

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

BULLETIN 314

MAY 5, 1939

1. ENFORCEMENT DIVISION ACTIVITY REPORT FOR APRIL, 1939.

To: D. Frederick Burnett, Commissioner

ARRESTS: Total number of persons - - - - - 80
Licensees - 1 Non-Licensees - 79

SEIZURES: Still - total number seized - - - - - 16
Capacity 1 to 50 Gallons- - - - - 10
Capacity 50 Gallons and over- - - - - 6

Motor Vehicles - total number seized- - - - 14
Trucks - 2 Passenger Cars- - 12

Alcohol
Beverage Alcohol- - - - - 404 Gallons

Mash - Total number of gallons- - - - - 23,900

Alcoholic Beverages
Beer, Ale, etc. - - - - - 8 Gallons
Wine- - - - - 51 "
Whiskies and other hard liquor- - - - - 53 "

RETAIL INSPECTIONS:

Licensed premises inspected - - - - - 1538
Illicit (bootleg) liquor- - - - - 5
Gambling violations - - - - - 19
Sign violations - - - - - 41
Unqualified employees - - - - - 86
Other mercantile business - - - - - 54
Disposal permits necessary- - - - - 1
"Front" violations- - - - - 3
Improper beer markers - - - - - 0
Other violations found- - - - - 23

Total violations found- - - - - 232

Total number of bottles gauged- - - - - 11,127

STATE LICENSEES:

Plant Control inspections completed - - - - - 58
License applications investigated - - - - - 20

COMPLAINTS:

Investigated and closed - - - - - 319
Investigated, pending completion- - - - - 345

LABORATORY:

Analyses made - - - - - 152
Alcohol and water and artificial coloring
cases- - - - - 13
Poison and denaturant cases - - - - - 0

Respectfully submitted,

E. W. Garrett,
Deputy Commissioner.

2. DISCIPLINARY PROCEEDINGS - POSSESSION AND TRANSPORTATION OF BOOTLEG LIQUOR - SUSPENSION OF LICENSE TO END OF TERM GIVES POINT AND EMPHASIS TO PREVALENT PRACTICE OF REFILLS.

May 1, 1939

Patrick F. Keelan, Clerk
Municipal Board of Alcoholic
Beverage Control
Elizabeth, New Jersey

My dear Mr. Keelan:

I have before me staff report and copy of minutes of the meeting of the Municipal Board held on April 14th, at which time among other things it conducted disciplinary proceedings against Charles Miller, 1112-14 Dickinson Street.

I note that Miller was charged with transportation and possession of bootleg liquor, whereupon his license was suspended for the balance of the term, with a proviso that the suspension might be lifted after sixty days, provided bona fide application for transfer to another person was made.

The staff report states:

"On February 23, 1939, Investigators Emmetts and Palmieri in cooperation with members of the Westfield Police Department discovered the licensee driving a car in Westfield in which there were two 5-gallon cans, bearing no indicia of tax payment, full of bootleg liquor. In a voluntary signed statement he admitted that he was distributing the liquor for a man named "Big John"; that five or ten gallons at a time were left in his house or in his car; and that he sold the liquor for nine dollars a can and paid seven dollars for it. He further admitted he had been selling about fifteen or twenty gallons a week."

Please express to the members of the Board my deep appreciation for the penalty imposed. It means that Miller is out for good. He can't hope to distribute for "Big John" and have a license too. The matter has been certified to the Union Prosecutor for appropriate action. The case gives point and emphasis to the prevalent practice of refills which require man sized penalties to combat.

Incidentally, the Westfield Police have been highly cooperative

Thank you all for your cooperation.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

3. AGE, RESIDENCE OR CITIZENSHIP PERMIT - MORAL TURPITUDE - FACTS
EXAMINED - CONCLUSIONS.

April 29, 1939

Re: Case No. 270

Applicant, an alien and non-resident, admits in his application that, in 1937, he was convicted of perjury and sentenced to serve thirty days in jail.

Investigation discloses that, in 1937, applicant pleaded guilty in a District Court of the United States to an indictment alleging that he filed a false affidavit and declaration of intention in naturalization proceedings.

