

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

MAINE
LEGISLATIVE RESEARCH
COMMITTEE

THIRD REPORT

to

NINETY-SIXTH LEGISLATURE



LIQUOR

January, 1953

STATE OF MAINE
SUMMARY REPORT
to
NINETY-SIXTH LEGISLATURE

LEGISLATIVE RESEARCH COMMITTEE

From the Senate:

Frederick N. Allen, Cumberland, Chairman
Albert C. Brewer, Aroostook
Foster F. Tabb, Kennebec

From the House:

Edward E. Chase, Cape Elizabeth
John H. Carter, Bethel
Lloyd T. Dunham, Ellsworth
Lewis D. Bearce, Caribou (Deceased)
Roy U. Sinclair, Pittsfield
David W. Fuller, Bangor
Louis Jalbert, Lewiston

Director:

Samuel H. Slosberg, Gardiner

January 3, 1953

To the Members of the 96th Legislature:

The Legislative Research Committee hereby has the pleasure of submitting to you the third section of its report on activities for the past two years. This year, due to the large number of items on our agenda and the scope of these studies, we are submitting our report to you in sections.

This third section deals with the Committee's studies concerning Liquor, as directed by the order of the 95th Legislature.

LEGISLATIVE RESEARCH COMMITTEE

By: Frederick N. Allen, Chairman

TABLE OF CONTENTS

LIQUOR

	<u>Page</u>
The Probe	<u>3</u>
Administration	15
Enforcement	26

LIQUOR

ORDERED, the house concurring, that the legislative research committee be, and hereby is, authorized to make a complete study of the manufacturing, importing, storing, purchasing, transporting and sale of all liquors in the state; and be it further

ORDERED, that the committee report to the 96th legislature the result of its study, together with any recommendations it deems necessary.

By the foregoing order of the 95th legislature, the legislative research committee was directed to make a study of the operations of Maine's liquor monopoly--its administration and over-all operations. The directive included also the malt beverage industry in Maine, which has approximately the same dollar volume (\$20 million annually) but is privately owned and operated though regulated by the state liquor commission.

Mindful of the responsibilities surrounding such a task, and having now at hand information gained through months of scrutiny, investigation, and interrogation of officials and others connected with liquor operations within this state, the committee has prepared this report. It is now submitted to the incoming 96th legislature and is available to the general public as well.

We feel that our findings and recommendations will offer much for the new legislature to consider; we believe they will assist that body to enact new legislation where needed. We trust that our final report will acquaint the people of Maine with phases of the liquor industry covered by the work of this committee.

Our report deals in general with three phases of the situation:

1. The probe.
2. Administration and structure of the liquor commission.
3. Enforcement as affecting both the liquor commission and the malt beverage industry.

We wish to point out that the alcoholic beverage industry in Maine is substantially a \$40 million per year business. Approximately \$20 million per year is conducted by the state itself through the sale of distilled liquors and wines, and approximately another \$20 million per year is controlled through the Maine state liquor commission and its enforcement division by regulation of malt beverage sales.

The legislative research committee has not found any serious difficulties with the malt beverage industry in Maine. Beyond minor changes in the laws affecting it, primarily for clarification and enforcement purposes, the committee recommends no particular changes in the handling of malt beverages in Maine.

THE PROBE

On June 25, 1951, the creation of legislative research sub-committees was on the agenda for the day. The sub-committee to proceed under the order relative to liquor was selected with the following membership:

Senator Foster F. Tabb of Gardiner

Representative Lewis D. Bearce of Caribou

Representative Louis Jalbert of Lewiston

Since the death of Representative Bearce, the following have been added to the sub-committee:

Senator-elect Roy U. Sinclair of Pittsfield

Representative David W. Fuller of Bangor

On July 25, 1951, the sub-committee held its first meeting and conferred with the state liquor commission. As a result of that meeting, the sub-committee reported to the full research committee on August 14,

that the liquor commission had been asked for a synopsis of its merchandising practices, which are centralized in the commission office at Augusta. The sub-committee reported that after a study of existing policy, plus study of decentralized merchandising practices in some other monopoly states, a decision would be made whether or not to employ a merchandising expert to make a survey of the practices used in Maine.

