

"Sec. 1182-3. Each employe or appointee under the provisions of this act, in cases other than where the amount of the bond is herein fixed, may be required to give bond, in such sum as the director may determine. All bonds hereinbefore provided for shall be conditioned upon the faithful discharge of the duties of their respective positions, and such bonds * * * shall be approved as to the sufficiency of the sureties by the director, and as to legality and form by the attorney general and be deposited with the secretary of state. * * *"

Finding the above bonds to have been properly executed pursuant to the above statutory provisions, I have approved the same as to form, and return them herewith.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

2945.

LIQUOR—A OR B PERMITTEE MAY NOT HAVE FINANCIAL INTEREST IN ESTABLISHMENT, MAINTENANCE OR PROMOTION OF BUSINESS OF PERSON AUTHORIZED TO SELL BEER, WINE OR SPIRITUOUS LIQUOR AT RETAIL IN OHIO.

SYLLABUS:

1. *Under Section 24 of House Bill No. 1 (section 6064-24, General Code) enacted in the second special session of the 90th General Assembly, no person holding any A or B permit can have any financial interest, directly or indirectly, in the establishment, maintenance or promotion of the business of any person authorized to sell beer, wine or spirituous liquor at retail in Ohio.*

2. *No holder of any A or B permit can own, operate, establish or maintain any place of business where beer, wine or spirituous liquor is sold at retail, which privileges are conferred under C and D permits issued by the Department of Liquor Control.*

COLUMBUS, OHIO, July 20, 1934.

Board of Liquor Control, Columbus, Ohio.

GENTLEMEN:—This will acknowledge your letter of recent date which reads as follows:

"By the second sentence of Section 24, it is provided that no manufacturer or distributor shall have any financial interest 'directly or indirectly, by stock ownership or through interlocking directors in a corporation, or otherwise, in the establishment, maintenance or promotion of the business of any retail dealer.'

The Ohio Board of Liquor Control desires to know whether in your opinion Section 24 prohibits a manufacturer or wholesale distributor from having any financial interest in the business of a retail

dealer even in a situation where the manufacturer or wholesale distributor himself desires to engage in the retail business. To be specific, please advise us as follows:

1st. May a person, partnership or corporation owning an A permit under the Ohio Liquor Control Act likewise own a C permit?

2nd. May any person, partnership or corporation owning a B permit likewise own a C permit?

3rd. May a person, partnership or corporation owning an A or B permit own any form of D permit?"

Section 24 of House Bill No. 1 (section 6064-24, General Code), enacted in the second special session of the 90th General Assembly, reads as follows:

"It shall be unlawful for any manufacturer or wholesale distributor to aid or assist the holder of any permit for sale at retail by gift or loan of any money or property of any description or other valuable thing, or by giving of premiums or rebates; and it shall be unlawful for the holder of any such permit to accept the same.

No manufacturer or wholesale distributor shall have any financial interest, directly or indirectly, by stock ownership or through interlocking directors in a corporation, or otherwise, in the establishment, maintenance or promotion of the business of any retail dealer; nor shall any manufacturer or wholesale distributor, nor any stockholder thereof acquire, after the date when this act shall take effect, by ownership in fee, leasehold, mortgage or otherwise, directly or indirectly, in the premises whereon the business of any other person engaged in the business of trafficking in beer or intoxicating liquor is conducted; and all contracts, covenants, conditions and limitations whereby any person engaged or intending or proposing to engage in the sale of beer or intoxicating liquors promises to confine his sales of a particular kind or quality of beer or intoxicating liquor to one or more product or products, or the product or products of a specified manufacturer or wholesale distributor, or to give preference to such product or products, shall to the extent of such promise be absolutely void and of no effect; excepting that the making of such promise in any such form shall be cause for the revocation or suspension of any permit issued to any party thereto."

It is commonplace knowledge that prior to prohibition the distillers and brewers controlled or had financial interests in or owned outright the places where beer and intoxicating liquor were sold and dispensed at retail. The abuses that grew out of such business connections and dealings were such as to arouse public opinion against the sale and distribution of beer and intoxicating liquor in Ohio and elsewhere. Section 24 of House Bill No. 1 (section 6064-24, General Code) evidently was enacted by the legislature with the intention of preventing the return of the abuses that grew out of such business alliances and connections by completely divorcing the manufacturing and wholesaling of beer and intoxicating liquor from the business of selling such beverages at retail. In order to effectuate that legislative policy, it is necessary that the word "any" in the phrase "the business of any retail dealer", found in the second paragraph of section 24 (section 6064-24, General Code), should be given its all-inclusive meaning. In

view of that construction of the word "any", it follows that under section 24 (section 6064-24, General Code) no person holding a manufacturing or wholesaling permit can have any interest in, either directly or indirectly, or be connected with the business, the permit or the premises of any one authorized to sell or dispense beer, wine or spirituous liquor at retail by the package or drink.

The inhibition of section 24 (section 6064-24, General Code) likewise precludes any holder of an A or B permit from owning or operating a place of business where beer, wine or spirituous liquor is sold or dispensed at retail.

Specifically answering your questions, it is my opinion that:

1. Under section 24 of House Bill No. 1 (section 6064-24, General Code), enacted in the second special session of the 90th General Assembly, no person holding any A or B permit can have any financial interest, directly or indirectly, in the establishment, maintenance or promotion of the business of any person authorized to sell beer, wine or spirituous liquor at retail in Ohio.

2. No holder of any A or B permit can own, operate, establish or maintain any place of business where beer, wine or spirituous liquor is sold at retail, which privileges are conferred under C and D permits issued by the Department of Liquor Control.

Respectfully,

JOHN W. BRICKER,

Attorney General.

2946.

BOARD OF EDUCATION—MOTION TO RECONSIDER ACTION OF PREVIOUS MEETING—VESTED RIGHTS—TEACHER NOT EMPLOYED WHEN MOTION TO RECONSIDER ADOPTED AT ADJOURNED SESSION.

SYLLABUS:

1. *A motion to reconsider the action taken by a board of education may be made by a member thereof who voted with the majority at any time during the same session at which the original vote which it is sought to reconsider was taken, provided no rights have vested thereunder in the meantime, although it be done at an adjourned meeting of the session.*

2. *Where a motion has been made and carried and at the same meeting or an adjourned session thereof, a motion is duly made to rescind the former action or reconsider the same, which motion carries by a majority vote, the teacher is not employed, regardless of the fact that between the time of the passage of the original motion and its reconsideration one of the members of the board notified the person in question that he has been employed as a teacher.*

COLUMBUS, OHIO, July 20, 1934.

HON. PAUL A. FLYNN, *Prosecuting Attorney, Tiffin, Ohio.*

DEAR SIR:—You have requested my opinion concerning the effect of the action of a certain board of education in your county school district with respect to the employment of a certain teacher. The facts as stated by you are as follows;