

FILE NO. 72848

February 26, 1941

Mr. O. H. Hoth
Manager, Tax Department
American Oil Company
American Building
Baltimore, Maryland

Dear Sir:

Reference is made to your letter of January 23, 1941, regarding Article 28, Section 57 of the Baltimore City Code of 1927 (Ordinance No. 35, approved April 1, 1881), which reads in part as follows:

"It shall not be lawful for any person or persons or firm, to barter, give, sell or offer for sale, in the City of Baltimore in quantities less than a barrel, any oil or fluids made from petroleum, or its products, and used for illuminating purposes, without having first obtained for that purpose a license from the Comptroller of Baltimore City . . ."

You state in your letter that the Lord Baltimore Filling Stations are divided into two classes, namely:

1. Filling stations at which "kerosene is being purchased for illuminating purposes and at such stations we have made application and procured the necessary kerosene permits."
2. Filling stations, which comprise a majority of your stations, at which "we know that kerosene is being purchased by our customers for use in kerosene stoves or for cleaning or for any purpose other than illuminating purposes."

At the stations comprising the second class you have instructed the operators at those stations not to make any sales of kerosene for illuminating purposes. The question arises as to whether or not the stations comprising the second class are required to take out a permit under the provisions of the abovementioned ordinance.

The phrase "used for illuminating purposes" may refer to such oil or fluids made from petroleum or its products as will be used by the purchaser for illuminating purposes; on the other hand, it may refer to such oils or fluids as are usable or generally used for illuminating purposes. Personally, I am inclined to the second