

STATE OF NEW JERSEY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

744 Broad Street, Newark, N. J.

BULLETIN NUMBER 51

November 5, 1934

1. RULES CONCERNING CONDUCT OF LICENSEES AND USE OF LICENSED PREMISES - APPLICATION TO BOWLING ALLEYS, POOL TABLES AND BAGATELLE GAMES

October 28, 1934

Bernards Inn,
Bernardsville, N. J.

Attention: John J. Pallay, Manager

Gentlemen:

I have yours of the 22nd, in which you say:

"In the basement of our hotel we have four bowling alleys and four pool tables for convenience of our guests. No liquor is sold in the alleys nor is any brought down there from hotel dining rooms.

"In this room there is a machine where metal balls are propelled by springs. The high score carries with it a prize but we do not permit any gambling of any kind. We aim to keep that basement room in keeping with the rest of our hotel which caters to a fine clientele. If this machine comes within your definition of device you do not want, we will, of course, take it out, but it is purely a device to test skill and a prize is offered to the most skillful.

"Will you please advise us as soon as you possibly can so that we may act accordingly."

Rules 6, 7 and 8 concerning Conduct of Licensees and the Use of Licensed Premises are based on the Crimes Act of New Jersey. These rules do not create new law but are mere restatements of existing law, designed to carry into effect, so far as concerns licensees, the laws of New Jersey and our State Constitution which expressly interdicts lotteries, the selling of lottery tickets, pool selling, book making or gambling of any kind, and the legalization of any gambling device, practice or game. Your questions, therefore, call not for interpretation of new rules but for the application of existing law to the facts.

Intrinsically, neither bowling alleys nor pool tables are apparatus or devices designed for gambling purposes. That they may be used for such is obvious but so may checkers and chess. Potential use is not the dispositive point. Violation of the law, and therefore breach of the rules, begins when the primary purpose of skill or amusement is perverted into gambling. That is a question of fact. So long as your bowling alleys and pool tables are used for skill or amusement and not for the money gain of the players, there is no infraction of the law and so of the rule. But playing for money or other valuable thing at bowling or pool is a misdemeanor under Section 60 of the Crimes Act. You, as the licensee, are responsible at all times for any illegal use made of the alleys and pool tables.

As regards the machine - if this is the ordinary bagatelle game or a variation thereof and nothing more, it is not, per se, a gambling device or apparatus. This conclusion is not changed by the fact that you give a prize for high score as a matter of grace and favor. Mere contesting for a prize is not gambling. The gist of gambling is the payment of money for the opportunity to win more money by a scheme of chance. If the machine is in fact used for gambling, then the law and the rule are violated however great the degree of skill may be or the amount of amusement afforded. If it is never so used, there is no legal reason why you should remove the machine. But, as mentioned above, you, as licensee, are responsible at all times to see to it that no illegal use is made of the machine. By allowing it to remain, you assume the responsibility.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner

2. RULES CONCERNING CONDUCT OF LICENSEES AND USE OF LICENSED PREMISES - APPLICATION TO BASEBALL GAME AND DART BOARDS

October 22, 1934

D. Frederick Burnett, Commissioner,

Dear Commissioner:

Does the baseball games, which operate mechanically, come within the stroke of your anti-gambling rules?

For two or more players to operate this machine a nickle must be placed in the slot. A lever is then pulled and runs are scored by hits and otherwise until a full game is played. The loser generally pays for drinks. There is a weekly prize offered as a rule for high score.

These machines do not throw out money or checks or any other device which may be exchanged for money. You play a game of baseball mechanically and it can be for fun or otherwise as the playe sees fit.

Like ping pong, checker or dominos and similar games you can gamble on a baseball game if you are so inclined.

What about the dart boards? This game is very largely determined by skill but it can be also used for gambling purposes if the players are so inclined.

We have been asked about both of these devices or games and I am passing them on to you for a ruling.