At the hearing applicant testified that he had paid \$125.00 as "expenses" to an immigration inspector who prepared said affidavit and declaration of intention; that applicant knew that said papers contained false statements as to the date and manner of his entry into this country, but was assured by the inspector that "the first papers don't mean nothing. On the application for the second papers we put in everything that is true." In view of the plea of guilty to the indictment, the guilt or innocence of applicant on the perjury charge cannot be redetermined herein. The crime of perjury ordinarily involves moral turpitude.

Applicant alleges that, after said conviction, deportation proceedings were started against him and thereafter discontinued, and that he has recently been permitted to leave the country and to reenter in a lawful manner. His contention seems to be that these facts show that he has not been convicted of a crime involving moral turpitude. It does not necessarily follow that the immigration authorities in said deportation proceedings found as a fact that the applicant herein had not been convicted of a crime involving moral turpitude, because the immigration law provides that, after the expiration of five years from the date of entry, an alien is not deportable unless he has been twice sentenced for crimes involving moral turpitude. It may well be that applicant was not deportable because he has been in the United States since 1924 and there is no evidence that he has been convicted of any crime except the crime of perjury. In addition thereto, a finding of fact by immigration authorities in deportation proceedings, while entitled to great weight, would not be conclusive in this proceeding. It has been decided that perjury committed in naturalization proceedings involves moral turpitude. U.S. ex rel. Carella v. Karnuth (D. C. N. Y. 1933), 2 Fed. Sup. 998; U. S. ex rel. Karpay v. Uhl (C.C.A.N.Y. 1934), 70 Fed. (2nd) 792.

Under the circumstances of this case, I conclude that the applicant has been convicted of a crime involving moral turpitude. It is recommended that the application for Age, Residence or Citizenship Permit be denied, and that applicant be notified that he is not eligible to be employed by a liquor licensee in New Jersey.

Edward J. Dorton,
Attorney-in-Chief.

APPROVED:

D. FREDERICK BURNETT,
Commissioner.

4. ADVERTISING - FREE BEER ON OPENING DAYS - DISAPPROVED.

Dear Sir:

Please let us know if it is permissible for a tavern to give away free beer on its opening day.

The party in question wishes to give away only beer, not whiskey, as a sort of advertisement. This practice is to be restricted also to the opening day only.

We shall appreciate being informed of the Board's policy in such a situation.

Yours very truly,
Ocean County Record.

April 30, 1939

Ocean County Record,
Toms River, N. J.

Gentlemen:

I do not approve of taverns giving away free beer on opening days, or on any other days. A drink on the house now and then is one thing. But drinks all day is quite another!

The objective, of course, is to drain competitors of their customers for why pay for schooners when somebody is floating a battleship free!

Please, therefore, advise the tavern that such promotional schemes are disapproved.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

5. IMPORTATION - OUT-OF-STATE DEALERS, NOT LICENSED IN NEW JERSEY, MAY NOT MAKE DELIVERIES IN NEW JERSEY TO CONSUMERS.

IMPORTATION - BY CONSUMER - QUOTA PERMISSIBLE WITHOUT LICENSE OR PERMIT.

IMPORTATION - SPECIAL PERMITS - ISSUABLE TO CONSUMERS BUT NOT TO FOREIGN DEALERS.

WINE - MINIMUM SIZE OF CONTAINER - SIX FLUID OUNCES.

April 24, 1939

Meier's Wine Cellars, Inc.,
Silverton, Ohio.

Gentlemen:

Out-of-state liquor dealers, not licensed in New Jersey, may not, under any circumstances, make deliveries of alcoholic beverages in New Jersey to consumers.

Alcoholic beverages may be brought into New Jersey only pursuant to and within State Regulations No. 17 (Bulletin 252, Item 4).

If a New Jersey consumer wishes to purchase alcoholic beverages outside of the State and bring them into the State, he may do so without license or permit of any kind, provided the quantity he brings in does not exceed one-quarter barrel or one case containing not in excess of twelve quarts of beer, ale or porter and one gallon of wine and one gallon of other alcoholic beverages within any consecutive period of twenty-four hours.

