

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

BULLETIN 335

JULY 21, 1939.

1. SCHEDULE OF NET EARNED REVENUE FOR THE FISCAL
YEAR ENDING JUNE 30, 1939.

	<u>This Year</u>	<u>Last Year</u>
Plenary Brewery Licenses	16,000.00	12,000.00
Limited Brewery Licenses	15,500.00	20,500.00
Plenary Winery Licenses	16,256.16	16,067.13
Limited Winery Licenses	5,900.00	6,675.00
Limited Distillery Licenses	6,597.26	7,493.14
Supplementary Limited Distillery Licenses	650.00	850.00
Rectifier and Blender Licenses	36,205.47	49,780.82
Bonded Warehouse Bottling Licenses		110.96
Plenary Wholesale Licenses	115,845.21	117,743.84
Limited Wholesale Licenses	39,694.53	40,847.26
Wine Wholesale Licenses	15,002.73	11,271.22
State Beverage Distributor Licenses	95,582.20	94,256.18
Plenary Export Wholesale Licenses	26,647.95	29,326.03
Plenary Export Wholesale - Conversion Licenses	500.00	1,000.00
Limited Export Wholesale Licenses	3,750.00	3,750.00
Plenary Retail Transit Licenses	1,984.53	1,970.55
Transportation Licenses	19,797.80	19,590.68
Public Warehouse Licenses	948.49	1,498.63
Warehouse Receipts Licenses	2,428.22	3,375.91
Municipal Licenses	1,190.00	1,130.00
Change of Address Licenses	180.00	295.00
Additional Premises Licenses	4,760.62	5,596.06
Transfer of Licenses	250.00	182.50
Wine Permits	1,985.00	2,311.00
Special Permits	65,469.38	61,689.58
Solicitors' Permits	17,370.00	17,440.00
Age, Residence, Citizenship Permits	4,585.00	3,382.00
Emergency Transportation Permits	2.00	2.00
Extension of Permits	94.64	33.00
Special Transportation Certificate Revenue	1,051.00	869.00
Transportation Insignia Revenue	9,300.00	8,986.00
Seizure Costs Revenue	268.82	623.56
Cash Seizure Revenue	51.62	145.58
Certified Copy Fee Revenue	305.00	304.50
Bulletin Fee Revenue	2,976.60	639.40
Transcript Fee Revenue		187.50
Mailing List Fee Revenue	1,697.50	1,517.50
Tax Revocation Service Charge Revenue	335.00	425.00
Adjusted License Fee Revenue	125.00	450.00
Investigation Fee Revenue	395.98	541.52
Forfeiture Fee Revenue	535.00	738.00
Forfeited Seizure Security Deposit Revenue		100.00
Prior Year's Revenue	503.00	227.00
Miscellaneous Revenue	179.35	11.00
GROSS EARNED REVENUES	532,901.06	545,934.05
LESS LICENSE SURRENDER REFUNDS	163.01	792.98
NET EARNED REVENUE	532,738.05	545,141.07

W. J. Bork
Certified Correct

New Jersey State Library

2. APPEALS - CAMP NORDLAND - PETITION - DISPOSITION.

July 15, 1939.

Mr. Benjamin D. Donaldson,
Lake Iliff,
Newton, N.J., R.D. 1.

My dear Mr. Donaldson:

I have before me a petition signed by you and some 75 or 80 others, reading:

"The petition of the undersigned Petitioners is presented to induce you to disregard the absurd charges lodged against the renewal of the Plenary Retail Consumption license of August Klapprott, at Camp Nordland. This petition is made by business men and residents of the township of Andover and County of Sussex, who reside here, are qualified electors and citizens, who have a right and interest to protest against this fraudulent and unjust attempt by persons who are not Bona fide residents of this community, nor are they sincere in their declarations, but, rather they are persons who have only vengeance to satisfy, and their operations have no merit whatever. These undersigned petitions respectfully request and pray, for the benefit of this community that you order the renewal of said license to avoid great damages to us and to manifest that we who are business men and residents of this township and adjoining communities have the only legal interest in the matter which may be affected, or could be injured by the failure of your said power to order a renewal of this applicants license."