Very truly yours,

F. S. ALBRIGHT, City Clerk

October 29, 1934

F. S. Albright, City Clerk,
Camden, N. J.

Dear Mr. Albright:

Kindly refer to yours of the 22nd and my acknowledgment of

the 23rd re Rules 6, 7 and 8 concerning conduct of licensees and the use of licensed premises.

As regards the baseball game, see copy of enclosed letter to Bernards Inn of October 28, 1934, the principles of which undoubtedly apply to the game that you describe. Intrinsically the machine is not per se a gambling device or apparatus nor does a weekly prize for high score alter the conclusion. If the machine, however, is in fact used for gambling, the law and the rule are violated and revocation of the license must be made. If it is never so used, there is no legal reason why the licensee must remove the machine, but since the licensee is responsible at all times to see that no illegal use is made, he assumes the full responsibility by allowing it to remain.

As regards the loser paying for drinks: It was held in Brown vs. State, 49 N.J.L. 61, that playing cards for beer to be purchased and paid for by the loser was gaming. So playing the machine for drinks to be paid by the loser would constitute gambling.

On the other hand, in State vs. Hall, 32 N.J.L. 158, where question arose as to whether a public ten-pin alley, kept for hire by the game, where the practice of the loser paying for the use of the alley habitually occurred, was a common gaming house, Chief Justice Beasley said:

"The transaction is this: the keeper of the alley lets it to the players, on the condition that the loser shall pay him for its use. It would seem to be an unnecessary refinement to say, that when the players accept these terms, and play under them, that the one lays a wager with the other, dependent on the result of the play. It is obvious that the parties do not play for gain - they play simply for amusement, and it seems like putting a false gloss on the affair to call this gaming....."

The line of cleavage between the two cases appears to be that between skill and amusement on one side, even though accompanied by an incidental payment by the loser of the cost of the game, as distinguished from the winning of money or other valuable thing, as for instance drinks, by a scheme of chance.

It thus appears that the machine may be used either within or without the law. The licensee by allowing it on his premises assumes the complete responsibility to see to it that no illegal use is ever made of the machine.

As to dart boards: my education has been neglected. Frankly I do not know what they are. Since you tell me, however, that they can be used for gambling purposes if the players are so inclined, all the principles applicable to the baseball game as above outlined will apply.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

3. RULES CONCERNING CONDUCT OF LICENSEES AND THE USE OF LICENSED PREMISES - APPLICATION TO PINOCHLE OR RUMMY PLAYED FOR MONEY

Dear Mr. Burnett:

Relative to your recent rulings in regard to the proper conduct of a retail liquor establishment, such as hotels, etc., I wish to make inquiry in behalf of one of our licensed hotels in this municipality.

Mr.----- wishes to keep within the strict interpretation of the law at all times and would like to have an opinion from you as to the legality of playing pinochle or rummy at five or ten cents a corner in, or a room adjacent to the barroom.

It would like to say in Mr.-----'s behalf that he has never permitted slot machines, poker or any gambling device to be played in his hotel in all the years of his hotel experience.

Respectfully yours,
Roy E. Johnson, Clerk,
Township of Plumsted.

October 30, 1934

Roy E. Johnson, Clerk,
Township of Plumsted,
New Egypt, N. J.

Dear Sir:

Herewith copy of my letter to Bernards Inn of October 28, 1934, and of my letter to F. S. Albright, City Clerk of Camden, of October 29, 1934. Applying the principles of these letters and of the cases therein cited, I am clearly of opinion that playing pinochle or rummy for money upon licensed premises is contrary to law and hence would constitute a violation of the rule.

Please notify Mr.----- at once so that he cause the unlawful practice to cease. I appreciate his candor and your cooperation.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner

4. ELECTION DAYS - ENFORCEMENT OF RULES - REVOCATION OF LICENSE IF VIOLATED

To All Chiefs of Police and Law Enforcement Agencies:

Rule 2 concerning conduct of licensees and the use of licensed premises provides:

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

Tuesday, November 6, 1934 is general election day. The polls are open from 7:00 A.M. to 8:00 P.M.