Importation by the consumer for personal consumption in excess of the foregoing quantities may be made only pursuant to special permit issued by this Department.

Such permits are not issuable to foreign dealers. They are issuable only to the consumer and then only after the New Jersey tax has been paid.

If you were allowed to ship in to consumers in New Jersey, it would amount to the conduct of a retail liquor business in this State, which cannot lawfully be done except pursuant to a regular New Jersey retail license.

It is contrary to New Jersey regulations (Regulations No. 23) for New Jersey retailers to sell wine for off-premises consumption in containers of less than six fluid ounces.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

6. LICENSES - TRANSFER - WHEN EFFECTIVE - RESOLUTION OF MUNICIPAL LICENSE ISSUING AUTHORITY MAY STIPULATE THE EFFECTIVE DATE - IN THE ABSENCE THEREOF, THE TRANSFER BECOMES EFFECTIVE UPON THE ENDORSEMENT OF THE TRANSFER ON THE LICENSE CERTIFICATE.

Dear Commissioner Burnett:

I would appreciate your opinion regarding the matter hereinafter stated in order that the licensee may not inadvertently commit a violation. I anticipate that the Excise Board will, at its meeting to be held this evening, approve the transfer of a license from 851 Elizabeth Avenue, Elizabeth, to 859 Elizabeth Avenue. Licensee must vacate the present store tomorrow night. The Elizabeth Clerk's office will close tomorrow noon. The licensee desires to continue to sell liquor at its old place until Saturday evening and open Sunday noon at the new location.

May the licensee continue to sell liquor at 851 Elizabeth Avenue after the Excise Board approves the transfer to 859 Elizabeth Avenue before the City Clerk endorses the transfer upon the license?

If the license is delivered for endorsement to the Clerk's office Saturday noon, may the licensee continue to sell for the remainder of the day at the old location after the clerk has endorsed the transfer upon the license?

Would it be proper for the City Clerk to endorse the transfer on Saturday to take effect Sunday at 12:00 noon?

I would appreciate your answer before the close of business today so that the licensee may properly guide its action. I will be pleased to send a messenger to pick up your answer if anyone

from your office will telephone me. I will, of course, appreciate any suggestion that may facilitate the licensee in its efforts to effect a transfer.

Yours very truly,
Louis B. Englander

April 28, 1939

Louis B. Englander, Esq.,
Newark, N. J.

My dear Mr. Englander:

I have yours of April 28th, re transfer of license from 851 to 859 Elizabeth Avenue, Elizabeth, and have not heretofore had occasion to rule on a split-second transfer.

The adoption of a resolution authorizing the transfer, by the municipal license issuing authority, does not of itself automatically transfer a license. The license is not effectively transferred until it is endorsed by the Clerk. See Re Volcker, Bulletin 140, Item 9.

The Volcker ruling, it is true, deals with transfers from person to person. The same principle applies, however, to transfers from place to place.

If, therefore, it is desired that the transfer to the new premises shall be effective at noon on Sunday, then it is necessary to obtain the consent of the Elizabeth Board, which, if granted, will be manifested by its resolution authorizing the transfer and declaring it to take effect on Sunday at noon.

Once such a resolution has been enacted by the Elizabeth Board, along the lines above indicated, the Clerk may make the endorsement at any time, for such endorsement will necessarily refer, not only to the resolution authorizing the transfer, but also to the time at which it was ordered to become effective.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

7. DISCIPLINARY PROCEEDINGS - NEWARK LICENSEES - SALES OUT OF HOURS.

In the Matter of Disciplinary Proceedings against)

JOSEPH HITTNER,)
9 Saybrook Place,)
Newark, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-632, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)
-----)

Richard E. Silberman, Esq., Attorney for the State Department of Alcoholic Beverage Control.
Joseph Hittner, Pro Se.

BY THE COMMISSIONER:

The defendant pleads guilty to the charge of selling and serving liquor at his licensed restaurant after 3:00 A.M. on Sunday, March 5, 1939, contrary to Newark Ordinance #3930.

