

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
744 Broad Street, Newark, N. J.

BULLETIN 359

NOVEMBER 10, 1939.

1. LICENSED PREMISES - ALTERATIONS OR REPAIRS ON ELECTION DAY -
WHEN PERMISSIBLE.

November 3, 1939

Mrs. Mary Polischak,
Fords, Woodbridge Township, N. J.

My dear Mrs. Polischak:

There is nothing in the Alcoholic Beverage Law or the State Regulations which prohibits the making of alterations to the interior of your licensed premises on Election Day. All that is prohibited is the sale or delivery of alcoholic beverages while the polls are open for voting.

According to my records, you hold plenary retail distribution license D-4 for premises in Woodbridge Township. I have no record of any regulation presently in effect in Woodbridge Township requiring the closing of and exclusion of all persons from licensed premises on Election Days.

You may, therefore, make your inside alterations notwithstanding you propose to do so on Election Day. I cordially suggest, however, that you do not allow anybody inside your place except the mechanics and those actually engaged in making the alterations, and, of course, under no circumstances may you serve them beer or other alcoholic beverages. Whether it is done gratuitously or for money makes no difference. Avoid the appearance of wrongdoing and mind your own business strictly and you will not have a bit of trouble.

With best wishes, I am

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

2. SEIZURES - CONFISCATION PROCEEDINGS - ORDER MODIFIED.

In the Matter of the Seizure)
of a Chrysler Sedan owned by) Case #5375
Carl Brooks, and a quantity of)
alcohol found therein, in the) ORDER
vicinity of 123 Cacciola Place,)
in the Town of Westfield, County)
of Union and State of New Jersey.)
-----)

BY THE COMMISSIONER:

By Order entered September 26, 1939, a Chrysler Sedan, seized in this matter, was ordered returned to Emanuel Rouvet, T/a Cranford Motor Sales, if he paid the costs involved in connection with its seizure. Bulletin 347, Item 12.

It now appears that Emanuel Rouvet prefers not to pay such costs, but instead desires to release whatever interest he has in the vehicle.

I therefore rescind so much of the Order as directed that the Chrysler Sedan be returned to Emanuel Rouvet, T/a Cranford Motor Sales, and instead, it is ORDERED that it be retained for the use of hospitals and State, County and municipal institutions.

D. FREDERICK BURNETT,
Commissioner.

Dated: November 2, 1939.

3. PARTNERSHIP - TITLE TO ALCOHOLIC BEVERAGES - HEREIN OF THE DIFFERENCE BETWEEN THE RETIREMENT OF AN OLD PARTNER AND THE ADMITTANCE OF A NEW ONE AND OF THE NECESSITY FOR SPECIAL PERMIT TO EFFECT TRANSFER OF TITLE IN THE LATTER CASE.

November 3, 1939...

Messrs. Charles Krawiec and John Miga,
Trenton, N. J.

Dear Sirs:

According to our records, Plenary Retail Consumption License C-65 was issued to Joseph Miga and Charles Krawiec, 702 Pine St., Trenton, N. J., on July 1, 1939, for the present fiscal year; thereafter Miga died and Krawiec continued the business as the remaining partner, and on September 9, 1939 the license was transferred from Krawiec to himself and John Miga, as partners.

Prior to the death of Joseph Miga, title in the stock of alcoholic beverages held by the partnership was vested in Joseph Miga and Krawiec, each holding an undivided interest. Thus, upon the death of Joseph Miga, no transfer in title of the stock of alcoholic beverages held by the partnership was involved because Krawiec already had an undivided interest in the entire stock as partner. Hence, no sale of the alcoholic beverages took place within the contemplation of the Alcoholic Beverage Law and thus no permit was required.