The primary duty to enforce the Alcoholic Beverage Control Act and all rules and regulations made pursuant thereto is placed by the statute on your shoulders so far as concerns local retail licensees. It is, therefore, your duty to take the initiative to enforce the foregoing rule.

All retail licensees as well as those State licensees authorized to sell at retail, have been personally notified of the rule. No licensee, therefore, may plead ignorance of the law.

Violation of the rule does not constitute a crime nor cause for arrest, but is cause for revocation of the license. Upon discovery of a violation, the licensee should be ordered immediately to stop doing business and his name, address, license number, time, nature and all details of the offence noted by you. A list of all such violations should be compiled immediately and forthwith transmitted to the local license issuing body. A copy of the list should also be sent to the Commissioner. I purpose the institution of revocation proceedings in every case of violation.

Where a local ordinance prohibits the sale of alcoholic beverages during the hours the polls are open and imposes a penalty, any such sale violates not only the Commissioner's rule, but also the local ordinance. In such event, arrest may be made but be sure before instructing your men that you give them full detail of your local ordinance. Regardless of whether an arrest is made for a violation of such ordinance, however, the information with reference to the violation should be sent to the local license issuing body and to the Commissioner in the manner set forth above so that revocation proceedings may be instituted.

The law is meant to be obeyed.

Your cooperation means much. I depend on it. This office will be open from 7 A.M. until 8 P.M. on Election Day and welcomes your inquiries and reports. All my enforcement staff will be on the job that day, too.

With respect, I am

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

Dated: October 30, 1934

5. ELECTION DAYS - ENFORCEMENT OF RULES - INSTRUCTIONS TO DEPARTMENT STAFF

SPECIAL INSTRUCTIONS TO ALL INSPECTORS AND INVESTIGATORS

Enclosed herewith is release, dated October 30, 1934, informing all Chiefs of Police and Law Enforcement Agencies of the rule governing the conduct of licensees on Election Day, November 6, 1934.

Although the primary duty of enforcing all rules that concern retail licensees falls on the shoulders of the local enforcement agencies, there is more than enough work to be done and you are hereby notified that you are to be on duty from

7:00 A.M. until the polls close at 8:00 P.M. Your assignment is enclosed. A complete list of all licensees in your territory will be sent you shortly.

All retail licensees, and also all limited winery licensees and state beverage distributors who, while state licensees, may normally sell direct to consumers, have been notified of this rule and cannot plead ignorance as an excuse for its violation.

Note that the rule prohibits retailers from sale or delivery to "any consumer". It does NOT stop sale or delivery to a retailer.

When you find a licensee making a retail sale or a prohibited delivery of alcoholic beverages during the time that the polls are open, you cannot make an arrest as the violation of this particular rule or regulation is not a crime, but is cause for revocation as pointed out in above enclosure and in all cases of violation you will make your complete factual report direct to me, similar to the reports of the police which they will make direct to their own governing bodies and transmit copy to me.

If matters arise on which you desire special instructions, note that this office will be open from 7:00 A.M. to 8:00 P.M.

Your reports must be made out in duplicate, separate as to each violator, and all mailed so as to be in this office Wednesday, November 7th, and complete so that revocation proceedings may be instituted at once against violators of the rule.

You are to work in pairs so that your testimony will be corroborated and substantiated.

Work cooperatively with but independent of the police and other local or state enforcement agencies.

In order that you be not disenfranchised, you are to vote in your home district immediately upon the opening of the polls and then proceed to your assignment.

I expect you to do your full duty thoroughly and impartially. You are responsible for your territory.

D. FREDERICK BURNETT,
Commissioner

Dated: Nov. 1, 1934

6. RULES CONCERNING LICENSEES AND THE USE OF LICENSED PREMISES -
SLOT MACHINES - WHAT CONSTITUTES SLOT MACHINES - SLOT MACHINES
ARE ILLEGAL PER SE AND IF POSSESSED OR KEPT ON LICENSED PREMISES
ARE CAUSE NOT ONLY FOR REVOCATION OF LICENSE BUT ALSO FOR
ARREST

October 31, 1934

Carlton H. Conover, Chief of Police,
Hightstown, N. J.