By way of explanation, we point out that by "centralized purchasing" we refer to the system by which, in monopoly states, purchase orders are issued from the central office of the commission, and all decisions are made there. "Decentralized purchasing" refers to the system by which ordering is done by the various managers of the state liquor stores.

The full committee accepted the sub-committee's report, and instructed it to continue its study of the merchandising practices of the liquor commission, and to report at the next meeting of the committee. At that time certain matters pertaining to violations of the provisions of the liquor laws on license applications were brought to the

attention of the committee. It was the decision of the research committee that these were administrative matters to be handled by the commission. This decision was made known to the liquor commission at a sub-committee meeting held August 21, 1951. At this meeting the sub-committee requested the members of the liquor commission to meet with the full research committee, and this request was reported to the full committee on September 13, 1951. However, the liquor commission could not meet with the full committee during that month. Subsequent attempts to arrange for a meeting of the liquor commission and the full research committee failed because a mutually satisfactory date could not be found.

On January 16, 1952, Chairman Zahn of the liquor commission met with the full research committee, and outlined merchandising policies and the formula for purchasing, which can be found elsewhere in this report under that heading. During an executive session of the full committee on January 17, Representative Bearce was instructed to contact an out-of-state merchandising firm relative to costs and procedure for surveying this state's liquor monopoly system.

At this session it was also decided that any possible appearance of liquor salesmen would be before the full committee.

At a meeting of the research committee held on February 14, 1952, the director of legislative research was instructed to notify all liquor salesmen doing business within this state to appear on March 12 before the full committee. He was also requested to contact the director of enforcement for the liquor commission, Mr. Timothy J. Murphy, asking him to appear at the same time.

On March 12, 1952, in answer to 61 letters from the research committee to liquor concerns doing business within the state, and to 31 salesmen representing liquor concerns, only one salesman appeared. He was questioned at length by the committee, and was most cooperative in providing information about his operations in Maine. Several committee members made known during the session their concern over the apparent outright disregard for the authority of the research committee on the part of the liquor companies' representatives, as shown by their failure to appear following the letters of invitation.

At the morning session, it was decided to invite the four Republican gubernatorial candidates to appear before the committee on April 16, 1952. The Democratic party had no announced gubernatorial candidate at that time.

During an afternoon session on March 12, Mr. Murphy, the director of enforcement for the liquor commission, appeared before the full committee. Mr. Murphy outlined the duties of the enforcement division as prescribed by law or liquor commission regulation. Many of his suggestions regarding changes in enforcement procedures are to be found elsewhere in this report under the heading of "Enforcement." Mr. Murphy was accompanied during this meeting by the Attorney General, Alexander A. LaFleur, and by Assistant Attorney General Henry Heselton who is assigned to the liquor commission. Mr. Heselton outlined his duties with the commission, which pertain primarily to the legal aspects of commission operations.

On March 13, 1952, representatives of two merchandising companies appeared before the full committee and explained the procedure and costs involved in conducting a survey of liquor operations in Maine.

Following the discussion, the committee seriously considered having an independent survey made of the liquor commission's merchandising operations. However, due to subsequent developments, and because of the high cost involved, this plan was not put into effect.

During an executive session, the committee voted to invite all liquor company representatives to appear before the committee on May 14 or 15. A form letter was prepared and sent to each of these representatives by registered mail. The contents of the letter warned the salesmen that wilful failure to appear before the committee at this second request would possibly result in the use of subpoenas.

On April 16, 1952, the four Republican gubernatorial aspirants appeared before the committee. There still being no announced Democratic candidate, that party was not represented at the meeting. One candidate said, in the main, that he would recommend a one man liquor commission. Another recommended that Maine abandon its state store system, stating that monopoly business is not sound, and that private enterprise is the "best way." The third candidate suggested a

merchandising survey and five-year terms for commission members. The fourth candidate read a prepared statement which supported the committee's plan for a full-scale investigation. He strongly recommended that the committee engage the services of a competent investigator to operate in conjunction with a merchandising expert, already under consideration by the committee.

