

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark, 2, N. J.

BULLETIN 674

JULY 23, 1945.

1. ALCOHOLIC BEVERAGES - WARTIME SCARCITY - RATIONING SYSTEM OF MANUFACTURERS AND WHOLESALERS - DEPARTMENT NOT IN A POSITION TO ASSIST NEW RETAIL LICENSEES IN OBTAINING ALCOHOLIC BEVERAGES.

July 12, 1945

Mr. W. F. Talmadge
Stanhope, N. J.

Dear Mr. Talmadge:

There is nothing in the State Alcoholic Beverage Law or Regulations requiring that a wholesaler must sell to any particular retailer.

Your letter states that you permitted your plenary retail consumption license in Byram Township to lapse in June of 1943 when you went into defense work; and that you obtained a new license on May 16, 1945, since which time you have been told that you haven't purchased any liquor or beer in the last 60 days and therefore have no quota.

You will understand that the shortage of alcoholic beverages has affected the wholesalers, who are themselves cut to a percentage of the alcoholic beverages they formerly received from the manufacturers. Thus wholesalers, generally, have not been in a position to take on new customers; and their informal rationing program under which they supply to their regular customers a percentage of the past purchases has been necessary and, on the whole, fair.

In Releases dated May 19, 1944 and May 22, 1945, I recommended to all of our municipal license issuing authorities that they refrain from issuing any further new licenses.

The 1944 Release stated:

"Undoubtedly, municipal issuing authorities are aware of the fact that the entire liquor industry has been seriously affected by the war. There is a scarcity of distilled spirits in this country. While New Jersey has occupied a favored position, it is apparent that under the informal rationing program now in effect there will be very little distilled spirits available for new licensees. Accordingly, it is recommended that for the duration of the war issuing authorities should not issue any further new licenses. Nor should issuing authorities attempt to fill vacancies created by the lapse of old licenses. The Department has, during the past few years, devoted a substantial amount of time to two tasks, first, securing for New Jersey its fair share of available alcoholic beverages and, secondly, an equitable distribution of the same within the state. It is important to note that the Department will not be in a position to assist new licensees in obtaining alcoholic beverages."

My 1945 Release stated:

"A year ago, I recommended to municipal issuing authorities that they refrain from issuing any additional retail licenses or attempting to fill vacancies in existing

quotas for the duration of the war. Aside from my conviction that New Jersey suffers from an over-abundance of retail liquor licenses, I made the recommendation because of the scarcity of distilled spirits in the country and the difficulties experienced by existing licensees in their efforts to obtain sufficient supplies to permit them to continue in business. Distilled spirits continue to be scarce. Accordingly, for the reasons expressed a year ago, I desire to repeat my recommendation that municipal issuing authorities refrain from issuing additional retail licenses or filling vacancies in existing quotas."

Although you were in business prior to July of 1943, you appear to be a new licensee in terms of the present rationing program. Frankly, there seems under all the circumstances nothing that this Department can do to assist you in obtaining alcoholic beverages. If you desire an opportunity to discuss the matter further, you may telephone my secretary, who will arrange an appointment for that purpose.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

2. LICENSEES - POWER OF ATTORNEY - APPLICATION FOR LICENSE OR RENEWAL BY PERSON IN ARMED FORCES MUST BE SIGNED AND SWORN TO EITHER BY APPLICANT OR BY HIS ATTORNEY-IN-FACT HOLDING POWER OF ATTORNEY FIRST APPROVED BY THE COMMISSIONER - LICENSEE NOT OTHERWISE REQUIRED TO EXECUTE POWER OF ATTORNEY TO HAVE AGENT OPERATE BUSINESS DURING HIS ABSENCE.

RETAIL LICENSE - HEREIN OF THE COMMISSIONER'S GENERAL RECOMMENDATION THAT MUNICIPAL AUTHORITIES REFRAIN FROM ISSUING FURTHER LICENSES.