However, the situation was quite different when John Miga became a partner in the licensed business by transfer of the license on September 9th. John Miga had no title whatsoever in the alcoholic beverages held by Krawiec at the time of the transfer of the license. When he became a partner, title in any alcoholic beverages which Krawiec may have possessed under his license was transferred from Krawiec to the partnership composed of Miga and Krawiec. This transfer of title constituted a sale (within the contemplation of the law), which is prohibited except pursuant to a Special Permit costing \$10.00.

Therefore, if Krawiec held any alcoholic beverages at the time of the transfer on September 9th which were transferred to the partnership, a permit should be obtained. Enclosed is an application form for your convenience which should be executed completely and returned to this office accompanied by the above fee in cash, money order or certified check to the order of D. Frederick Burnett, Commissioner.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.
By: Erwin B. Hock,
Deputy Commissioner.

4. COUPONS - TWO BEERS IN THE DAYTIME FOR THE PRICE OF ONE -
DISAPPROVED.

November 3, 1939.

Dear Commissioner Burnett:

Will you kindly advise me whether it is legal or would it meet with your approval if a tavern owner would do the following:

During the hours between opening in the morning and 7:00 P.M. in the evening, issue a free coupon or check to every purchaser of a glass of beer, entitling him to a free glass of beer immediately thereafter, or redeemable another day between the same hours, viz: from opening to 7:00 P.M. in the evening. This check or coupon given out only on the purchase of beer.

Very truly yours,

Samuel L. Marcus

November 4, 1939.

Samuel L. Marcus, Esq.,
Newark, N. J.

My dear Mr. Marcus:

I have yours of the 3rd.

The answer is NO.

If the desire is to keep the cash register warmed up in the daytime, plugs will do for practice.

But coupons or rain checks to induce daylight drinking are OUT.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner

5. LICENSEES - TITLE TO ALCOHOLIC BEVERAGES - HEREIN OF THE NECESSITY OF A SPECIAL PERMIT WHEN A LICENSEE DISCONTINUES BUSINESS AND HIS STOCK OF BEVERAGES IS TURNED OVER TO HIS SUCCESSOR.

November 3, 1939

Thomas M. Madden, Esq.,
Camden, N. J.

Dear Mr. Madden:

Re: Nicholas Benevento.

According to our records, the above held Plenary Retail Consumption License C-1 for the fiscal year 1938-39 for premises located at Haddon and Lafayette Ave., Voorhees Township; this license was obtained July 1, 1939 for the present fiscal year by Guido DiFrancesco, and the license was transferred to Benevento on July 19, 1939.

When a licensee discontinues in business and a quantity of alcoholic beverages remaining on hand is turned over to his successor in business, such transfer in title of the stock of alcoholic beverages constitutes a sale within the contemplation of the Alcoholic Beverage Law which is prohibited except pursuant to a Special Permit costing \$10.00.

Thus, when Benevento failed to renew his license on July 1st and DiFrancesco obtained the license for the present fiscal year, if any stock of alcoholic beverages were turned over by Benevento to DiFrancesco, a Special Permit was required to validate the transfer in the title in the beverages. Likewise, when DiFrancesco's license was transferred back to Benevento, if a quantity of alcoholic beverages was turned over by DiFrancesco to Benevento, a Special Permit was again required.

The fact that DiFrancesco, after obtaining his license, decided that he did not want to continue in the business and therefore transferred it back to Benevento, does not alter the situation because he was the licensee of record for a period of nineteen days. Title in any alcoholic beverages possessed thereunder during that period was vested in DiFrancesco alone.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

By: Erwin B. Hock,
Deputy Commissioner.

6. LICENSED PREMISES - DISPLAYS - NUDE FEMALES IN SILHOUETTE - CEASE AND DESIST ORDER ISSUED.

November 1, 1939

Mr. James Natoli,
T/a Esquire Club,
Paterson, N. J.

Dear Sir:

During the course of a recent inspection of your licensed premises, it was found that on each side of the entrance door is painted, in black, blue and white on the brick front of the premises, in a space approximately 14" wide by 20" high, a silhouette of a nude woman who stands facing a large cocktail

glass which is about three-quarters as tall as she. The right side of the silhouetted figure faces the sidewalk, showing a clearly defined female form.

