

**Intoxicating Liquors—Possession of—Drinking in Public Place—Rooming House, Search Of.**

Where person personally carries liquors into public place and drinks same, such place may be abated as a nuisance.

A search warrant may be procured for rooming house where intoxicating liquors are kept.

January 29th, 1919.

Mr. Joseph C. Tope,  
County Attorney,  
Terry, Montana.

Dear Sir:

I have your letter of the 24th inst., regarding certain matters in connection with the prohibition laws of this state.

With reference to persons carrying bottles of whiskey on their persons and going into soft drink places, buying a glass of grape juice, putting whiskey in the same from their bottles, thus mixing their own drinks at the bar, this is rather a difficult proposition. I believe that it can be handled, however, under Chapter 130, Session Laws of 1917. Such act makes a place where persons are permitted to resort for the purpose of drinking intoxicating liquors as a beverage a nuisance, and provides for the abatement thereof. It would appear that if the owner or proprietor of a soft drink place permits any person to drink intoxicating liquors in such place it would come within this section. You should, therefore, advise the sheriff to notify the owners and proprietors of all such places that such practice will not be permitted, and that if they allow the same in their places of business action to abate such places of business as nuisance will be instituted under this section, and if after such warning any owner or proprietor of such a place continues to allow such practice you should institute an action under such chapter to abate his place of business as a nuisance.

With reference to the keeping of intoxicating liquor in rooms in a rooming house, I agree with you that a rooming house is a place of public resort, at least it is not a private residence in the sense such words are used in Section 7, Chapter 143, Acts of 1917, and there is, therefore, no reason why you may not file a complaint and procure a search warrant under Sections 7 and 8 of said Act.

Respectfully,

S. C. FORD,

Attorney General.