LIMITATION OF LICENSES - MANY NEW JERSEY MUNICIPALITIES HAVE LIMITED THE NUMBER OF RETAIL LICENSES THAT MAY BE ISSUED AND OUTSTANDING AT THE SAME TIME - NO NEW LICENSE MAY BE ISSUED WHERE QUOTA IS FILLED.

July 12, 1945

Mrs. Josephine Governali
Garfield, N. J.

Dear Mrs. Governali:

A serviceman who signs and swears to an alcoholic beverage license application in person is not required to execute a power of attorney in order to have his agent operate the business until he returns from service. But if a serviceman's application for a license, or for a license renewal (July 1st of each year), is not signed and sworn to by the applicant himself, it may be signed and sworn to in his behalf only by his attorney-in-fact holding a power of attorney first submitted to and approved by the State Commissioner.

There is no set form which the power of attorney must follow but a power of attorney, to receive my approval, must contain the provisions indicated in Re De Martini, Bulletin 527, Item 8.

I must advise you, in your son's interest, that we have far too many liquor licenses in New Jersey; and that I have recommended to all of our municipal issuing authorities that they refrain from issuing any further new licenses.

Many of our municipalities have adopted ordinances limiting the number of licenses. In Garfield, for example, the plenary retail distribution (package store) license quota is seven and the quota is filled. This means that the only way a person may secure such a license in Garfield is by obtaining a transfer of an existing license.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

3. FAIR TRADE - NOTICE OF SUPPLEMENTAL PUBLICATION.

July 12, 1945

In order to afford manufacturers and wholesalers an opportunity to list new items or changes in old items, it is my decision that a supplemental publication of minimum resale prices, pursuant to Fair Trade Regulations No. 30, shall become effective on August 1, 1945.

Listings must be filed at the offices of this Department not later than Thursday, July 19, 1945.

It has been noted that in some instances listers in the complete January 1945 publication failed to submit price listings of all of their items for publication and that in the supplemental pamphlets of February and May 1945 withdrawals of many items were effected. While it is true that withdrawals of some brands of rums, brandies, wines and cordials were filed with my permission so that retailers might have an opportunity to reduce their inventories of slow-moving items, the reasons for those withdrawals no longer exist. Wholesalers and manufacturers are cautioned that items previously omitted in the complete publication of January 1945 or brands which were withdrawn in the supplemental pamphlets of February and May 1945 should be submitted for publication in the supplemental price pamphlet effective August 1, 1945. I wish to emphasize that further withdrawals of any items from Fair Trade publications will not be countenanced unless listers desiring to make such withdrawals can establish to my satisfaction that the items affected no longer remain in the inventory of any retailer and will not be available in New Jersey in the future.

Notification of the proportionate share of the aggregate expense involved will be made to participating companies as soon as the pamphlet price list is published and mailed to all retail licensees.

ALFRED E. DRISCOLL
Commissioner.

4. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS RECORD - LICENSE SUSPENDED FOR A PERIOD OF 20 DAYS.

In the Matter of Disciplinary Proceedings against ARCHIE LEVY T/a ARCHIE'S TAVERN 498 North Avenue Union, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-15 for the fiscal years 1944-45 and 1945-46, issued by the Township Committee of the Township of Union.

Archie Levy, Defendant-licensee, Pro se. Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleaded guilty to a charge alleging that he possessed a bottle of whiskey which was not genuine as labeled, in violation of R. S. 33:1-50.

During an inspection of the defendant's open stock of liquor on May 28, 1945, an inspector of the Federal Alcohol Tax Unit seized a 4/5 quart bottle labeled "Canadian Club Blended Canadian Whiskey" which appeared to be unusually dark in color. Subsequent analysis by a Federal chemist disclosed that the seized bottle of liquor varied in color, acids and solids from that of an authentic sample. The licensee admitted that he had refilled the bottle with another brand of Canadian whiskey.