At the left of the premises is an alleyway leading to a side entrance. On the outside wall at this corner of the building is another silhouette of a nude woman sitting on a stool and holding a cocktail glass in her outstretched hands. The right side of this figure also faces the street. This silhouette is also painted in black, blue and white on the brick front of the premises in a space about 14" square.

Cut it out at once. Cheap stuff! Trite, dull, drab but conveying a wrong impression to passersby. Things like this hurt the whole industry. They are not in the public interest.

Write me by return mail that you will remove them forthwith.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

7. DISCIPLINARY PROCEEDINGS - DOOR PRIZES - HEREIN OF THE VALUE OF CONSULTING THE CALENDAR.

November 6, 1939

William B. Dunn,
City Recorder,
Salem, N. J.

My dear Mr. Dunn:

I have before me staff report and your letter of October 24th re disciplinary proceedings against Samuel Catalano, 29 Fifth St., charged with distribution of door prizes, and note that his license was suspended from midnight, November 4th to midnight, November 7th.

I take it that the three-day suspension was imposed in accordance with the recommended minimum of five days for offenses of this sort, less two days off for the guilty plea.

The days fixed for suspension are not particularly apt, except from the licensee's standpoint, for November 5th is a Sunday and sales, of course, on that day are prohibited by your own local ordinance. So, again, November 7th is General Election Day and sales are prohibited on that day from 7:00 A.M. to 8:00 P.M. by the State Regulation.

It might be well, therefore, for your Council, in choosing penance days, to look at the calendar.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

8. GENERAL ELECTION DAY REPORT:

November 8, 1939

To: D. Frederick Burnett, Commissioner
 From: E. W. Garrett

For your information, I submit report of activities on
 General Election Day, November 7th:

<u>COUNTY</u>	<u>NUMBER OF CALLS MADE</u>	<u>VIOLATIONS</u>
Atlantic	580	0
Bergen	946	0
Burlington	204	1
Camden	551	1
Cape May	132	0
Cumberland	107	0
Essex	1,742	0
Gloucester	82	0
Hudson	1,862	1
Hunterdon	68	0
Mercer	507	0
Middlesex	603	0
Monmouth	523	0
Morris	341	0
Ocean	154	0
Passaic	790	0
Salem	60	0
Somerset	164	0
Sussex	88	0
Union	745	0
Warren	126	0
TOTAL	10,375	3

On the basis of preliminary reports, violations appear to
 have occurred on the following licensed premises:

BURLINGTON COUNTY

Fieldsboro	Emma Wallace Zabriskie T/a Dew Drop Inn Front Street	C-3
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CAMDEN COUNTY

Camden	George Shapiro T/a Harmony Cafe 783 Spruce Street	C-188
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HUDSON COUNTY

Harrison	Sam Radick 504 N. 4th Street	D-3
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E. W. Garrett,
 Chief Deputy Commissioner.

9. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED -
HEREIN OF DOING ILLEGAL FAVORS FOR A FRIEND WITH THE USUAL
RESULT.

In the Matter of the Seizure of)	Case 5557
Harry Giacamoni's Pontiac Coach)	
and two 5-gallon cans of alcohol)	ON HEARING
found therein, on the Searbach)	CONCLUSIONS AND ORDER
Farm, in the Township of Weymouth,	
County of Atlantic and State of)	
New Jersey.)	

Ralph Barile, Esq., Attorney for Harry Giacamoni.
 Harry Castelbaum, Esq., Attorney for the Department of
 Alcoholic Beverage Control.

BY THE COMMISSIONER:

On August 29, 1939, officers of this Department, in cooperation with a constable of Atlantic County, arrested Harry Giacamoni for transporting two 5-gallon cans of alcohol in his Pontiac Coach.