In executive session, it was decided to recall the fourth candidate, who set forth in further detail certain aspects of the liquor commission's operations. Following this candidate's appearance, the committee decided to retain an investigator. Stanley L. Bird of Waterville, Maine, an attorney at law, with previous experience as a deputy sheriff and agent of the Federal Bureau of Investigation, was suggested as having suitable qualifications for this position. The committee met with Mr. Bird alone that same evening in executive session. After voting to retain Mr. Bird, the committee further voted to refrain from making any public announcement at that time of his employment. An alert newsman, however, saw Mr. Bird both enter and leave the evening executive session, drew the conclusion that he had been retained, and so reported publicly

without authorization from the committee.

Instructions were given to Mr. Bird for carrying on the investigation. Arrangements were made between him and the committee that all information pertaining to the merchandising of liquors and wines by the state liquor commission be reported to the full committee. Further, that any evidence uncovered by Mr. Bird during his investigation, involving suspicion of criminal violations, be referred directly to the proper state agency charged with prosecution, this being the Attorney General's office.

1. Liquor Salesmen

Forty-nine sales representatives of liquor firms dealing with the state liquor commission personally appeared before the legislative research committee on May 14 and 15, in answer to the committee's second request.

Testimony of these liquor representatives was given under oath. Each sales representative was asked the four following questions:

"Do you know of any illegal acts having been committed by any member of the Liquor Commission or by any employee thereof, past or present?"

"Do you know of any acts or failures to act by members or employees of the Liquor Commission past or present, which lead you to believe that any favoritism is being or has been exercised in the selection or elimination of brands of liquor to be sold?"

"Do you care to make any statements of facts or suggestions of method regarding the conduct of the affairs of the Maine State Liquor Commission which might help the committee in its study of these affairs with a view to improvement in efficiency?"

"In your personal contacts with the Maine State Liquor Commission, can you tell the committee what are your functions?"

They were also asked other pertinent questions by the committee's counsel.

Public hearings resumed on May 28 and 29, and continued into June 5 and 6, using the same general procedure.

Various sales representatives of liquor companies, who did not or could not attend the preceding hearings, were present on these dates. The same four basic

questions listed above were asked, and also others. Various state employees and public officials appeared on these two dates and testified as to their activities in connection with the subject of the hearing.

At the conclusion of these public hearings, the committee then decided that there had come to light evidence sufficient to justify a criminal investigation. Thus it contemplated no further investigation of its own relative to the allegations which had been made. The committee's counsel, Stanley Bird, was instructed to cooperate with the Attorney General in the latter's expressed intention to go before the June 1952 term of the Kennebec county grand jury. Much of the subsequent investigation was under the direct supervision of the legislative research committee's counsel, with the cooperation of the Attorney General's office. Criminal proceedings in Cumberland and Kennebec counties were then conducted by the Attorney General's department.

At the time, questions were raised regarding the timing of these public hearings (since they came very shortly in advance of the state primary election). As to this, let the record speak. The members of the research committee were appointed, and the legislative

order directing the liquor study was passed, prior to the adjournment of the 95th legislature in May of 1951. Part of the activities covered by the evidence presented before the committee took place during the summer of 1951 and continued until March 1952. In April, 1952, the committee heard of evidence, and employed Mr. Bird to search for it. This led to the disclosures made at the hearings during May and June, 1952. Under the circumstances it is obvious that the disclosures could not have been made at an earlier date.

2. Mr. Bird's Report

During the course of his investigation, Mr. Bird has made frequent reports to the committee regarding information he has gathered. At the close of his service he assembled most of this information in a voluminous written report.

This report necessarily contains information from, and regarding, individuals who are involved without blame or suspicion of wrongdoing. The committee believes that no useful purpose would be served by publication of Mr. Bird's confidential report, and that selective publication of parts of it might be misleading.