At approximately 3:10 o'clock on the morning in question, Investigators Wagi and Finzel of this Department entered the defendant's premises and observed some seven or eight patrons therein. The investigators ordered sandwiches and beer from the bartender (apparently the defendant's father) but, upon being told by him that the bar had been closed for business at 3:00 A.M., were served sandwiches and coffee instead. Shortly thereafter, however, the investigators observed a young man enter the premises, lean over the bar, whisper something to the bartender and place a dollar bill on the bar. The bartender put the bill in the cash register and went into the back room with a paper bag. He returned a few moments later with five cans of beer in the bag and handed this merchandise to the young man, giving him change at the same time.

The defendant admits these facts except the payment of money. His father, so he states, informed him that the beer was given to the young man merely in return for past work. This evidence, hearsay in character, is insufficient to overcome the testimony of Investigator Finzel who stated that he saw the young man actually make payment for the beer.

In any event, whether the consideration was money presently paid (as stated by the investigator) or past services rendered (as claimed by the defendant), the delivery of the beer after 3:00 A.M. was forbidden by the ordinance.

The defendant's license will be suspended for five (5) days.

Accordingly, it is, on this 30th day of April, 1939, ORDERED that Plenary Retail Consumption License C-632, heretofore issued to Joseph Hittner by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of five (5) days, commencing May 4, 1939, at 3:00 A.M. (Daylight Saving Time).

D. FREDERICK BURNETT,
Commissioner.

8. DISCIPLINARY PROCEEDINGS - NEWARK LICENSEES - BINGO AND DOOR PRIZES.

In the Matter of Disciplinary Proceedings against)

POLISH FALCONS ASSN. NEST 104,)
278-280 New York Avenue,)
Newark, New Jersey,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License No. C-804, issued by)
the Municipal Board of Alcoholic Beverage Control of the City of)
Newark.)
-----)

Rospond and Rospond, Esqs., by J. Thaddeus Rospond, Esq.,
Attorneys for the Licensee.
Ellamarye H. Failor, Attorney for the Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Charges were served upon the licensee alleging that (1) it permitted a game of bingo to be played in a room in which a bar for the service, delivery or sale of alcoholic beverages was located, in violation of Rule 16 of State Regulations No. 20, and (2) it permitted a lottery to be conducted on or about its licensed premises, in violation of Rule 6 of State Regulations No. 20.

On the evening of February 3, 1939, Investigators Emmetts and Palmieri, of this Department, visited the licensed premises. Licensee admits that a bingo game was being played at that time in a dance hall on the second floor of the licensed premises. The investigators testified that a bar with two beer taps is located in the dance hall and that, while they were present, no alcoholic beverages were served at said bar or in the dance hall. An officer of the licensee testified that the bar is used for the service of alcoholic beverages only when the hall is rented for dances, "sometimes it is used twice a month, sometimes it is used once for three or four months," but that it is never used when the hall is rented for bingo games and was not used for the service of alcoholic beverages on the evening in question.

I find as a fact that bingo was played in a room in which a bar for the service, delivery or sale of alcoholic beverages was located. As I said in Re Bohemian Benevolent & Literary Association, Bulletin 302, Item 17:

"The fact that the bar was not in use or equipped with liquor at the time (of the playing of bingo) is immaterial. It is not within the province of licensees to make self-beneficial exceptions to the rules controlling the conduct of licensed premises. When the privilege is abused licensees will have to learn the lesson that the rules were made to be obeyed."

I find the licensee guilty as to Charge 1.

When the investigators entered the licensed premises on February 3, 1939, they paid an admission charge of twenty-five cents and received tickets upon which appear the words "Attendance Prize." The tickets were numbered and bore stubs which were also numbered. The investigators testified that, shortly before the last game of bingo was played, the tickets were collected, the stubs being retained by the players, and an announcement was then made that there would be a drawing for door prizes; that the drawing was held, and three One Dollar prizes distributed. The testimony clearly shows that a lottery was conducted on the licensed premises. Re Alpine Village Tavern, Inc., Bulletin 252, Item 1, and cases therein cited.