Harry Giacamoni does not contest the fact that he was engaged in illegal activities, or that the alcohol is prima facie illicit since, although fit for beverage purposes, it bore no tax stamps. R. S. 33:1-1(i); also cf. P.L. 1939, Chap. 177. Hence the alcohol and car, which were seized, are unlawful property, subject to confiscation. R. S. 33:1-1(i) and (y); R. S. 33:1-66.

However, Harry Giacamoni, claiming that he is not a bootlegger but a law-abiding citizen who was misled into committing the violation, seeks the return of his automobile. Under the provisions of R. S. 33:1-66(e), I am authorized to return forfeited property to a person who has satisfied me that he acted in good faith and unknowingly violated the provisions thereof.

Giacamoni, who has no criminal record and appears to be a person of good character, admits that he knew he was doing wrong, his excuse being that his action was motivated by good fellowship and not with a view to financial gain. He claims that George Searbach, with whom he is on friendly terms, asked him, as a favor, to get some alcohol; that he knew where it could be obtained because he was born and brought up in the vicinity; and that he complied with Searbach's request and brought him the alcohol. Moreover, he volunteered the information that it was the second time he had obtained alcohol for Searbach with no thought of personal profit, the first time being about a month or two previous.

Irrespective of Giacamoni's motives, he committed the violation with his eyes wide open. An honest mistake made by a person innocent of intentional wrongdoing is the only excuse that the Legislature has authorized me to accept. Hence, request for return of the car is denied.

Accordingly, it is ORDERED that the Pontiac Coach hereby is forfeited in accordance with the provisions of R. S. 33:1-66,

11. DISCIPLINARY PROCEEDINGS - SALES OUT OF HOURS - 3 DAYS ON CONFESSION OF GUILT.

In the Matter of Disciplinary Proceedings against)

AIRDROME DINER CORP.,)
Route 25 and Haynes Avenue,
Newark, New Jersey,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-898, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.
Abraham I. Harkavy, Esq., Attorney for Licensee.

BY THE COMMISSIONER:

The licensee has pleaded guilty to the charge that it sold alcoholic beverages during prohibited hours on Sunday, September 10, 1939, in violation of Section 1 of Newark Ordinance No. 3930, adopted December 21, 1938.

The usual penalty for this violation is five days.

By entering this plea in ample time before the day fixed for hearing, the Department has been saved the time and expense of proving its case. The license will, therefore, be suspended for three (3) days instead of five (5) days.

Accordingly, it is, on this 6th day of November, 1939,

ORDERED, that Plenary Retail Consumption License C-898, heretofore issued to Airdrome Diner Corp. by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of three (3) days, effective November 10, 1939 at 3:00 A.M.

D. FREDERICK BURNETT,
Commissioner.

12. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - 5 DAYS.

In the Matter of Disciplinary Proceedings against
 TELOCVICNA JEDNOTA SOKOL,
 T/a T. J. SOKOL ASSOCIATION,
 14 Garden Street,
 Little Ferry, New Jersey,
 Holder of Plenary Retail Consumption License C-118, issued by the State Commissioner of Alcoholic Beverage Control.

CONCLUSIONS AND ORDER

Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.

Thaddeus Mastik, Treasurer, for Licensee.

BY THE COMMISSIONER:

The licensee has pleaded guilty to charges of permitting a lottery to be conducted on the licensed premises and permitting lottery tickets to be sold on the licensed premises, in violation of Rule 6 of State Regulations 20.

The usual penalty for each violation is five days.

By entering this plea in ample time before the day fixed for hearing, the Department has been saved the time and expense of proving its case. The license will, therefore, be suspended for five (5) days instead of ten (10) days.

Accordingly, it is, on this 6th day of November, 1939,

ORDERED, that Plenary Retail Consumption License C-118, heretofore issued to Telocvicna Jednota Sokol, T/a T. J. Sokol Association, by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for a period of five (5) days, effective November 10, 1939 at midnight.