I am acknowledging the receipt of the petition to you as the first signer. Will you please advise the others.

Mr. Klapprott, through his attorney, Wilbur V. Keegan, Esq., has today appealed the decision of the Andover Township Committee and I have set the hearing for Monday, July 24th, at 10:00 A. M.

Cases are decided solely on the transcript of the testimony given by witnesses who are sworn and are subject to cross-examination, and upon the law applicable to the facts so brought out.

I can accord no weight to your petition, therefore, but, if you or any of your co-signers would like to testify, you are welcome and will be afforded the full courtesies of the Department.

Very truly yours,
D. FREDERICK LURNETT
Commissioner.

3. LICENSEES MAY NOT DISCRIMINATE AGAINST UNIFORMED MEMBERS OF THE NATIONAL GUARD OR FEDERALS - HEREIN ANOTHER PHASE OF UNIFORMS.

Mr. Arthur Biesky,
T/a New Columbia Bar & Grill,
Belmar, N. J.

July 15, 1939

My dear Mr. Biesky:

I have before me your letter of July 8th.

I understand that you wish to post in your bar a notice to the effect that no uniformed service men will be served. I take it that by service men you mean members of the United States Army, Navy and Marine Corps and members of the New Jersey National Guard.

R. S. 38:13-3 provides:

"Any person who shall exclude a person lawfully wearing the uniform of the national guard, naval militia, or New Jersey guard from the equal enjoyment of any accommodation, facility or privilege furnished by innkeepers or common carriers or by owners, managers, or lessees of theatres or other places of amusement or resort, because of that uniform, shall be guilty of a misdemeanor."

R. S. 38:22-1 provides:

"Any person owning, keeping or having the management or control of any theatre or place wherein public performances or meetings are given or held in this state, his agents or servants, who shall refuse to admit thereto, or demand or receive any greater price for admission thereto from, or make or impose any different or discriminatory regulation whatsoever therein upon, any person wearing any uniform or device, strap, knot or insignia or any design or character used as a designation of grade, rank or office, such as are by law or by general regulation duly promulgated, prescribed for the use of the military and naval forces of the United States or the national guard of this or any other state, because of the wearing of such uniform, device, strap, knot or insignia, shall be guilty of a misdemeanor."

These statutes do not, by their express terms, refer to a licensed place under my jurisdiction, but the reason is equally applicable. I therefore advise against the proposed notice and recommend that you do not refuse to serve men in such uniforms. Those uniforms are the insignia of our first line of defense. Men so clad need take no back seat.

Besides, you would have a hard time telling it to the marines!

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

4. LICENSES - STATE BEVERAGE DISTRIBUTOR - OBJECTION TO PLACE -
HEREIN OF RESTRICTED ZONES AND NON-CONFORMING USES.

In the Matter of an Application)
for a State Beverage Distributor's)
License by)

RECOMMENDATIONS

DANCO DISTRIBUTORS, INC.,)
81 Collard Street,)
Jersey City, N. J.)

Dominick V. Daniels, Esq., Attorney for Applicant.

Hearing has been held upon objections filed to the renewal of applicant's license for the fiscal year 1939-1940.

At the hearing held upon said objections, two objectors stated that they were opposed to the renewal because they understood that the premises were to be used as a bottling plant. A State Beverage Distributor does not have the privilege of bottling alcoholic beverages and, hence, no weight is given to these objections.

Two other objectors testified that they opposed the renewal because the premises in question are located in a residential district. The evidence shows that 81 Collard Street, Jersey City, is located in a second residential zone or district as defined in a zoning ordinance of Jersey City adopted February 6, 1931. The ordinance in question prohibits business of any kind in a second residential zone or district. The ordinance, however, provides "that nothing herein contained shall be construed to affect a nonconforming use existing at the time of the passage of the ordinance."