The more essential evidence, bearing directly upon

the affairs of the liquor commission, has already been revealed publicly in the hearings of the committee held earlier this year. Whether official action should be taken on other evidence contained in Mr. Bird's report is a decision for others to make. We have placed Mr. Bird's report, as a confidential communication, in the hands of those officials in whom the power of action lies, namely, the incoming Attorney General and the Governor.

3. Immunity

One of the major witnesses who testified before our committee at its hearings later pleaded, and was granted, immunity in court.

We wish to emphasize that no "deal" was ever entered into by or on behalf of the committee with this witness, and also that the committee never gave any assistance to him or intervened in his behalf.

The fact is that the law of Maine relative to bribery and corrupt practices provides that if one of the parties voluntarily comes forward, reveals the facts, and afterward assists in the prosecution of others, he himself cannot be prosecuted. The witness in question was relying upon his rights under the law when he appeared before the committee and the courts,

and not upon any promises made to him by this committee.

There being a distinction between the crime of bribery and that of conspiracy to bribe, we wish to point out that the committee's counsel advised the committee in advance that it was his personal opinion the witness could not be prosecuted for conspiring with another to bribe state officials, this being so closely related to the offense of bribery. His opinion was subsequently sustained by the Superior Court.

Our counsel also advised the committee in advance that he would probably be summoned as a witness for the defense before the Superior Court in Kennebec county. He was summoned, but this was to establish that the respondent had relied upon the statute in question when he originally produced his evidence and testified. It was not to show a promise of immunity.

ADMINISTRATION

In the field of administration, the committee's report will refer to matters involving purchasing and selling, location of facilities, hours of operation, billboard advertising, increased fees for

certificates of approval, licensing of sales representatives of companies dealing with the Maine liquor commission, delisting for violations of the law or regulations, commission procedure, and commission structure.

1. Formula for Purchasing

The formula for the purchase of liquor by the Maine state liquor commission was explained by the commission as having as a basis three weeks' supply in the state monopoly stores and four to six weeks' supply in the commission's warehouse. This, however, is subject to variations, as might be expected, such as the following:

1. Additions made in order to fill a "pool car" at one of the eight shipping points where pooling is possible.
2. Season bulk purchases in order to obtain a lower price whenever offered by a distiller. An example of this would be a bulk purchase of gin in the early spring for the summer trade.
3. Bulk purchases in anticipation of a shortage. An example of this is the large purchase of a brand of Scotch whiskey in August of 1950. It was explained to the committee that the amount in question

was 4,300 cases. This has been defended as desirable by reason of an expected shortage of imported Scotch whiskey. Various companies anticipated a shortage, and the brand in question was available and was purchased. It sells readily in summer hotels, but otherwise moves somewhat slowly due to price.

The committee is of the opinion that purchasing in accordance with such a formula is basically sound; and that departures from it should be kept to a minimum.

2. Wine Sales

One recent aspect of the merchandising of alcoholic beverages has been the increase in wine sales. Wine is the least profitable commodity handled by the state liquor commission, despite the fact that wine sales in Maine have shown an increase of 41,000 gallons during the fiscal year ending June 30, 1952. The state's profit on wine sales was only \$220,000 during this same period. The committee points out, without recommendation, that there are two alternatives in dealing with this problem.

1. There can be a change in methods of pricing so as to assure a more reasonable profit per bottle

of wine. For example, we understand that the present net profit on a bottle of wine costing 75¢ is only nine cents.

2. Bearing in mind the increased volume in wine sales, the inadequate storage space in the majority of state liquor stores, the possible shortage of warehouse facilities in the future, and the disproportionate cost of warehousing and freight charges on wine as compared with distilled spirits, the sale of wine can be removed from the monopoly system.

The sale and distribution of wine would then be handled in a manner similar to that prescribed by the laws now in effect for the sale and distribution of malt beverages. This would entail legislative action involving the imposition of an adequate excise tax on wine, additional wholesale and retail license fees, and additional local option questions, all with the purpose of maintaining at least the same amount of revenue to the State.

