

OCTOBER 7, 1949.

HONORABLE ERWIN B. HOCK,
Director, Division of Alcoholic Beverage Control,
Department of Law and Public Safety,
1060 Broad Street,
Newark 2, New Jersey.

FORMAL OPINION—1949. No. 94.

My DEAR MR. HOCK:

I have your letter of the 5th instant calling my attention to Chapter 296 of the Laws of 1949 amendatory of each of the five local option sections of the Alcoholic Beverage Law (R. S. 33:1-44; 33:1-45; 33:1-46; 33:1-47; and 33:1-47.1), in that the time which must elapse between a referendum election was changed from three years to five years.

It appears from your communication that the County Clerk of Burlington County received from the governing body of one of the municipalities in that county a copy of a resolution directing him to print upon the official ballot to be used in the municipality at the next general election the "Sunday sales" question prescribed by R. S. 33:1-47. It also appears that the same question was voted upon in the municipality at the general election held therein in the year 1946.

The question which you have presented for my consideration is whether a referendum may be had in the Burlington County municipality at the coming general election. In other words, as you state the question "does the five year interval commence only on the date of a referendum held after the effective date of the 1949 act or does it apply, also, with respect to the interval between a referendum held prior to the 1949 act and a referendum held after the 1949 act?"

Your letter gives me to understand that in response to other inquiries which you have received on the same question, you have expressed your administrative construction that the 1949 act's "five-year interval commences to run as of the latest referendum on the same question in the municipality, whether such referendum's date is before or after the 1949 act."

Your construction, in my opinion, is absolutely correct. The amendments of 1949 supersede and take the place of the prior law. It is clear, therefore, that from one referendum to another referendum on any of the questions mentioned in the five sections above referred to, the second referendum cannot be held until the fifth year after the first referendum.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: THEODORE BACKES,
Deputy Attorney General.

TB:B