D. FREDERICK BURNETT,
Commissioner.

13. COURT DECISIONS - NEW JERSEY SUPREME COURT - PETER ORSI v. D. FREDERICK BURNETT, COMMISSIONER, ET AL.

PETER ORSI,)	
)	
-vs-)	ON CERTIORARI
)	ON APPLICATION FOR ALLOCATUR
D. FREDERICK BURNETT, Commis-)	
sioner of Alcoholic Beverage)	
Control, and the Municipal)	
Board of Alcoholic Beverage)	
Control of the City of Newark.))	
-----)	

Pro: George R. Sommer, Esq.,
 Contra: Edward J. Dorton, Esq., for D. Frederick Burnett,
 Commissioner, and
 Joseph B. Sugrue, Esq., for Municipal Board.

Application for writ of certiorari to review the refusal of the Commissioner of Alcoholic Beverage Control to renew plenary retail consumption license.

The petitioner is the owner of premises at 112 Bank Street, near Plane, Newark. On the premises he conducted a saloon under license which would have expired July 1, 1939. One month before that expiration his license was suspended by the commissioner for permitting female impersonators to congregate on the premises. After the thirty days he made application for renewal of the license and the renewal was denied by the municipal board of Newark. The denial was affirmed by the Commissioner.

JUSTICE PARKER (orally):

I think this case is very simple and I am going to dispose of it now. This man was apparently convicted on hearing of something which savored very strongly of the immoral, and that was when he was the holder of a license. His license was suspended for thirty days as a punishment. If the term of his license had extended beyond the thirty days, I suppose he would have resumed business at the end of the thirty-day period, and at the expiration of a year he would have come up for another license. It again would have been an act of discretion on the part of the Municipal Board in the first instance and on the part of the Commissioner in the second, to say whether in their judgment he was a fit and proper person to be licensed again.

There is not much difference between that case and the present except that the year ran out while the thirty days were running. So that he was a non-licensee at the time. Common sense seems to require that in passing upon his eligibility for a license his record as a licensee has to be considered, and that is what the Municipal Board considered and that is what the Commissioner considered. They both seem to have said that this man had allowed these perverts in his place and that that indicated in their judgment he was not a proper candidate for a license.

Now he comes to the Supreme Court and asks that something be done to compel them to issue their license. I do not see that it is something that concerns the Supreme Court. The application is denied.

14. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED.

In the Matter of the Seizure on)	Case 5406
May 13, 1939, of approximately)	
1000 gallons of wine, approximately)	
104 containers of other alcoholic)	ON HEARING
beverages and miscellaneous personal)	CONCLUSIONS AND ORDER
property, at 15-17 Pierson Place, in)	
the City of Newark, County of Essex)	
and State of New Jersey)	
-----)	

Abraham Merin, Esq., Attorney for the State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

On May 15, 1939, investigators of this Department seized a quantity of alleged illicit alcoholic beverages and equipment for the bottling and blending of such beverages, which they found in the home of Attilio Zazzali and Joseph Olini, at 15-17 Pierson Place, Newark.

The alcoholic beverages consisted of eleven barrels of home-made wine manufactured without permit, thirty-two jugs and over eighteen hundred bottles of wine, and a considerable quantity of other alcoholic beverages, including high proof alcohol. Only a few of the jugs and bottles appeared to contain correctly labeled tax-paid liquor. The bottling equipment included two bottle capping machines, coloring matter, hydrometers, labels, and bottle caps.

At a hearing duly held to determine whether the seized articles should be confiscated as unlawful property under the provisions of R. S. Title 33, Chapter 1, no one appeared to contest the proceedings. The alcoholic beverages in containers, improperly labeled and bearing no Federal tax stamps, are prima facie illicit, and in addition, the presence of the bottling equipment justifies the inference that alcoholic beverages were being blended and bottled on the premises in violation of the statute. The failure of the owner of the seized property to contest the proceedings tends to confirm these inferences. It is determined that all the seized property constitutes unlawful property.