Dear Chief:

I have your valued letter of the 26th reporting two licensees in your Borough who have or keep in their respective

places of business "a slot machine", and who, despite your demand for removal thereof, have point-blank refused. Your Borough Clerk has performed his duty and served the RULES upon these licensees so that they cannot plead ignorance.

The first thing is to make sure that the machine is a slot machine within the meaning of the Rule and of the Law.

Section 65 A (Compiled Statutes, p. 1766) provides:

"Any person or corporation who shall have or keep in his or its place of business, or other premises, any slot machine or device in the nature of a slot machine which may be used for the purpose of playing for money or other valuable thing shall be guilty of a misdemeanor."

Section 65 B (Compiled Statutes, p. 1767) provides:

"All playing for money or other valuable thing, with any slot machine or device in the nature of a slot machine, or with any other instrument, engine, apparatus or device, having one or more figure or figures, number or numbers thereon, shall be a misdemeanor."

Rule 8 provides:

"No licensee shall possess, allow, permit or suffer on or about the licensed premises any slot machine or device in the nature of a slot machine which may be used for the purpose of playing for money or other valuable thing."

It is apparent that Rule 8 does not create new law but is a mere restatement of existing law. Both under the Law and the Rule, the test of an illegal machine is not the presence of the slot but rather that it is a machine "which may be used for the purpose of playing for money or other valuable thing". Therefore, you must distinguish on the one hand between harmless bagatelle games and variations thereof, such as the baseball game, where the primary purpose is skill and amusement, and on the other hand, the common type of so-called slot machine which contains coins and pays money or other valuable thing to the player if he is lucky enough to draw certain combinations when he operates the lever which spins the wheels. The gist of gambling is the payment of money for the opportunity to win more money by a scheme of chance. The vice of gambling is the chance of a gain disproportionate to the price of the chance. A slot machine, the deposit of money in which entitles the player to a chance to get money from the machine, is illegal per se. Its mere presence on licensed premises violates both the Law and the Rule. A machine of this type is quite different from bagatelle and kindred games which do not pay out or deliver to the player at any time, however lucky he may be, any money or other valuable thing. To be sure, those games may be used illegally, in which event they violate both the Law and the Rule (See Re: Bernards Inn, Bulletin 51, Item 1, and Re: Albright, Bulletin 51, Item 2), yet intrinsically they are not illegal. If the slot machines which you mention are the common type which pay money itself to the lucky player, you do not have to pause to determine the sometimes difficult question as to whether the use made thereof is illegal, because, to use the words of Vice Chancellor Buchanan

in Pure Mint Co. v. LaBarre, 96 N.J.Eq. 186, "the machines are intended to do what they in fact do", and hence their very presence is illegal, irrespective of the use made of them. Such slot machines are gambling devices. Hence there is no necessity for you to see it being actually operated by a player, or to determine anything more than that such machine is on the licensed premises.

If so, its presence violates not only the Rule but also the Laws of the State of New Jersey and the licensee is subject not only to revocation of his license but also is guilty of a misdemeanor.

In view of the open defiance of these two licensees, the courtesy of a further demand by you that they comply with the law is wasted. Your plain duty, after verification that either one or both have or keep in their place of business an illegal slot machine, is to arrest forthwith and make a complaint for illegally possessing a slot machine contrary to the Crimes Act. In addition, it is your further duty to give immediate notice of the violation of the Rule, together with the name, address, license number, time, nature and all details of the offense to the governing board or body of the Borough of Hightstown, and send a copy to me as Commissioner, to the end that the Borough institute immediately revocation proceedings in respect to the license. I assume and believe that the Borough officials will do their full duty.