Defendant, who formerly had a tavern in the City of Elizabeth, has a previously adjudicated record. He was found guilty by the local issuing authority of permitting gambling on his licensed premises, as a result of which his license was suspended for a period of three days, effective January 29, 1940. The licensee was also convicted by the local issuing authority for selling alcoholic beverages during prohibited hours and his license was suspended for a period of five days, effective September 23, 1940. Under all the circumstances, I shall suspend defendant's license for a period of twenty days.

Although this proceeding was instituted during the fiscal year 1944-45, it does not abate but remains fully effective against the renewal license for the 1945-46 fiscal year. State Regulations No. 16.

Accordingly, it is, on this 11th day of July, 1945,

ORDERED, that Plenary Retail Consumption License C-15, issued for the 1945-46 fiscal year by the Township Committee of the Township of Union to Archie Levy, t/a Archie's Tavern, for premises 498 North Avenue, Union, be and the same is hereby suspended for a period of twenty (20) days, commencing at 3:00 a.m. July 18, 1945, and terminating at 3:00 a.m. August 7, 1945.

ALFRED E. DRISCOLL Commissioner.

5. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FOR THE FISCAL YEAR 1944-45

To: Alfred E. Driscoll, Commissioner

	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			Total
	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	
ARRESTS:													
Licenses and employees	21			6			13			9			49
Bootleggers	61			33			46			42			182
Personating an ABC officer	0			1			0			0			1
Total number of persons arrested	82			40			59			51			232
SEIZURES:													
<u>Stills</u>													
1 To 50 gal. daily capacity	6			6			4			5			21
50 gallons and more daily capacity	2			2			3			4			11
Total number of stills seized	8			8			7			9			32
<u>Mash - gallons</u>	10,105			3,409			2,040			37,865			53,419
<u>Motor vehicles</u>													
Trucks	4			0			1			1			6
Passenger cars	5			1			5			1			12
Total number of motor vehicles seized	9			1			6			2			18
<u>Beverage alcohol - gallons</u>	280			0.50			15			294			589.50
<u>Brewed malt alcoholic beverages (beer, ale, etc.) - gallons</u>	90			45			95.75			230			460.75
<u>Wine - gallons</u>	51.50			14.50			1,429.50			288.33 1/3			1,783.83 1/3
<u>Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons</u>	101.87			43.50			106.25			25.16 2/3			276.78 2/3
RETAIL LICENSEES:													
Total number of premises inspected	3,470			3,374			3,138			3,587			13,569
Total number of bottles gauged	23,956			25,535			25,467			28,728			103,686
Total number of premises where violations were found	169			144			208			202			723
Total number of violations found	224			190			305			255			974
Types of violations found:													
Illicit (bootleg) liquor	35			16			53			32			136
Gambling devices	10			5			18			9			42
Prohibited signs	2			1			3			3			9
Unqualified employees	76			63			122			101			362
"Fronts" (concealed ownership)	13			8			7			16			44
Improper beer tap markers	18			6			4			4			32
Stock disposal permits necessary	31			24			27			38			120
No sign denoting legal sale hours - off-premises consumption (Reg. 38)	21			41			45			36			143
Other types of violations	18			26			26			16			86
<u>CURFEW VIOLATIONS (REGULATIONS 40):</u>	--			--			18			22			40
<u>MILITARY AREA PATROL INSPECTIONS:</u>	1,224			1,458			1,319			1,660			5,661
STATE LICENSEES:													
Premises inspected	60			100			151			91			402
License applications investigated	36			41			34			740			851
COMPLAINTS:													
Investigated, reviewed and closed	897			832			1,060			1,025			3,814
Investigation assigned, not yet completed	---			---			---			---			*244