Accordingly, it is ORDERED that the seized property set forth in Schedule "A" annexed hereto, be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, and shall be retained for the use of hospitals and State, County and municipal institutions, or may be destroyed in whole or in part at the direction of the Commissioner.

Dated: November 5, 1939. D. FREDERICK BURNETT, Commissioner.

SCHEDULE "A"

- Approximately 1000 gallons wine
- Approximately 104 containers other alcoholic beverages
- Miscellaneous personal property.

In the Matter of the Seizure on)	Case 5406
May 13, 1939, of approximately)	
1000 gallons of wine, approximately)	
104 containers of other alcoholic)	ORDER
beverages and miscellaneous personal)	
property, at 15-17 Pierson Place,)	
in the City of Newark, County of)	
Essex and State of New Jersey.)	
-----)	

BY THE COMMISSIONER:

It appearing that the inventory of alcoholic beverages ordered forfeited in the Conclusions and Order heretofore entered herein on November 5, 1939 was inadvertently misdescribed; it is

ORDERED that the Conclusions and Order heretofore entered on November 5, 1939 be amended in the following respects:

1. The caption shall read:

"In the Matter of the Seizure on May 13, 1939 of 12 barrels and 1856 other containers of wine, 10 containers of other alcoholic beverages, and miscellaneous personal property, at 15-17 Pierson Place, in the City of Newark, County of Essex and State of New Jersey."

2. The second paragraph shall read:

"The alcoholic beverages consisted of twelve barrels of home-made wine manufactured without permit, fourteen jugs, two carboys, and eighteen hundred and forty bottles of wine; four jugs and four bottles of other alcoholic beverages; and one jug and one bottle of alcohol. Only a few of the jugs and bottles appeared to contain tax-paid alcoholic beverages. The bottling equipment including two bottle capping machines, coloring matter, hydrometers, labels, and bottle caps."

3. Schedule "A" shall read:

"12 barrels, 14 jugs, 2 carboys and 1840 bottles of wine
4 jugs and 4 bottles of alcoholic beverages
1 jug and 1 bottle of alcohol
Miscellaneous personal property."

D. FREDERICK BURNETT,
Commissioner.

Dated: November 8, 1939.

15. SEIZURES - CONFISCATION PROCEEDINGS - PADLOCK ORDER MODIFIED -
HEREIN OF SECOND OFFENSES BY THOSE WHO SUFFER INFIRMITIES.

In the Matter of the Seizure	:	
on July 18, 1939, of a still	:	Case #5498
at 167 West Kinney Street, in	:	
the City of Newark, County of	:	On Supplemental Hearing
Essex, and State of New Jersey.	:	CONCLUSIONS AND ORDER

Leonard M. Snyder, Esq., Attorney for Anna Lipkowitz.
Harry Castelbaum, Esq., Attorney for the State Department of
Alcoholic Beverage Control.

BY THE COMMISSIONER:

At a hearing on August 23, 1939, no one appeared to contest the proceedings. Accordingly, on October 10, 1939, I made an order that the property be forfeited and the entire premises padlocked for six months commencing November 10 next. Bulletin #352, Item #14.

Thereafter, Anna Lipkowitz, owner of the premises and occupant of the second floor, filed a petition seeking relief from the padlocking order. Her failure to appear at the original hearing has been satisfactorily explained.

About two years ago the premises in question were conveyed to Anna Lipkowitz by her parents. One Adam Gedrowicz is now and has been for eight years the tenant of the first floor. The evidence shows that our investigators discovered a five gallon still in the apartment occupied by Gedrowicz.