On behalf of the licensee it was testified that the hall was rented to the Polish American Democratic Club for weekly bingo parties; that the drawing described above was conducted by said club and that the licensee had no knowledge that the club intended to conduct the drawing. However, licensees who rent their premises to others are accountable for the conduct of the lessees on the licensed premises. Re Katzen and Buntele, Bulletin 312, Item 3.

I find the licensee is guilty as to Charge 2.

The license will be suspended for five days for permitting bingo at the licensed premises in a room where a bar was located, and for an additional five days for permitting a lottery to be conducted on the licensed premises.

Accordingly, it is, on this 30th day of April, 1939, ORDERED that Plenary Retail Consumption License No. C-804, heretofore issued to Polish Falcons Assn. Nest 104 by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of ten (10) days, commencing May 4, 1939, at 3:00 A.M. (Daylight Saving Time).

D. FREDERICK BURNETT,
Commissioner.

9. SOLICITORS' PERMITS - MORAL TURPITUDE - FACTS EXAMINED - CONCLUSIONS.

In Re: Case No. 220)

Application for Solicitor's)
Permit.)

CONCLUSIONS

-----)

J. Charles Popkin, Esq., Attorney for Applicant.

BY THE COMMISSIONER:

In Conclusions heretofore filed in the above entitled case, Bulletin 263, Item 8, it was ruled that applicant herein is not permanently disqualified from being employed by a liquor licensee within the State of New Jersey but that no solicitor's permit would be issued to him during the period of a suspended sentence which was to expire on April 22, 1939. Said Conclusions further provided that applicant might apply for a solicitor's permit after April 22, 1939 provided he produce proof at that time that he had conducted himself in a law-abiding manner since his last conviction.

Independent investigation has been made by this Department, as a result of which it appears that the State Bureau of Identification and the Federal Bureau of Investigation have recently certified that applicant has had no further criminal record since April 1938, and that investigation made at Police Headquarters of the city wherein applicant resides discloses that he has not been arrested since April 1938. Said investigation further discloses that, from July 1938 to October 1938, applicant was engaged in the business of transporting crushed stone as an independent contractor and thereafter employed for a period of about two months by the New Jersey State Highway Department as a laborer; that applicant has been unemployed since November 1938.

As a result of said investigation I am satisfied that applicant has conducted himself in a law-abiding manner since his last conviction.

It is, therefore, on this 1st day of May, 1939, ORDERED, that applicant's ineligibility from applying for or holding a solicitor's permit, because of the conviction set forth in Case No.220, Bulletin 263, Item 8, be and the same is hereby lifted, effective immediately.

D. FREDERICK BURNETT,
Commissioner.

10. DISCIPLINARY PROCEEDINGS - LEWDNESS - ONLY THIRTY DAYS'
SUSPENSION FOR GROSS DEPRAVITY.

May 1, 1939

John F. Lee,
City Clerk,
Bayonne, N. J.

My dear Mr. Lee:

I have before me staff reports and your letter of April 21st re disciplinary proceedings conducted by the Board of Commissioners against

John J. Hourihan,
11 Pavonia Court,
License C-152,

Sam Parish,
453 Avenue C,
License C-137.

I note that Hourihan, charged with sale of alcoholic beverages during prohibited hours, had his license suspended for five days, while Parish, charged with permitting the showing of a lewd and indecent motion picture at a stag affair on his licensed premises, had his license suspended for thirty days.

Please express to the members of the Board of Commissioners my appreciation for their conduct of both proceedings and the penalty imposed in the Hourihan case.

The thirty day suspension in the Parish case, in the light of the unspeakably revolting nature of the performance, is woefully inadequate. According to the staff report, my investigators who viewed "The Love Affairs of Jane Winslow", the picture that was being shown at the time the police raided the place, reported that:

[Deleted. Unprintable. D. F. B.]

In dirty cases there is but one proper conclusion — outright revocation. Even that is not commensurate with depravity like this.