*Pending at end of fiscal year

	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			Total
	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	
<u>LABORATORY:</u>													
Analyses made		361		372			432			440			1,605
"Shake-up" cases (alcohol, water and artificial coloring)		47		43			39			38			167
Liquor found to be not genuine as labeled		35		23			48			36			142
<u>IDENTIFICATION BUREAU:</u>													
Criminal fingerprint identifications made		79		46			58			47			230
Persons fingerprinted for non-criminal purposes		937		468			484			582			2,471
Identification contacts with other enforcement agencies	1,222			550			671			752			3,195
Motor vehicle identifications via N. J. State Police Teletype		44		40			48			28			160
<u>DISCIPLINARY PROCEEDINGS:</u>													
Cases transmitted to municipalities		83		42			55			56			236
Cases instituted at Department		51		43			56			70			220
Cancellation proceedings at Department		2		2			1			0			5
Supplemental charges in cases already instituted at Department		0		3			0			0			3
<u>HEARINGS HELD AT DEPARTMENT:</u>													
Total number of hearings held	130			116			113			132			491
Appeals	29			18			12			20			79
Disciplinary proceedings	44			52			59			63			218
Eligibility	43			28			23			28			122
Seizures	11			11			11			13			46
Tax revocations	0			0			5			0			5
Order to show cause	0			0			1			0			1
Application for license	0			4			2			7			13
Stay pending appeal	0			0			0			1			1
Lifting of automatic suspension	1			3			0			0			4
Application for solicitor's permit	1			0			0			0			1
Application for special permit	1			0			0			0			1
<u>PERMITS ISSUED:</u>													
Total number of permits issued	6,387			5,585			1,908			2,097			13,977
Unqualified employees	2,440			411			422			407			3,680
Solicitors	1,797			129			162			152			2,240
Social affairs	581			495			346			571			1,993
Home manufacture of wine	220			1,587			73			5			1,885
Disposal of alcoholic beverages	372			440			387			450			1,649
Miscellaneous permits	977			523			518			512			2,530

Respectfully submitted,
 Erwin B. Hock
 Deputy Commissioner.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (SUNDAY), IN VIOLATION OF MUNICIPAL REGULATION AND RULE 1 OF STATE REGULATIONS NO. 38 - PREVIOUS RECORD - LICENSE SUSPENDED FOR A PERIOD OF 40 DAYS.

In the Matter of Disciplinary Proceedings against)

JOHN DZIEMIAN)
163 Spring Street)
Paterson, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-275 for the fiscal years 1944-45 and 1945-46, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

John Dziemian, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to charges alleging that, during prohibited hours on Sunday, June 17, 1945, he sold alcoholic beverages in original containers for consumption off the licensed premises, thereby violating the local curfew ordinance and Rule 1 of State Regulations No. 38.

Although the defendant's premises were closed on the Sunday morning in question, the defendant responded to an ABC agent's knock on the rear door of the tavern. The defendant then sold the agent a bottle of beer and also sold to a colored person, who had arrived during the agent's conversation with the defendant, a bottle of whiskey.

In October 1935, the defendant's license was suspended for three days for possession of illicit liquor. In March 1938 he suffered a suspension of three weeks for selling during prohibited hours on Sunday. In the latter instance, access to the premises was also gained through the rear door.

In addition to the fact that the instant charges represent the third time that the defendant has been cited in disciplinary proceedings, it should be noted that the second and third occasions comprise similar offenses. Were it not for the fact that more than seven years have elapsed since the second suspension, I would have seriously considered fixing the penalty herein at a minimum of sixty days. All pertinent factors considered, however, I shall impose a forty-day suspension.

Accordingly, it is, on this 13th day of July, 1945,

ORDERED, that Plenary Retail Consumption License C-275, issued for the 1945-46 fiscal year by the Board of Alcoholic Beverage Control of the City of Paterson to John Dziemian, for premises 163 Spring Street, Paterson, be and the same is hereby suspended for a period of forty (40) days, commencing at 3:00 a.m. July 18, 1945, and terminating at 3:00 a.m. August 27, 1945.

ALFRED E. DRISCOLL
Commissioner.