The evidence further shows that the premises at 81 Collard Street consist of a one-story brick building, erected about the year 1917; that the building has never been used for residential purposes; that for many years prior to 1933 the owner rented space in the building for the storage of private automobiles; that, in 1933, the Federal Wine and Liquor Company rented the building and used it for the storage of empty bottles; that, since January 1939, applicant herein has rented the building as its licensed place of business, using it for the storage of its trucks and beer.

An investigator employed by the Board of Adjustment of the City of Jersey City, testified that, pursuant to a complaint by one of the objectors herein, an investigation of the use of the building had been made by said Board in the month of January 1939, and that the objector had been advised that the Board of Adjustment could do nothing under the circumstances of the case.

In view of the nature of this building, and the purposes for which it has been used since the time of its erection, it appears that the proposed use by the applicant herein would be a mere continuance of the nonconforming use which existed in 1931 at the time the zoning ordinance was adopted. I believe that this determination is proper until, at least, a court of competent jurisdiction otherwise determines.

Since there were no other objections, it is recommended that the license be renewed.

Edward J. Dorton,
Deputy Commissioner and Counsel.

Dated: July 15, 1939.

5. NEWARK LICENSEES - EMPLOYMENT OF FEMALES TO SERVE DRINKS -
VIOLATION OF THE 400 SQUARE FEET RULE.

In the Matter of Proceedings to)
Revoke or Cancel Plenary Retail)
Consumption License No. C-545,)
for the term expiring June 30,)
1939, issued to)

CONCLUSIONS
AND ORDER

NATHAN KEISCH,)
101 Springfield Avenue,)
Newark, N. J.,)

By the Municipal Board of Alco-)
holic Beverage Control of the)
City of Newark.)

Herman L. Levenson, Esq., Attorney for Defendant-Licensee.
Samuel B. Helfand, Esq., Attorney for the Department of
Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant is charged with (1) having employed a female to tend, and to sell and serve drinks to patrons over, a bar at his licensed premises on March 30, 1939, contrary to the then outstanding resolution of August 29, 1934 of the Newark Board of Alcoholic Beverage Control, and (2) employing a female in a similar capacity on March 31, 1939, contrary to the same resolution.

He is also called upon to show cause why his plenary retail consumption license should not be declared void on the ground that his premises do not contain 400 square feet of floor space as required for such premises by resolution of May 23, 1934 of the Newark Board of Alcoholic Beverage Control.

As to charge (1), the defendant, while admitting that on March 30th last his wife sold a round of beer to Investigators Kane and DiPietro of this Department over a small bar at his premises, nevertheless pleads not guilty. He contends that the Newark resolution of August 29, 1934 banned only ordinary female help but not the wives of licensees from such activity.

However, that resolution, in prohibiting females from tending bar, is an outright prohibition without exception, and hence includes the wife of a licensee even though she is assisting her husband without pay. Re Haino, Bulletin 295, Item 7; Re Geller, Bulletin 312, Item 1; Re Fabiano, Bulletin 313, Item 12; Re Grazul, Bulletin 321, Item 6; Re Matlaga, Bulletin 324, Item 2.

On May 24, 1939 (two months after the alleged violation), the resolution was changed to permit a licensee's wife to tend bar in Newark during certain day time hours. However, that change has no effect in the present case since it cannot wipe out prior violations. Re Fabiano, supra; Re Grazul, supra.

I find the defendant guilty on charge (1).

As to charge (2), the defendant pleads non vult and admits that Mary Myrkalo, a female employee, sold and served a round of beer to Investigators Kane and DiPietro over the bar on March 31st last.