As regards such slot machines which are illegal per se, the situation under Rule 8 is entirely different from that under Rule 2 concerning the sale of alcoholic beverages on election days. The violation of Rule 2 does not constitute a crime nor cause for arrest, but is cause for revocation of the license. Violation of Rule 8 constitutes both a crime and cause for arrest and also cause for revocation.

Please advise at earliest moment complete details of your action in the premises.

Your hearty cooperation is greatly appreciated.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

7. PUBLIC BUILDINGS - STATE PERMISSION WILL NOT BE GRANTED FOR SALE OF ALCOHOLIC BEVERAGES IN ARMORIES

November 2, 1934

Pavlick Koster Post, No. 2640,
Veterans of Foreign Wars,
266 Main Avenue,
Wallington, N. J.

Gentlemen: Attention: W. C. Eelman, Adjutant

I have your application for special permit to sell beer at your annual military ball to be given November 3rd at the Passaic Armory. I note that Grover P. Heinzmann, Custodian of the Passaic Armory, has given his permission subject to my approval; that the proceeds are to go into your relief fund for furnishing milk to undernourished babies, clothing, and Thanksgiving and Christmas baskets.

If this were the ordinary application for special one-day permit, it would be granted. But since the affair is to be held at an Armory, a question arises under the Statute, Sec. 39, which provides that no sales of alcoholic beverages shall be made in any public buildings belonging to or under the control of the State or any political division thereof, except as permitted by the Commissioner. That section imposes the duty upon me to determine, in the exercise of reasonable discretion, whether such sales should be permitted in these public buildings.

As this was a case of first impression, in order to determine whether such permission would be consonant with public policy, I communicated with Major General John J. Toffey of the New Jersey National Guard, who very kindly took the matter up with the State Military Board who, at a meeting convened at Trenton on October 30th, recorded by majority vote their disapproval of your request to use the Armory for such sales.

General Toffey further writes me that he, as President and an individual member of the State Military Board, is opposed to the issuance of any special permit for the sale of alcoholic beverages to any individuals or organizations leasing armories for the conduct of dances; that such use might prompt insobriety in persons who for the time being are not under the control of the National Guard but whose conduct, should trouble arise, might reflect discredit upon the military establishment; that at the next meeting of the State Military Board a resolution will be presented for adoption expressing the views of that body generally as to the sale of alcoholic beverages in State Armories.

I agree wholeheartedly with General Toffey's views and therefore, notwithstanding your laudable objective and the fact that no question whatsoever has been raised as to the character or worthiness of your organization by anybody, I am impelled to refuse to issue the special permit for the Armory.

Furthermore, this ruling will apply to all armories and to all organizations whatsoever unless, at least, the consent of the Quartermaster General is obtained and the affair comes within any exceptions that the State Military Board as a policy-forming body shall create by their proposed resolution.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

8. LIQUORED CANDY - NEW RULE PROHIBITING MANUFACTURE AND SALE

November 3, 1934

Hershenstein, O'Brien & Tartalsky, Esqs.,
#26 Journal Square,
Jersey City, N. J.

Gentlemen:

Your inquiry as to whether a license may be obtained by the Lily Candy Company, authorizing the manufacture of "liquored candy" to be sold by retail licensees, subject to specified safe-

guards, has been considered.

Section 1 of the New Jersey Food and Drug Act (P.L. 1907, p. 485, as amended and supplemented) expressly prohibits the manufacture and sale of adulterated food which includes, under the terms of Section 3, confectionery containing "malt or spirituous liquor". The foregoing provision would seem to dispose of your problem. Even aside from the Food and Drug Act, however, effective control permits but one conclusion - the manufacture and sale of such candy must be absolutely prohibited under all circumstances.

Throughout the Commissioner's administration of the Control Act, the necessity of entirely divorcing children from association with alcoholic beverages has been evinced. When "nips" were in vogue, they were purchased mainly by children and were quickly barred by the Commissioner. See Bulletin #16, Item #1; Bulletin #19, Item #5; Bulletin #26, Item #2. Municipal prohibitions against the sale of alcoholic beverages in candy stores met with the ready approval of the Commissioner. See Bulletin #8, Item #9; Bulletin #34, Item #8. Recently, an express regulation was adopted, designed to eliminate evasions of the clear legislative policy against the sale of alcoholic beverages to minors. See Bulletin #48, Item #1.