7. DISCIPLINARY PROCEEDINGS - ILLEGAL PURCHASE OF STOLEN ALCOHOLIC BEVERAGES BY RETAIL LICENSEE FROM NON-LICENSEES, IN VIOLATION OF RULE 15 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR A PERIOD OF 60 DAYS.

In the Matter of Disciplinary Proceedings against JACOB GREEN 516 Mulberry Street Newark, N. J., Holder of Plenary Retail Consumption License C-342 for the fiscal years 1944-45 and 1945-46, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS AND ORDER

Jacob Green, Defendant-licensee, Pro se. Harry Castelbaum, Esq., appearing for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult to a charge alleging that he purchased alcoholic beverages from an unauthorized source, in violation of Rule 15 of State Regulations No. 20.

Thirty-five cases of whiskey were stolen from a railroad freight car and sold by the thieves to the defendant. The sale was effected at about 10:00 p.m. on February 12, 1945 for less than half of the wholesale price.

The defendant disclaims any actual knowledge that the liquor was stolen. The circumstances attending the transaction, however, were such that any reasonably prudent person could not help but suspect that the sellers had not obtained possession of the merchandise by lawful means.

The defendant's record as a licensee ever since Repeal is otherwise unblemished. The license will be suspended for a period of sixty days. Cf. Re Mylor, Bulletin 535, Item 6; Re Gilmartin, Bulletin 616, Item 13; Re Slohada, Bulletin 631, Item 5; Re Stout, Bulletin 667, Item 7.

The outcome of the pending criminal proceedings against the defendant on a charge of receiving stolen goods will determine the course of further appropriate proceedings against the defendant's license. Cf. Re Vesey, Bulletin 608, Item 1; Re Mylor, Bulletin 652, Item 2.

Accordingly, it is, on this 13th day of July, 1945,

ORDERED, that Plenary Retail Consumption License C-342, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark, for the 1945-46 fiscal year, to Jacob Green, for premises 516 Mulberry Street, Newark, be and the same is hereby suspended for a period of sixty (60) days, commencing at 2:00 a.m. July 16, 1945, and terminating at 2:00 a.m. September 14, 1945.

ALFRED E. DRISCOLL Commissioner.

8. RETAIL LICENSES - OVERABUNDANCE OF SUCH LICENSES IN NEW JERSEY -
HEREIN OF COMMISSIONER'S RECOMMENDATION THAT NO FURTHER NEW
LICENSES BE ISSUED.

LIMITATION OF LICENSES - FACT THAT QUOTA IS NOT FILLED DOES NOT
REQUIRE A MUNICIPALITY TO GRANT AN APPLICATION FOR A NEW LICENSE.

PETITIONS - WEIGHT TO BE ACCORDED PETITIONS FOR OR AGAINST ISSUANCE
OF RETAIL LICENSE IS WITHIN DISCRETION OF MUNICIPAL ISSUING
AUTHORITY.

July 13, 1945

Mr. Lester Riley
Califon, R.F.D., N. J.

Dear Mr. Riley:

On May 19, 1944, and again on May 22, 1945, I recommended to all of our municipal issuing authorities that they refrain from issuing any further new licenses or filling vacancies in existing quotas. My stated reasons for that recommendation were (1) my conviction, amply borne out by experience, that we have generally far too many liquor licenses in New Jersey; and (2) the fact that, due to the scarcity of distilled spirits and the informal rationing program now in effect, there will be very little, if any, distilled spirits available for new licensees.

It is to be understood, however, that my statements regarding the issuance of new licenses were general recommendations and not orders.

Under our Alcoholic Beverage Law the power to grant or deny a retail license application rests in the first instance with the municipal issuing authority; and a municipality's action granting or denying an application is subject to appeal to the State Commissioner. I may not comment upon the merits of a particular pending or contemplated application since the matter may come before me on appeal.

