a supplement by any issuing authority to any member thereof or to any corporation, organization or association in which any member thereof is interested directly or indirectly; provided, however, that in any such case application for such license may be made by such member, corporation, organization or association directly to the State commissioner who is hereby authorized to issue such license, subject to rules and regulations, upon the same terms and conditions and for the same fee as other licenses of the same class are issued or are issuable by the said governing board or body. In addition to the fee for such license, which shall be payable to the municipality, a fee of ten dollars (\$10.00) shall be payable to the commissioner to be accounted for by him as are license fees."

This Section was enacted by the State Legislature to insure that no member of a municipal issuing board who was self interested could participate in the granting of the license so that any question or even the appearance of evil would be avoided. This Section is just as much a protection to the applicant and municipal issuing authority as it is to the public, if not more so. See your Bulletin #86, Item #9, which explains the purpose of this Section fully.

In respect to the \$10.00 fee, it was provided for in the Act to cover the cost of investigation and issuance of the license by this Department. As you undoubtedly know from your own experience the investigation pursuant to application for license and the issuance of the license entails much time and labor by the issuing authority. In many cases the \$10.00 fee does not begin to meet the costs incurred.

The fee is not a penalty in any sense of the word, but actually represents an exceptionally low charge for costs in particular cases where a question of self interest may easily generate a situation invidious to the issuing authority, applicant and interested person.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

6. RULES GOVERNING SIGNS AND OTHER ADVERTISING MATTER - NO OBJECTION TO STATING THAT BOTTLE CONTAINS A FULL QUART.

July 25, 1936

Mr. E. Liberman,  
Betty Lee Drug Stores,  
Palisades Park, N.J.

Dear Sir:

I have your letter of July 22nd, wherein you request a ruling on a proposed sign which you have sketched in your letter.

Rule #3 of the Rules Governing Signs and Other Advertising Matter provides that "no retail licensee shall directly or indirectly advertise or permit or suffer the advertising of the price of any alcoholic beverage or relative size of the container thereof \*\*\* in the show window \*\*\*." This rule, which formerly applied only to retail consumption licensees, now applies to both retail consumption and distribution licensees. The primary purpose of the prohibition against advertising the size of containers is to eliminate such signs as "Biggest Beer in Town", etc. (In re National Association of Retail Beverage Dealers of New Jersey, Inc., Bulletin #74, Item #9). It was not intended to prohibit a mere statement of whether a bottle on display which is to be sold for off premises consumption is a quart or a pint or a fifth.

Accordingly, the advertising sample submitted in your letter is approved.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

7. REVOCATION PROCEEDINGS - ELECTION DAY RULES - THIRTY DAY PENALTY AGAINST DISTRIBUTION LICENSEE.

July 25, 1936

W. Richard Seely, Town Clerk,  
Hammonton, N.J.

Dear Mr. Seely:

I have before me staff report of proceedings before your Town Council on June 1, 1936 against Sun Cut Rate Liquor Store, holder of plenary retail distribution license No. D-1 for sales of alcoholic beverages on Primary Election Day - May 19th last - while the polls were open for voting.

When this report was submitted, I put it aside temporarily for my own personal attention. Due to the great rush of work incident to the new licensing period, the peak of which has just passed, I have not been able to write to you sooner.

I note the licensee pleaded guilty and that the license was suspended for thirty (30) days.

This severe penalty commands respect and will go a long way to teach licensees that your Town Council is in deadly earnest. By such action, licensees who scrupulously obey the law and all rules and regulations governing the conduct of their business will be greatly heartened.

Please convey to the members of your Council my profound respect and appreciation.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

8. LICENSEES - NO OBLIGATION TO REFUSE TO SELL TO A CUSTOMER, IF SOBER, EVEN AGAINST PROTEST OF FAMILY - HEREIN OF IRRESPONSIBLE RUM SELLERS, ENLIGHTENED SELF-INTEREST AND SHORTSIGHTEDNESS.

July 28, 1936

Mr. J. A. Culligan,  
Bevans Inn,  
Bevans, N. J.

Dear Mr. Culligan:

I have your letter inquiring: "If a member of a family tells you not to sell anything to the husband or father, must we refuse that person if he is sober?"

The answer as you state the question is "No". If he is sober, he has a right to decide for himself.

Rule #1 Concerning Conduct of Licensees and Use of Licensed Premises reads:

"1. No licensee shall sell, serve, deliver or allow, permit or suffer the service or delivery of any alcoholic beverage, directly or indirectly, to any person under the age of twenty-one (21) years or to any person actually or apparently intoxicated, or allow, permit or suffer the consumption of alcoholic beverages by any such person upon the licensed premises."