What does a licensee have to do in Bayonne to have his license revoked.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

before the people expressed their will at the polls. And they are open every Sunday, something which was not included in the licensee's privileges prior to that election. There has never been any submission of the Sunday selling privilege to the voters here. We, as all over the United States, voted on repeal of national prohibition, but that had nothing to do with local option, whereby licensing was done away with here until the voters again gave such right to the Council.

Council is now considering the repeal of its license ordinance and the substitution of another, for the reason that certain members desire to make a decided increase in the number of licensed places, in fact, to license beer gardens. The present ordinance forbids any new license being granted over the number provided for in the ordinance, and really calls for a decrease in the future. There are so many such places now that some wink at the law, as to hours, etc.

First - By what right did Council again grant liquor licenses, after the ruling that not until the right to grant licenses was voted to Council could it again function in that capacity?

Two - By what right did Council permit Sunday selling, without even a vote being taken on that issue?

Three - Has Council the right to change its ordinance, permitting more liquor selling places, when the ordinance, which had been approved by you, I believe, called for a maximum number which, however, was to be reduced by death or forfeiture, until an even dozen licensed places should be the maximum in the future?

Four - Do you approve of "beer gardens" on the White Horse Pike, or on lonely roads, when there are far too many roadhouses existing, only because of female "waitresses," some of whom are not twenty-one years old?

Yours truly,
Thomas B. Delker.

May 1, 1939

Mr. Thomas B. Delker,
Hammonton, N. J.

My dear Mr. Delker:

(1) I understand that a local option election was held in Hammonton in November 1918, pursuant to P.L. 1918, Chapter 2, entitled "An Act to prohibit the sale, or offer, or exposure for sale, or furnishing or otherwise dealing in intoxicating liquor as a beverage and the granting of licenses therefor in any town, township, village, borough, city or other municipality (not a county) in this State where the legal voters thereof shall decide by a majority vote in favor of such prohibition or the continuance thereof," and that the referendum resulted in the prohibition of all retail sales and the issuance of all retail licenses, until superseded by subsequent referendum.

The question is: The authority of the Council to grant retail licenses and permit the sale of alcoholic beverages pursuant to the present Alcoholic Beverage Law.

In the adoption of our present Alcoholic Beverage Law (now R. S. 33:1-1 et seq.), the Legislature contemplated a comprehensive scheme of liquor control, fully covering the subject matter. It is

apparent that our present statute was clearly intended to lay down the only rules and delimit all public action dealing with alcoholic beverages. See Re Haight, Bulletin 211, Item 3 and the items therein cited. It follows, as a matter of law, that the adoption of the statute on December 6, 1933 operated to repeal, by implication, all liquor legislation then in effect. Roche v. Mayor, etc. of Jersey City, 40 N. J. L. 257. See also Harrington's Sons Co. v. Jersey City, 78 N. J. L. 610 (E. & A. 1909); Bracken v. Smith, 39 N. J. Eq. 169; State v. Vineland, 72 N. J. Eq. 289, aff'd 72 N. J. Eq. 862 (E. & A. 1907); Board of Education v. Tait, 81 N. J. Eq. 161 (E. & A. 1912).

P. L. 1918, Chapter 2 was expressly repealed, along with numerous other pre-Prohibition and pre-Repeal laws dealing with alcoholic beverages, on March 14, 1934 by P. L. 1934, Chapter 32.

With the repeal of the enabling act of 1918, the referendum held pursuant to that act also falls. See Re Haight, *supra*, and the cases therein cited. The fact that the referendum was submitted to popular vote, under a law then in force, does not prevent the Legislature from amending or repealing that law. There is no requirement that proposed changes be submitted, in turn, to a vote of the people. Lohan v. Thompson, 88 N. J. L. 40. Referenda derive their force and effect from the Legislature, not from the electorate. The electorate is merely the means. When the legislative act is removed, as in this case by repeal, there remains nothing to give force or effect to the prohibition the referendum imposes. There being no longer any legislative sanction, there is no longer any efficacy in the referendum. The repeal of the enabling act has taken it away. Rassau v. Campbell, 84 Atl. 957; 236 Pa. 455 (Sup. Ct. Pa. 1912).