According to my records, Washington Township (Morris County) has limited the number of plenary retail consumption (tavern) licenses to three, and two such licenses are now outstanding in the Township. But the fact that the quota is not filled does not mean the Township Committee must grant an application for a third license. Even where there is an opening in the fixed quota, the determination to grant or deny a license application rests in the first instance in the sound discretion of the municipal issuing authority. Furthermore, the weight to be accorded to petitions for or against the granting of a retail license is within the Township Committee's discretion.

A copy of this letter is being forwarded to the Washington Township Clerk.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

9. "RESTAURANT" - HEREIN REPLY TO INQUIRY AS TO WHETHER OR NOT A PARTICULAR LICENSED ESTABLISHMENT CONSTITUTES A "RESTAURANT" WITHIN THE MEANING OF THE TERM AS DEFINED IN A MUNICIPAL ALCOHOLIC BEVERAGE ORDINANCE.

July 13, 1945

Mr. Fred Muller
West Orange, N. J.

Dear Mr. Muller:

I have your letter of July 9th stating that you (as the holder of a plenary retail consumption license in West Orange) desire, if it is possible, to be permitted to open your restaurant Sundays at 11:00 a.m.

The West Orange alcoholic beverage ordinance defines restaurant to mean "an establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing and cooking and serving of foods, in which no other business except as is incidental to such establishment is conducted....." (underlining ours). The ordinance provides that all premises licensed for the retail sale of alcoholic beverages except restaurants shall be closed on Sundays between the hours of 3:00 a.m. and 1:00 p.m.

Whether or not you may open your restaurant at 11:00 a.m. on Sundays for purposes of serving food depends upon whether or not your establishment constitutes a "restaurant" as defined in the Town's ordinance. Since that is a question to be answered in the first instance by the municipal authorities, I suggest that your proper course is to refer the matter to the West Orange Board of Commissioners.

Enclosed for your information are copies of Asbury Park Licensed Beverage Association v. Asbury Park and Sirgany, Bulletins 628, Item 3, and 644, Item 9, which I am also calling to the attention of the West Orange Board of Commissioners. Those Asbury Park appeal cases involved the definition of "restaurant" contained in the Alcoholic Beverage Law (Revised Statutes 33:1-1t), but the Board should nevertheless find them helpful toward making its determination in the immediate situation since the statutory definition of "restaurant" is almost identical with the definition set forth in the West Orange ordinance.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

10. RETAIL LICENSEES - HEREIN OF YOUTH ORGANIZATIONS - YOUTH CENTERS IN TAVERNS DISAPPROVED.

July 18, 1945

Ora Jane Babcock
Riverdale, N. J.

Dear Miss Babcock:

I have just finished reading your letter of July 15th asking that I send you a permit so that your "Youth Organization" may start a "Youth Center" on the premises of a tavern in the Borough of Riverdale. Generally speaking, I am heartily in favor of properly managed and appropriately located youth centers.

In requesting the permit, you explain that the tavern owner hasn't been paying the tax for dancing; that you "don't think he will have to pay this because of it being a Youth Organization" and that "if he has to pay it would be impossible for us to have it." Then you state, "it will be impossible for us to not open this coming Thursday as we have spread the news all around Riverdale by making posters, putting it in the newspaper, and telling several people." I am not unmindful of your predicament. The appeal for help has a familiar ring. I have heard the same type of appeal from the Driscoll youth center in my own home on many occasions.

Neither my personal interest in these youth centers nor the Department's traditional concern for the welfare of our younger citizens, however, authorizes me to issue the requested permit. The wide powers granted me by the Legislature (frequently construed by the public as being all inclusive) do not include the supervision of "youth organizations." I have troubles enough as it is!

It is, however, my sad duty to inform you that I must disapprove of a "Youth Center" in a tavern. Certainly there must be a more appropriate and suitable place in Riverdale. And while it may seem hard to put off the first party on Thursday, I urge strongly that you and the other members be patient a bit longer and concentrate on finding some non-tavern place where you may get together and have good fun.

Incidentally, the tax for dancing is not administered by this Department. It is a Federal tax and inquiries concerning that tax should be sent to the Collector of Internal Revenue, Federal Post Office Building, Newark, N. J.