As to the allegation that his premises lack 400 square feet of floor space as required by Newark resolution, the defendant admits they contain but some 232 square feet. However, he obtained a plenary retail consumption license for the premises as early as April 1, 1934, which license was, despite the adoption of the 400 square feet resolution on May 23, 1934, nevertheless successively renewed through 1938-39, the defendant being (so he testified) unaware of the resolution until the present proceeding. Although that resolution, with its design of preventing the issuance of a plenary retail consumption license for "a hole in the wall", is reasonable and valid (Paszek v. Newark, Bulletin 266, Item 7; Neiden Bar & Grill, Inc., Bulletin 329, Item 6), there is, however, nothing to show that any unsatisfactory condition ever actually resulted in defendant's place from the size of the premises.

The mere fact that the defendant's license was continuously renewed after adoption of the regulation is, of course, no warrant for its further disregard. However, because of the fact that the premises were licensed prior to the regulation and continued to be licensed (without fraud on defendant's part) through five successive renewal periods thereafter without apparent resultant harm to the public, I conclude that the resolution, although valid in general, would be unreasonable if now applied to the defendant. Neiden Bar & Grill, Inc., *supra*.

Hence, the order to show cause why his license should not be cancelled on the ground that the premises contain less than 400 square feet of floor space is dismissed.

However, in penalty for defendant's employing a female to tend bar on March 30th and 31st last, as charged in (1) and (2), his license will be suspended for ten days.

This proceeding was instituted during the last licensing term. Pending its determination, the defendant's then license was transferred on June 29, 1939 to the Ukrainian Center of Newark, Inc., for premises at 180-186 William Street, Newark, on the express condition that the transferee is subject to the outcome of this proceeding. As yet, the Ukrainian Center of Newark, Inc. has not obtained any renewal of the license for the current term or, so far as appears, filed any application for such.

Accordingly, it is on this 14th day of July, 1939,

ORDERED, that if the Municipal Board of Alcoholic Beverage Control of the City of Newark grants any application of the Ukrainian Center of Newark, Inc. for renewal or other license for the current term expiring June 30, 1940, for premises at 180-186 William Street, Newark, actual issuance of such license shall be postponed until ten (10) days have elapsed from the time when the license could first have otherwise been issued, and the Ukrainian Center of Newark, Inc. shall not engage in any alcoholic beverage business at the said premises before the expiration of that ten (10) day period.

D. FREDERICK BURNETT,
Commissioner.

6. DISCIPLINARY PROCEEDINGS - SUBLETTING OF LICENSE, SLOT MACHINES
AND EMPLOYMENT OF MINOR - 35 DAYS.

In the Matter of Disciplinary)
Proceedings against)

LAURENCE BROOK COUNTRY CLUB INC.,)
Route S-28, near Weston's Mill,)
R. F. D. 1, New Brunswick,)
East Brunswick Township, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License No. CB-1)
for the term expiring June 30, 1939,)
and now holder of Club License)
No. CB-1 for the current term, issued)
by the Township Committee of the)
Township of East Brunswick.)
-----)

J. R. Appleby, Jr., Esq., Attorney for the Defendant-Licensee.
Richard E. Silberman, Esq., Attorney for the Department of
Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant is charged with:

- (1) Knowingly aiding and abetting Andrew Gyure since August 6, 1937 to exercise the rights and privileges of its club liquor license of 1937-8 and 1938-9, contrary to R. S. 33:1-26, 52;
- (2) Permitting slot machines on its licensed premises on various dates, in violation of Rule 8 of State Regulations No. 20; and
- (3) Knowingly employing a sixteen year old boy on its licensed premises, contrary to R. S. 33:1-26.

As to (1), the defendant, while pleading not guilty, nevertheless admits all the facts. On obtaining its license on August 6, 1937 the Club granted Andrew Gyure a concession to operate its restaurant and liquor business on the understanding that he take all losses and profits. In return, Gyure acted as steward and janitor for the club, and reimbursed it for the money expended by it in obtaining the 1937-8 and 1938-9 licenses.