Candy is peculiarly attractive to children and liquored candy is likely to reach them, despite attempted safeguards. Only recently, the metropolitan newspapers carried a report of a six months' investigation by representatives of the Department of Agriculture, which disclosed tremendous sales of liquored candy to school children.

It has been contended that liquored candy is not subject to the Control Act because of section 27, which provides: "No provision of this act shall apply to alcohol intended for and actually used in the manufacture and sale of any of the following, when they are unfit in fact for beverage purposes, *** food products". Such contention, however, is clearly unsound. The Commissioner has heretofore ruled that the term "alcohol" was used advisedly to mean that one product only and not all alcoholic beverages. See Bulletin #50, Item #11. Furthermore, liquored candy is not "unfit in fact for beverage purposes" within the requirement of section 27.

The manufacture of such candy by non-licensees is in violation of the Control Act and will be diligently prosecuted. The manufacture, sale or possession of such candy by licensees will result not only in prosecution under the Control Act, wherever appropriate, but also in revocation of the license. To aid the enforcement of the prohibition against liquored candy, the Commissioner has promulgated the following regulation, effective immediately:

"No licensee shall manufacture, sell, offer for sale, possess, allow, permit or suffer on or about the licensed premises any candy containing rum, cognac, brandy, cordial or other alcoholic beverage, generally known as liquored candy."

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

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

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

November 3, 1934

Charles Carone, Borough Clerk,
South Plainfield, N. J.

Dear Mr. Carone:

I have your telephone inquiry of today forwarded by Mr. Carr of my staff: "Can a man who is running for office and having headquarters in a vacant store, purchase beer or liquor on Monday and serve his friends on Tuesday, at the headquarters, gratis?"

So far as the alcoholic beverage law is concerned, there is nothing to prevent an out-and-out gift at any time, providing the transaction is really bona fide.

But what about the Corrupt Practices Act?

I suggest that you be exceedingly careful in advising the candidate or his managers or friends that the answer to the question is in the affirmative. I don't believe it is.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner

10. MUNICIPAL ORDINANCES - LABELING ORDINANCES DISAPPROVED

November 3, 1934

Dr. Chas. V. Craster,
Department of Health,
Plane & William Streets,
Newark, N. J.

Dear Dr. Craster:

I have the proposed ordinance of the City of Newark entitled "An Ordinance to secure the purity of alcoholic beverages, and to prevent deception in the distribution and sale thereof, in the City of Newark", which prohibits the distribution and sale of any alcoholic beverages in the City of Newark contrary to the ordinance.

I am in sympathy with the desire of the Board of Commissioners to do their part along any line that will help the enforcement of the Alcoholic Beverage Control Act, but I cannot approve the ordinance as submitted. The definitions of adulteration and of misbranding are based on concepts prevalent during the hysteria of the first month following Repeal. Since then, the Federal Government has evolved a series of carefully worked out regulations which, while admittedly leaving something still to be desired, have nevertheless gone a long way toward a fair, practical solution of the problem.

Reserving the right to do so, if necessary, I have refrained from making any state-wide regulation on these subject matters, and at the National Liquor Conference in Chicago last June advocated similar restraint by the Commissioners of the other States. Mr. Choate, of the Federal Alcohol Control Admin-

istration, was in hearty accord. If each State adopted its own branding and labeling regulations, then each manufacturer might have to carry 48 different kinds of labels to put on their wares, depending on the state where sold. The ultimate cost would be borne by the consumer. By the same token, if I approve the proposed ordinance of Newark, I should have to approve ordinances on the same subject by each of the other municipalities. That would mean, possibly, 564 different kinds of labels for this State alone, all depending on the particular municipality where sold.