I'm sorry, but Youth Centers and taverns just don't mix.

With the best of good luck to the boys and girls of Riverdale in their search for a youth center, I am

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

11. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 10 DAYS.

In the Matter of Disciplinary Proceedings against)
 MICHAEL SWIDERSKI)
 T/a MIKE'S BAR)
 1713 Grier Avenue)
 Linden, N. J.,)
 Holder of Plenary Retail Consumption License C-61, issued by the)
 Municipal Board of Alcoholic Beverage Control of the City of)
 Linden.)
 -----)

CONCLUSIONS AND ORDER

Michael Swiderski, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads non vult to charges alleging that, on May 18, 1945, he possessed a 4/5 quart bottle labeled "Canadian Club Blended Canadian Whiskey", which bottle contained an alcoholic beverage not genuine as labeled, in violation of R. S. 33:1-50.

The departmental file discloses that an agent of the Federal Alcohol Tax Unit tested fifteen open bottles of liquor and seized one bottle when a preliminary test of the whiskey indicated that it was off color. Subsequent analysis of the contents of the bottle in question by a Federal chemist revealed variations in color, acids and solids when compared with an analysis of a genuine sample. Defendant admitted refilling the bottle in question with another brand of liquor.

Defendant has no prior adjudicated record. While only one bottle is involved, the violation was the result of a deliberate act. In view of this fact, I shall suspend his license for a period of ten days. Re Henick & Plener, Bulletin 649, Item 12.

Accordingly, it is, on this 19th day of July, 1945,

ORDERED, that Plenary Retail Consumption License C-61, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Michael Swiderski, t/a Mike's Bar, for premises 1713 Grier Avenue, Linden, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. July 30, 1945, and terminating at 2:00 a.m. August 9, 1945.

ALFRED E. DRISCOLL
Commissioner.

12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (SUNDAY), IN VIOLATION OF MUNICIPAL ORDINANCE - HINDERING INVESTIGATION, IN VIOLATION OF R. S. 33:1-35 - SALE OF ALCOHOLIC BEVERAGES BY CLUB LICENSEE TO NON-MEMBERS, IN VIOLATION OF RULE 8 OF STATE REGULATIONS NO. 7 - PREVIOUS RECORD - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against LASKOWSKI-WOJTKOWIAK POST #74, AMERICAN LEGION 1261 Kaighn Avenue Camden, N. J.,

CONCLUSIONS AND ORDER

Holder of Club License CB-28 for the 1944-45 fiscal year and CB-19 for the 1945-46 fiscal year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

Defendant-licensee, by Adam Extorowicz, Commander. Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to charges alleging that it (1) sold alcoholic beverages during prohibited hours on Sunday, (2) hindered an investigation of its licensed premises made by ABC agents, and (3) sold alcoholic beverages not for immediate consumption on its licensed premises.

When this licensee committed its first violation involving sales during prohibited hours on Sunday and also sales to non-members, for which its license was suspended, upon its guilty plea, for a net period of fifteen days, I pointedly remarked:

"Club licensees obtain their licenses for a fee considerably less than that charged plenary retail consumption licensees. It follows, therefore, that club licensees must confine their activities within the limitations imposed in their licenses.....It is apparent that the defendant-licensee sold during prohibited hours in violation of a City ordinance, and also sold to non-members in violation of Rule 5 of State Regulations No. 7.....The outstanding record of service by the defendant-licensee makes the violations in question all the more regrettable. The future security of our country is no less dependent upon a considered observance of the law at home than upon the suppression of international lawlessness."

See Bulletin 532, Item 3, decided October 6, 1942.

The defendant's second violation, in which it pleaded guilty to the same offenses alleged in charges (1) and (2) herein, occasioned the following statement and warning:

"American Legion Posts holding club licenses today should be especially careful. They should, in fact, set an example. One cannot preach patriotism effectively without completely respecting the law.... Any future violations of any kind may well result in a revocation of the license."