In April 1939 the club, apparently on learning that it was likely to encounter trouble with this Department because of its arrangement with Gyure, terminated his liquor concession, assumed full control over the club liquor business and retained Gyure therein on a straight salary basis.

A liquor licensee, although he may be aided by employees, is the only one who may be proprietor of the business and exercise the rights and privileges of the license which has been entrusted to him alone. He is absolutely without power to lease, rent out or farm his license to another. In the present case, it is clear that the club actually farmed out its liquor franchise to Gyure.

I find the defendant guilty on charge (1).

Were it not for the fact that defendant apparently granted the liquor concession not as a commercial enterprise but rather to relieve itself of any financial worry about the liquor, and the further fact that the club immediately terminated the concession on learning of its possible illegality, I would revoke outright. A licensee may not play horse with the whole licensing system by obtaining a license and then constitute himself an extra-legal issuing authority and grant the license to another. As it is, the license will be suspended for twenty days.

As to (2), the defendant pleads guilty. On December 21, 1937, and on April 8, 1938, investigators of this Department found a slot machine on the premises and on each occasion warned the defendant to remove the machine. Despite such warning, they found a slot machine at the club on April 29, 1938, and two such machines on July 18 and October 26, 1938. All such machines were removed prior to Christmas 1938 and to institution of the present proceedings.

In view of the defendant's persistency in maintaining slot machines after specific warning, its license will be suspended for an additional twenty days on this charge.

As to (3), the defendant also pleads guilty. On July 8, 1938 the defendant wrote to this Department for application for an "ARC" permit to allow a sixteen year old minor to work on the premises as a bus boy. On July 18, 1938 investigators of this Department found the bus boy at work, although application for the permit had not yet even been filed.

Its license on this charge will be suspended for an additional five days.

The suspensions thus imposed total forty-five days. However, because of the defendant's admission of all facts without necessity of proof and its plea of guilty as to the last two charges, ten days will be remitted from the total suspension, leaving a net of thirty-five days.

This proceeding, though instituted during the last licensing term which expired June 30, 1939, does not abate but remains effective against the defendant's renewal license for the current term. State Regulations No. 15; Re Zochowski, Bulletin 264, Item 10; Re Chvat, Bulletin 266, Item 8; Re Reichenstein, Bulletin 325, Item 11.

Accordingly, it is, on this 14th day of July, 1939,

ORDERED, that Club License No. CB-1, for the current term, heretofore issued to Laurence Brook Country Club, Inc. by the Township Committee of the Township of East Brunswick, be and the same is hereby suspended for a period of thirty-five (35) days, effective July 18, 1939 at 2:00 A.M. (Daylight Saving Time).

D. FREDERICK BURNETT,
Commissioner.

7. VODKA - MANUFACTURE COMPLETE FROM VINE TO VINTAGE.

Gentlemen:

I represent a resident of this State, who intends to purchase property in New Jersey for the purpose of growing potatoes, which are later to be used in the manufacture of an alcoholic drink similar to the Russian drink called Vodka,

Will you kindly advise me what licenses are necessary, the cost of same, and forward to me such papers as may be necessary.

Very truly yours,
Ignatz Reiner

July 16, 1939

Ignatz Reiner, Esq.,
New York City.

My dear Mr. Reiner:

The license necessary to manufacture Vodka is a Plenary Distillery License. It costs \$7,500.00 per annum. If your client is interested at that price, let me know and I will send you the necessary forms.

Of course, no license is necessary to grow potatoes notwithstanding destined distillation.

It looks like your client would have a readier market before long in New Jersey if he also sowed some oats. X

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

8. RETAIL LICENSES - SALE - LICENSED PREMISES - PERMISSIBLE TO SERVE ALCOHOLIC BEVERAGES ON OUTSIDE TERRACE WHICH IS PART OF THE LICENSED PREMISES - PERMISSION TO INSTALL TEMPORARY OUTSIDE BAR, NOT AUTHORIZED BY THE MUNICIPAL AUTHORITIES, REFUSED.