The force of the 1918 referendum having been vitiated on December 6, 1933, by the adoption of P. L. 1933, Chapter 436, our present Alcoholic Beverage Law, the Hammonton Council was wholly within its legal authority in granting alcoholic beverage licenses pursuant to that law.

(2) It is not essential to Sunday selling that it be submitted to and approved by the electorate, unless by previous referendum it has been prohibited. The statute does not establish any hours during which sales of alcoholic beverages are prohibited. Such power is expressly delegated to the several municipalities. See R. S. 33:1-40. Consequently, unless curtailed by local municipal regulation, or by virtue of referendum held pursuant to R.S. 33:1-47 or 47.1, retail licensees may sell alcoholic beverages at any time.

According to my records, the Hammonton Council, by Sections 9 and 10 of ordinance adopted June 8, 1936, has prohibited sales of alcoholic beverages between the hours of 2:00 A.M. and 6:00 A.M. on weekdays and the hours of 2:00 A.M. and 1:00 P.M. on Sundays.

(3) The Council has the power to change the limitation of the number of licenses as it sees fit. At the time it was adopted, it represented, presumably, what was then supposed to be the best for the community as a whole. Now, if conditions are changed or if experience has shown to the contrary, it may be amended or rescinded outright. The right to change it is derived from the same power

authorizing its original adoption. See Re Monks, Bulletin 183, Item 6; Re Butera, Bulletin 180, Item 3; Re Knox, Bulletin 157, Item 11. Cf. Re Lamson, Bulletin 118, Item 6. Such limitations are not subject to my approval first obtained. R. S. 33:1-40. They are, instead, as provided in R. S. 33:1-41, reviewable on appeal. To date, there has been no appeal to me in which the Hammon-ton limitation of licenses was in issue.

Thus, you will see that municipalities have the power under the law to limit the number of licenses to whatever quota they choose. If, therefore, it is your thought that the present ordinance authorizes the issuance of too many licenses, your remedy is, first, to endeavor to get the Council to reduce it, and, second, if that fails, to appeal. Ruling in Re Manck, Bulletin 212, Item 8 and the items cited therein, will give you full information both as to the authority of the Council and the two courses available on appeal. The Section 19 referred to in the Manck ruling is now R. S. 33:1-22; Section 38 is now R. S. 33:1-41. The Rules Govern-ing Appeals and forms of Notice and Petition of Appeal are avail-able on request.

(4) As you put your question, the answer, of course, is "No." While you do not say so in so many words, I presume you are implying that the female "waitresses", to whom you refer, are pro-viding some questionable or improper attraction other than the mere service of food and drink. I do not approve of licensed places on the White Horse Pike, or on lonely roads, or any place else, pandering to sexual appetite or permitting immoral conduct. See State Regulations No. 20, Rules 4 and 5, Pamphlet Rules, page 62. I wish that you would give me by return mail the names and loca-tions of the places you have in mind. Immediate investigation will be instituted. With so few men available to cover the entire State, it would help me very much.

I am sending you under separate cover a copy of the pamph-let reprint of the Alcoholic Beverage Law, of the Pamphlet Rules, and of each of the Departmental rulings referred to. The referenda authorized by the present Act will be found in Sections 41 through *44A, on pages 35 through 39. The procedure for bringing about the referenda is set forth in these sections. The citation in the Revised Statutes is R. S. 33:1-44 through 47.1.

Very truly yours,
D.FREDERICK BURNETT,
Commissioner.

13. INVESTIGATIONS - CAMDEN POLITICAL INQUIRY - REPORT.

May 2, 1939

New Jersey Licensed Beverage Association,
R. F. D. Palmyra, N. J.

Gentlemen:

Pursuant to your resolution of April 24, 1939, in convention assembled, petitioning the State Commissioner to conduct an immediate investigation:

"to determine the extent of making of retail licensees recently started under supervision of a member of the Camden City Police Department, which comprises solicitation of \$12 for membership in the Re-elect Mary W. Kobus Club".

An investigation as thorough as time would permit has been made by Inspector MacIntosh and Investigators Ilaria and Riggins, whom I delegated for the purpose.