3. Slow-moving Merchandise

The dollar value of this merchandise reached a high of \$92,926 on June 30, 1949, but was reduced to \$9,800 on June 30, 1951. The committee understands

that in bringing this about, some brands which sold well were delisted in order to induce the sellers to take back merchandise of other brands which had ceased to sell, and was occupying needed space. At the time of the appearance before the committee of the several candidates for Governor, one of them presented a sheet with 37 listings, the total inventory cost being over \$200,000. He pointed out that in some cases there appeared to be a supply for 128 months, and that the time element ranged down to 11 months on these slow-moving items.

4. Delisting

It appeared from the testimony before the committee that, in the past, so-called "delisting" was done without notice to the seller. The committee feels that there should be reasonable notice in writing before removing a number from the store lists, or before the issuance of a stop-purchase order.

5. Premiums and Rebates

Section 57 of the state liquor law pertains to premiums and rebates which are forbidden. To provide the commission with data which would aid in enforcing Section 57, we recommend that Section 19 be amended by inserting in the last line thereof

the words "and sold" after the word "purchased", so that the commission will have figures on sales as well as purchases of malt beverages.

The last paragraph would then read as follows:

"Maine wholesale licensees shall furnish to the commission in such form as may be prescribed a monthly report, on or before the 10th day of each calendar month, of all malt liquor purchased AND SOLD during the preceding month."

6. Hours

The committee has considered the matter of hours of sale by licensees, and finds that there is no provision in the law for bottle sales of wines or hard liquors after 6 P. M., other than to registered guests in hotels, unless the state liquor stores remain open until a later hour.

We are of the opinion that this situation greatly increases illegal sales of wines and hard liquors and adds to the burden of enforcement of the liquor law. We recommend that the liquor commission give serious consideration to keeping the state liquor stores open until a later hour in the evening, or that the law be amended to provide some other method of bottle sales after 6 P. M. We do not

feel that this will increase materially the total sales of liquor. We do believe it will decrease illegal selling, and will render a better service to the citizens of the state, and its many visitors, who wish to purchase wines or hard liquors.

7. Billboards

We recommend that billboards and displays advertising any type of alcoholic beverages by brand names be prohibited by law in those municipalities which have voted against the sale of all types of alcoholic liquors.

8. Fees for Certificates of Approval

We recommend that the fee for a certificate of approval issued to a manufacturer or foreign wholesaler of malt liquor be increased to \$1,000 to bring the fee charged by the State of Maine into line with the fees charged by other states.

9. Location of Warehouse Building

The committee feels that the supervisory duties of the state liquor commission would be more readily handled if the commission offices were located near the liquor warehouse. We are advised that the net rental paid for the warehouse in Portland is \$19,416.43 a year, and that the rental paid for the wholesale

store in Portland is \$3,000 a year. A suitable warehouse building would fulfill both functions. We therefore recommend a state-owned warehouse in Augusta.

10. Registration of Salesmen

The committee believes that administration of the liquor laws of the state would be materially aided if the Maine sales representatives of the persons, firms, and corporations doing business with the liquor commission were licensed and registered by the state. To obtain such a license, each sales representative would make application to the commission, disclosing all persons, firms, and corporations directly or indirectly represented, and such other data as might be required by law. Proved violation of the liquor laws, or commission rules and regulations, would be a cause for revocation. Upon the granting of a license, the sales representative would be registered at the office of the Secretary of State. We suggest a reasonable fee to cover the expense of administration.

11. Delisting for Violations

Brands of liquor furnished by suppliers who are found guilty of violations of the state liquor laws, or of the rules and regulations of the commission,

should be delisted or suspended. Likewise brands furnished by suppliers who have condoned violations of these laws, rules and regulations, by their sales representatives, should be delisted or suspended. In either case, there should be a hearing before action is taken by the commission.

12. Protection of Store Lists

Since it has been claimed that brand names and numbers have been removed, at times, by unauthorized persons from the lists posted in some of the state liquor stores, we recommend that these lists be protected by glass enclosures.

13. Commission Procedure

The committee recommends that the liquor commission adopt a procedure whereby all three members of the liquor commission would jointly discuss any departure from the established routine, and would make their discussions and decisions a matter of record. This procedure should apply to new listings, delistings, changes in merchandising, temporary or permanent, cutting down of purchases pending investigation or for any other reason, or changes in the formula.