I believe that uniform laws are highly desirable when they apply to universal situations, but may become a dangerous fetish if blindly urged notwithstanding divergent conditions confronting local administrations. Labeling, however, is certainly from the economic and practical standpoint a matter which should be handled by nation-wide regulations.

If, at any time, situations arise that should be remedied and which are not covered by the Federal regulations, I will appreciate if you will forward complete detail and I will take it up at once with Mr. Choate with a view to getting his immediate effective action in revising or broadening the present rules.

Cordially yours,
D. FREDERICK BURNETT,
Commissioner

11. TAXES - FEDERAL LIQUOR TAXES - POSSIBILITY OF REDUCTION

November 3, 1934

The Taxation Committee of the National Conference of State Liquor Administrators has sent out a questionnaire addressed to Congressional candidates, with the following results:

1. Do you favor temporary reduction in federal liquor taxes?

Yes. 94 No. 5

2. Do you favor reduction in the federal internal revenue tax on liquor which at the present time is fixed at \$2 per gallon?

Yes. 97 No. 5 2 not clear

3. Do you favor reduction in the federal import tax on liquor which is now \$5 per gallon?

Yes. 73 No. 23

4. Do you favor the Ohio Plan for reducing, at least temporarily, the federal internal revenue liquor tax from \$2 to \$1 per gallon? (This plan has already been urged upon President Roosevelt by the Liquor Control Boards of Ohio, Iowa, Virginia, Oregon, Rhode Island,

Minnesota, New Jersey, Massachusetts, Delaware, Montana and Vermont, and has been officially or informally approved by other state authorities.)

Yes. 90 No. 5

Lockwood Thompson, Chairman of the Taxation Committee and member of the Ohio Board of Liquor Control, furnishes the following summary of the returns:

"As result of questionnaires sent to congressional candidates by the Taxation Committee of the National Conference of State Liquor Administrators and tabulation of some 126 answers received from 30 states, it would appear that the Congress to be elected in January may be expected to take a favorable attitude toward federal liquor tax reduction, if results received to date are representative.

"Of 126 answers to questionnaires, 94 out of a total of 99 replying to the first question stated that they are in favor of general reduction in federal liquor taxes. Only five expressed themselves as opposed.

"Out of 104 answering the second question, 97 positively declared in favor of reduction of the present federal internal revenue liquor tax, which is now \$2 per gallon. Only five stated that they were opposed to reduction in the federal internal revenue liquor tax.

"90 out of 95 candidates answering the question placed themselves on record in favor of the Ohio Plan which would reduce from \$2 to \$1 the present federal internal revenue gallonage tax. Only five stated that they were opposed to the Ohio plan which, if adopted, would permit spirituous liquor to sell for 25¢ a quart less in each state than at the present time.

"On the subject of reduction in the existing \$5 per gallon import tax, candidates showed themselves in less agreement. Of those replying to this question, 73 favor reduction and 23 are opposed.

"It is of course to be kept in mind that the results above tabulated are incomplete due to failure of a large number of congressional candidates to reply to the questionnaire. Some wrote stating that they make it a policy never to answer questionnaires. Others replied that they desired additional time for study before committing themselves. In view, however, of the fact that replies to the questionnaire were received from 30 states, it will be observed that the answers reflect sentiment of congressional candidates from all sections of the country. If they are truly representative, it would appear that the next Congress will be decidedly favorable to federal liquor tax reduction. Such reduction has been urged by the National Conference of State Liquor Administrators throughout the country.

"It seems to be the view of the great majority of those entrusted with enforcement and administration of the liquor laws, as well as of experts generally, that the existing high federal liquor taxes offer an incentive to illicit dealers and constitutes a protective tariff for bootleggers. If our legislators will take the same view, relief should not be far distant."

The foregoing is given out for general information only. The New Jersey Department of Alcoholic Beverage Control took no part in this questionnaire and disapproves of the interrogation of candidates for political office by State Liquor Administrators.

Le. Frederick J. Burnett

Commissioner