At the supplemental hearing, Anna Lipkowitz testified that she is employed as a bookkeeper and leaves her home early in the morning, returning about 7:00 P.M.; that the tenant's rent has always been brought upstairs to her; that she has not been in the first floor apartment during the past eight years; and that she had no reason to believe that the still was being operated on the first floor of her premises. I shall accept her story and hence shall lift the padlock in so far as it applies to the second floor.

Ordinarily, I would be inclined also to lift the padlock as to the first floor because it appears that Gedrowicz is an elderly man, totally blind, and that his family is in destitute circumstances. But it appears that this is not his first offense. In February, 1935 he was fined \$100.00 for possession of an unregistered still. This man has been given his second chance but nevertheless has gone right back to the same illicit devices for possession of which he was previously convicted. When Anna Lipkowitz first learned of his new still on the day of its seizure, she says she asked the tenant to vacate but relented on the strength of his promises "not to do it any more." I should have given her greater credit if her testimony had not been coupled with the disclosure that it was difficult to obtain a white tenant in that neighborhood.

The promise of Adam to Anna to go straight from now on is not enough. He has said that before. One may not capitalize his infirmities and poverty to flaunt the law with impunity. Kindness is misplaced when it is construed as a token of weakness. The law is made to be respected. He will have to get out.

Accordingly, the order aforesaid, of October 10, 1939, is hereby modified in the following respects:

1. It is vacated so far as concerns the padlocking of the second floor.
2. It is continued in full force and effect so far as the first floor is concerned, but in concession to the physical and financial situation of the tenant, I shall give him time to make other arrangements. Hence, the order is hereby postponed in effect for two months, i.e., until the 10th day of January, 1940.
3. If on or before January 10, 1940 Anna Lipkowitz shall have caused Adam Gedrowicz to have vacated the premises or he shall have done so voluntarily, leave is reserved to her to apply to lift what then remains of the padlock order of October 10th.

D. FREDERICK BURNETT,
Commissioner.

Dated: November 9, 1939.

16. SALES - RETAIL SALES MADE OUTSIDE THE STATE MAY NOT BE DUMPED HERE THROUGH THE MEDIUM OF A NEW JERSEY RETAILER - HEREIN OF THE FUTILITY OF AFFILIATES.

Dear Sir:

I represent a New Jersey retail licensee who has an affiliate in New York State.

In many instances the New York affiliate procures an order for delivery to a Jersey resident.

If all the rules and regulations of your Board are complied with, including the "fair-trade" statutes and regulations, is there any objection to the New Jersey licensee completing the transaction by delivery?

Very truly yours,
H. Berniker

November 6, 1939

Herman Berniker, Esq.,
New York City.

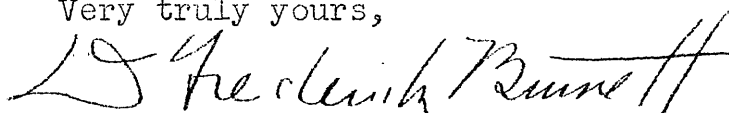
Dear Sir:

Under the circumstances outlined in your letter, it would be ruled that the sale of alcoholic beverages took place in the State of New York, although the delivery was to be made to a New Jersey resident.

R. S. 33:1-28 (Control Act, Sec. 25) provides, in effect, that retail licensees may deliver alcoholic beverages in their own vehicles, solely, however, for their own respective business in connection with and as defined in their respective licenses without possessing a transportation license, provided the vehicle bears a transit insignia. Delivery by a New Jersey retail licensee of alcoholic beverages sold in New York is not a delivery in connection with the business conducted by the New Jersey retail licensee.

There is no such thing as "affiliates" under the liquor law. A New Jersey licensee cannot do business in New York. Neither can a New York State licensee do business in New Jersey unless he takes out a New Jersey license. Subterfuges, whatever their name, will not be tolerated. If a New Jersey licensee participates in an illegal transaction of this kind, immediate steps will be taken to revoke his license and the matter will also be certified to the New York State authorities for appropriate action against the "affiliate" - whatever that may be.

Very truly yours,



Commissioner.