The commission would then be safeguarded by having

three members participating in any vital decisions or changes pertaining to policy.

The committee also feels that definite functions might be assigned to members of the commission. For example, one member might have as his special duty matters pertaining to enforcement; another might be assigned matters pertaining to merchandising; while the chairman would be entrusted with over-all supervision. If this cannot be accomplished under the existing liquor law, we recommend the necessary amendments.

14. Structure of the Commission

Various ideas have been advanced regarding the structure of the liquor commission. Prominent among these are proposals for a single commissioner and for a commission having policy and advisory functions exercised through a general manager. The research committee makes no recommendation of changes in structure for two reasons: First, we wish to avoid any possible conflict of opinion with Governor Cross who may have proposals to advance on this subject, which proposals would be entitled to prior legislative consideration by open minds in view of the responsibility of the Governor for efficient operation of all state departments and agencies;

second, because we believe that structure of organization by itself affords no hope for avoiding misconduct or corruption in the future.

We make no formal charge that there has been corruption; but certainly no one can doubt that such corruption has been attempted, or that it will again be tried whenever the liquor commission or any public official capable of exercising influence over the liquor commission is open to the suspicion that bribery or political pressure might be effective if tried.

Only the people of Maine, by their careful and continuous scrutiny of the conduct and character of the candidates for public office, and by their prompt action to restore competence and integrity in any office where high quality is required, can provide the protection against the forces of evil which are always seeking to advance their interests by controlling the powers exercised through government. Unless that intelligence and determination is actively displayed by the people, there is small ground for hope that the aim of moral integrity can be achieved by changing titles or tinkering with tables of organization.

ENFORCEMENT

In the work of the committee in studying the liquor laws of the state, we have found certain minor inconsistencies, due chiefly to the fact that certain sections have been amended, deleted, or added to without proper changes being made in other sections affected thereby.

The committee recommends that a thoroughgoing study of the liquor laws be made by the Assistant Attorney General assigned to the Maine state liquor commission for the purpose of clarifying any ambiguous provisions, adjusting any conflicting sections, coordinating the liquor laws with other laws where necessary, and making other changes and additions which may be necessary and advisable for better conduct and enforcement in the liquor business. Legislation should be prepared to make such changes; and this legislation should be presented to the appropriate committee of the legislature for consideration and hearings.

The committee has specific recommendations in the field of enforcement dealing with the following subjects: Standard or daylight saving time, bringing licenses to hearings, right of the commission to "file" cases, indefinite suspensions of licenses, removal of licensee violations from the criminal code, entertainment on licensed premises and suspension and revocation of licenses.

1. Time. (Standard or Daylight)

The legislation now existing in the State of Maine contemplates only one kind of time, this being eastern standard time. However, by custom most municipalities observe eastern daylight saving time during the summer months. This creates a situation in which licensees in those towns which do not observe daylight saving time can continue to sell liquor one hour later at night than can licensees in towns and cities which do observe daylight saving time. The committee considers that this situation is unfair to the great majority of licensees and recommends that the laws relative to liquor licenses be amended so that all licensees will cease to sell at the same hour.

2. Bringing License to Hearing

Under the present regulations it is the practice in case of a hearing before the commission on an alleged violation of the liquor law or regulation to require that the licensee bring his license with him to the hearing. This simplifies the work of the commission somewhat in case of a suspension or revocation. However, in the event that the licensee is found not guilty of any violation, he still has obviously been penalized by being unable to sell

liquor under his license for a period of from one to three days. This may mean a substantial loss of income. The committee recommends that the liquor commission adopt a policy under which the licensee will have the use of his license until it has been actually suspended or revoked for some violation.

3. Technical Violations, etc.

Section 60 of Chapter 57 of the Revised Statutes as amended deals with the suspension and revocation of licenses for the sale of liquor.