See Bulletin 649, Item 9, decided January 26, 1945, suspending the license for fifty-five days. In that case it appeared that the defendant was flagrantly violating the Sunday curfew regulation. In addition, its failure to facilitate the investigation of its activities by ABC agents, as required by law, contributed to the stern punishment therein imposed.

Less than five months later, on June 17, 1945, and, incidentally, less than three months subsequent to the termination of its second suspension, the defendant is again apprehended in unlawful Sunday sales, employing tactics reminiscent of erstwhile speakeasies, and wilfully and deliberately and by use of force, throwing every obstacle in the path of the investigation being conducted by the ABC agents. Among other things, it posted "lookouts" at several doors, refused to permit the agents admittance to the premises after they had identified themselves, attempted forcibly to restrain the agents from gaining access to several rooms on the licensed premises, and attempted to destroy evidence.

Had this licensee studiously planned the quickest and surest method of relieving itself of its licensed privileges, it could hardly have adopted any more prodigious means than those which it employed on the occasion in question. Even if the defendant was unable to assimilate my cautionary remarks in connection with its first suspension, it must surely have understood the specific warning given so recently in the second proceedings. That warning must now resolve itself into a direction that its license be revoked outright.

Accordingly, it is, on this 19th day of July, 1945,

ORDERED, that Club License CB-19, issued for the fiscal year 1945-46 by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Laskowski-Wojtkowiak Post #74, American Legion, for premises 1261 Kaighn Avenue, Camden, be and the same is hereby revoked, effective immediately.

ALFRED E. DRISCOLL
Commissioner.

13. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - AGGRAVATING CIRCUMSTANCES - PREVIOUS RECORD - LICENSE SUSPENDED FOR A PERIOD OF 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

CAROLINE DUDA
169 Jewell Street
Garfield, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-44 for the fiscal years 1944-45 and 1945-46, issued by the City Council of the City of Garfield.

Richard J. Baker, Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleaded non vult to charges that, on various dates during March, April and May 1945, alcoholic beverages were sold to and permitted to be consumed by a minor on the licensed premises, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

Acting upon police complaints, agents of the Department of Alcoholic Beverage Control obtained a signed statement from a minor, age sixteen years, to the effect that during the months previously mentioned he had purchased beer from the husband of the licensee and consumed the same upon the licensed premises.

The minor accompanied the agents to the licensee's tavern and there identified the husband of the licensee as the person who had served him beer. This charge was admitted by the husband of the licensee who also stated that he knew the boy was a minor but "made an exception" by "taking a chance on beer only." He also admitted that he had seen his wife, the licensee, serve the boy on one occasion.

Licensees, ignoring the now traditional warning, to wit, "when in doubt, don't serve", must expect to be punished. A licensee or bartender so callous or foolish that he "takes a chance" and serves beer to a person known to be a minor may not look to the Commissioner for sympathy. Any further violations by this licensee may result in the outright revocation of her license, thus depriving her five sons, now in the service, of their opportunity to take over the business upon their discharge.

On March 10, 1941 the licensee had her license (issued in her name and Michael Miller) suspended by the local authorities for three days for sale during prohibited hours.

In view of all these circumstances, I shall suspend the license for forty-five days, less five days for the plea, leaving a net suspension of forty days.

Although this proceeding was instituted during the fiscal year 1944-45, it does not abate but remains fully effective against the renewal license for the 1945-46 fiscal year. State Regulations No. 16.

Accordingly, it is, on this 23rd day of July, 1945,

ORDERED, that Plenary Retail Consumption License C-44, for the 1945-46 fiscal year, issued by the City Council of the City of Garfield to Caroline Duda, for premises 169 Jewell Street, Garfield, be and the same is hereby suspended for a period of forty (40) days, commencing at 4:00 a.m. July 30, 1945, and terminating at 5:00 a.m. September 8, 1945.

Alfred E. Driscoll
Commissioner.