In order to get full information from those most likely to know the facts on which your resolution was based, all available members of your Association in Camden have been questioned, including Neil F. Deighan, President of your Association, and Charles Kuski, President, Roy Steele, Secretary, John Pennington, Chairman of the Resolutions Committee, and John Miller, former Secretary, all of your Camden Division.

The Mary W. Kobus Club membership roster was obtained and compared with the official list of liquor licensees in Camden. All licensees appearing on the Club roster have been questioned.

Mary W. Kobus, Director of Public Safety, Hobart Corson, a clerk in the Police Court, Thomas Daly, Engineer, all of Camden, and Michael Alberts, President of the Kobus Club, have also been questioned.

In addition, newspaper reporters, private citizens, and many Camden licensees not members of your Association have been questioned.

All clues have been run down during the past six days and all persons suggested by anyone as likely to be in possession of information pertinent to the investigation questioned, if available.

The only matters brought to light by this investigation which have any relevancy to your resolution are the following, which are stated for what they are worth, if anything, viz.:

1. NICHOLAS LA MAINA, a Camden licensee and member of your Association, has signed a written statement, in which he says:

"About a month ago Hobart Corson came into my licensed premises in company with two other men, namely, Edward Gorman and Edward Welsh. Sometime later I entered into a conversation with the three men and asked them what the politicians were talking about.

"Mr. Hobart Corson asked me to make a donation to the Re Elect Mary M. Kobus Club. I pulled a five dollar bill from my pocket and offered it to him. He did not take the five dollar bill but asked me to join the Re Elect Mary M. Kobus Club. I then hesitated and he informed me that the dues in the club were twelve dollars a year but I would not have to pay the full amount at once. I informed him that it would be alright and offered to pay him a part of the full amount. As he did not have his receipt book with him, he refused to take the money. Since then I have seen him a number of times but we have never spoken about the matter of joining the club again.

"I also wish to state that Mr. Corson whom I have known for the past twenty one years, did not at any time during the course of our conversation regarding my joining the club, make any threats or promises to me if I did or did not join, as I have heard rumored in the past weeks."

Mr. Corson corroborated the facts as stated by La Maina and declared that he had been personally acquainted with La Maina for a number of years; that he is one of his close personal friends; that he was interested himself in the election of Commissioner Kobus and could see no harm in soliciting a personal friend to join an organization interested in her welfare; that any mention of coercion is ridiculous and false.

The inquiry revealed that La Maina had told Dr. Grenhart and Police Officer Cahill that he had been asked by Corson to join the Kobus Club; that subsequently Dr. Grenhart, while in Detective Headquarters, laughingly stated before a number of City Police and Detectives that La Maina had been maced for contribution to the Kobus Club.

2. MARY NIEWINSKI is a member of your Association and a Vice-President of the Kobus Club. She informed my men that she had been elected without her knowledge; that the first she knew of it was when she read of it in the local papers; that she had not been asked for or paid any dues to the Club and had never attended any of its meetings. She declared that she did not believe any licensees had been approached to join the Club; that she had never made a contribution to any political campaign.

3. JOHN SALVATORE, who does not appear to be a member of your Association, is the holder of the license at 300 Mechanic Street. He stated that he had not been approached to join the Kobus Club, but that his wife, Madeline Salvatore, was a member. Mrs. Salvatore, when interviewed, stated that she belonged to the Club; was much interested in the candidacy of Mrs. Kobus; that she had been her representative in the ward for the past four years; that she had joined the Club but had paid only \$1.00 dues to date and that, at no time, had anyone ever bothered to ask her why she did not pay the balance of the dues.

I find no evidence of "macing", if by that term is meant solicitation of licensees to contribute money for political purposes either by hope of favors to be rendered or other promissory inducement, or, on the other hand, by fear, threats of retaliation or other menacing pressure.

Chief of Police Arthur Colsey, whom I requested to investigate the charge from the police angle, informs me that his investigation reveals no such action by any member of the Camden Police.

Very truly yours,

New Jersey State Library

Commissioner.