It is you as licensee and not the wife or the children who are to determine whether the person is "actually or apparently" intoxicated. If he is, you must refuse. If he is not, there is no legal obligation on you to refrain from said service merely because the wife and children protest. In every such case, however, your own moral obligation and your own enlightened self-interest unite in giving that person wholesome friendly advice to desist from that "just one more" while there is yet time. More depends on HOW you say it than WHAT you say. A really fraternal, genuine message, sincerely stated to carry conviction, and coupled with an offer to see home, goes further than any curtain lecture or hen-pecked moralization ever devised.

An editorial in the Hunterdon County Democrat of Flemington, expresses it well. It reads:

#### "IRRESPONSIBLE RUM SELLERS

"At a recent meeting of publishers an advertising representative who handles several liquor accounts, said the manufacturers are becoming apprehensive at the growing list of communities which are taking advantage of local option clauses in state liquor laws and returning to municipal prohibition.

"From the manner in which some of the license holders are observing Sunday closing regulations and otherwise abusing the privileges granted them by Township authorities, it will not be at all surprising if some day the voters will demand an opportunity to speak on the matter of closing up all public bars. It is doubtful if this would improve conditions, on the whole, but it can come about just as it did before.

"When a licensed house becomes the gathering place, during hours when selling is forbidden, for those who habitually over-indulge, it doesn't require super-human powers of deduction to conclude that these persons are not congregated for the purpose of partaking of soda pop or ice cream sodas. And when men enter these places apparently sober and are barely able to leave under their own power - sometimes taking the driver's seat and moving out onto highways crowded with Sunday traffic - it requires no power of deduction to decide that regulations are being broken, both state and local.

"Some day there will be a grand crash in this vicinity. Some innocent people will be killed or badly hurt as the result of an irresponsible drunken driver, the source of whose condition it may not be hard to trace. Then the public will demand that the authorities do their duty and that the officials who apparently assumed their responsibility ceased when the license fee was paid, will feel very sorry indeed.

"It should not be necessary to name names or places where the above condition exists. Everybody locally knows which bar keepers conduct orderly places and which ones are not entitled to consideration when they re-apply for the privilege. These same people have been warned, and if they are too short-sighted to see the handwriting on the wall, the time will come when they can only blame themselves for having to seek other ways of making a living."

Thoughtful reflection, coupled with appropriate action by you and every other licensee, will go far to insure the continuance of dividends on your operations. It isn't good always to stand on one's legal rights. Listen with respect and sympathy to the family. They want husband or father for the man more than you need his money. Don't be shortsighted.

Very truly yours,

D. FREDERICK BURNETT,  
Commissioner.

9. LICENSEES - NO OBLIGATION TO REFUSE TO SELL TO A CUSTOMER, IF SOBER, EVEN AGAINST PROTEST OF WIFE - HEREIN OF THE LAW OF AVERAGES AND DISCLAIMER OF ANY ENDEAVOR TO DETERMINE THE JUSTIFICATION OF MARITAL COMPLAINTS.

THE GOLDEN GRILL  
212 Main Street  
Lakewood, N. J.

July 20, 1936

Dear Sir:

A few days ago I was approached by the wife of one of our customers, who is a respected citizen, requesting us not to serve her husband any alcoholic drinks any more. She claimed that her husband, during the last few weeks, came home drunk several times and that he gave her only a small fraction of his salary for defraying household expenses.

In response to her request we have stopped serving her husband.

The latter, who apparently cannot get along with his wife, tells us now that his wife's request to us not to sell him any more liquor, is nothing but a scheme to get even with him. The fact is the husband has never misbehaved in our place.

May we ask you to kindly advise us whether a wife's request not to serve her husband any more has, under any circumstances, to be complied with by the man behind the bar.

Very truly yours,  
JOHN HILLER

July 28, 1936

The Golden Grill,  
Lakewood, N.J.

Gentlemen:

I have yours of July 20th.

You must be the judge.

Enclosed is copy of letter I have just written to Mr. Culligan which may help you.

For every case of spite work there is a thousand of human misery.

Better rely on the law of averages and disclaim at the threshold any endeavor to pass on the justification of marital complaints, for you will find it a highly controversial field.

Very truly yours,

New Jersey State Library

*L. S. Franklin Bennett*

Commissioner