The committee has been advised that the liquor commission, under this section, does not have the power held by judicial bodies to "file" a case without penalty or take similar action where the violation is of a very technical nature, or where suspension would involve unreasonable hardship. In other words, there must be either a suspension or a revocation in every case where the commission finds that there has been a violation, even though the violation is unintentional or technical. We feel that relations with licensees would be improved if the commission had the additional power to "file" a case without penalty if the circumstances were deemed to warrant it.

4. Indefinite Suspensions of Licenses

The committee feels that a violation involving a condition which can be corrected should be dealt with by a suspension which is not for a definite period, but is to be effective until such time as the condition is remedied. We recommend that the law be amended to allow indefinite suspensions in limited classes of cases.

5. Removal of Licensee Violations from Criminal Code

The law in Maine, for many years, held that any sale of alcoholic beverage was a crime. Under the present law, of course, it is not a crime if made by a licensee in compliance with the laws and regulations. However, in the cases of sales to minors, sales on Sunday, sales after hours, etc. these are still in the criminal code. The enforcement division of the commission is thus confronted with a dilemma. If a license is suspended or revoked before a court has finally disposed of the case, it may transpire that the licensee will be found "Not Guilty"; that the commission will be required to reinstate the license; and that the legislature will be presented with a claim for damages resulting from the improper suspension. Thus the commission is in a doubtful position if action is taken before the licensee has

been finally adjudged to be guilty by court decision. This has caused the commission to be the subject of criticism by persons not familiar with the situation because of alleged slowness in dealing with violations. Moreover, after an appeal, and before the final disposition of a case, a licensee who expects to be eventually found guilty is inclined to be less careful in the operation of his business under his license.

The speed with which the commission could punish licensee violations would be greatly increased by removing them from the criminal code. And the financial loss to the licensee from the suspension or revocation should be at least as severe as the fine usually imposed. As to unlicensed sellers of liquor, the law would of course remain as it now is.

6. Entertainment on Licensed Premises.

The overlapping jurisdiction of the liquor commission and the courts has been mentioned. Another instance of this is found in the field of entertainment on licensed premises.

The Revised Statutes prohibit "obscene, indecent, immoral, or impure" shows or entertainments, or

"any show or entertainment manifestly tending to corrupt the morals of youth." This provision is to be enforced by the police. The regulations of the liquor commission impose a somewhat different standard of conduct upon its licensees. Regulation No. 19 of the commission provides that "No dancing, amusement, or entertainment in licensed premises shall be of an improper or objectionable nature." And it further prohibits "entertainment consisting of persons of one sex portraying the opposite sex."

The result is that if a licensee is in doubt as to entertainment to be presented on his premises, he cannot rely upon the police alone, but must have his entertainment "censored" by the liquor commission also in order to feel secure. Our sympathies in this matter run to the licensee who may have to entertain on his premises representatives of the police and of the commission at the same time, with the full knowledge that the opinion of the police, on the one hand, and the representatives of the commission, on the other, as to what constitutes permissible entertainment, may be widely divergent because each has a different standard of conduct.

The committee recommends that in the field of entertainment, the regulations of the liquor commission conform to the standards set forth in the statutes.

7. Suspension and Revocation of Licenses

It is the opinion of the liquor commission that the statutes, as they presently exist, and insofar as they pertain to suspension and revocation, may under certain circumstances be such as to prevent the commission from imposing just sentence on a licensee found guilty of a violation.

As the law now stands, a suspension must be confined to the current licensing period. This means that in the event a violation occurs toward the latter part of a licensing year, the commission is restricted to the balance of that licensing year, by way of imposing suspension. Its only other alternative is a revocation, which means that the licensee may not apply for a license for a period of five years.

It is the opinion of the committee that legislation should be sought which would enable the commission to mete out a just sentence, regardless of when the violation occurs during a license period.

This could be accomplished by permitting the commission to withhold the issuance of a renewal license for a period of time as part of its suspension or revocation. The same ends could be obtained if the commission had authority to revoke licenses for varying periods of time, rather than a five year mandatory term.

It has been pointed out that revocation of a spirituous or vinous license not only penalizes the licensee by making him ineligible for a license for five years, but also by forfeit of his bond, and this results in a substantial monetary loss to the licensee.