July 11, 1939

Dear Sir:

We loaned the property adjoining our Service Station and Blue Room to the Volunteer Firemen of Sea Bright so they could hold their annual fair during the dates of July 15 and 23, inclusive. As this property adjoins our Blue Room, of which we have a Plenary Retail Consumption License and the terrace of the Blue Room adjoins this property, we would like to have a ruling from you if it is permissible for us to have a temporary outside bar for the sale of beer only, during the time this fair is in progress.

The bar will be situated on the outside terrace of the Blue Room. Enclosed is a picture of the Blue Room and adjoining property and also a true copy of the application made by me to the Borough of Sea Bright for a retail liquor license for this period.

Very truly yours,
Geo. F. Regan

July 14, 1939

Mr. George F. Regan,
Sea Bright, N. J.

My dear Mr. Regan:

It appears from the copy of your application for license which you have sent me, that your licensed premises comprises the barroom, ice house, storeroom, and adjoining outside terrace 15' x 40' in size, located in and about the stucco building at the Gulf Gasoline Station on Plaza Square, Ocean Avenue, Sea Bright.

As your licensed premises includes the outside terrace, it is permissible, under your license, for you to sell and serve alcoholic beverages on the outside terrace.

But that is quite another thing from having an outside bar.

I take it that there is no outside bar on the terrace at the present time and that when the Sea Bright Borough Council passed upon your premises, there was no question of or authorization for an outside bar. From the photograph you have submitted, it would appear that the premises were approved without an outside bar. That strikes me as wholly proper. I doubt that the Borough Council would have approved your premises, almost in the heart of the Sea Bright business section and in full view of the public thoroughfare, if there had been an outside bar.

That the installation of the outside bar would be only temporary, for the duration of the Annual Fair of the Volunteer Firemen from July 15th to 23rd inclusive, is immaterial. The fact remains that the Council has given you no authorization for an outside bar and until they do so, I certainly shall not sanction it in any such location.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

9. ADVERTISING - CUT RATE - USE IN NEWSPAPER ADVERTISEMENTS
DEPRECATED.

ADVERTISING - PRICE SIGNS ON EXTERIOR OF LICENSED PREMISES -
THE PURPOSE AND SCOPE OF RULE 3 OF REGULATIONS NO. 21.

Dear Sir:

This Company, the holder of several retail distribution licenses, upon instructions from the Legal Department, does not advertise or use on posters or other signs the words "Cut-Rate Drugs" or "Cut-Rate Liquors". Our field force, however, from time to time, pick up and send to me ads such as the newspaper ad enclosed which shows the use of "cut-rate liquor".

Upon examination of the law and your rules and regulations it would seem that the only prohibition is against the use of such signs on the outside of the premises and that the prohibition does not extend to newspaper advertisements. While we do not intend and have no desire to use such advertisements, I would appreciate an opinion from you so that I may properly advise our field force in combatting this type of price cutting competition.

Very truly yours,
Whelan Drug Co., Inc. (N.J.)

July 17, 1939

Whelan Drug Co., Inc. (N.J.)
New York, N. Y.

Gentlemen:

There is nothing in the Alcoholic Beverage Law or Regulations which would prohibit the use of the term "cut rate" in a newspaper advertisement of liquors. I wish, however, that nobody would use this term in advertising, so far as liquor is concerned, whether prohibited or not. It certainly does not dignify the industry.

"Cut rate" is prohibited in any sign on the exterior of the licensed premises, or on the interior when visible from the street, because it is contrary to Rule 3 of Regulations No. 21 (Pamphlet Rules, page 64). See Re Felko, Bulletin 162, Item 3; Re Sosnow, Bulletin 227, Item 12; Re Salzinger, Bulletin 264, Item 5; Re Palace, Bulletin 287, Item 5. Rule 3 of Regulations No. 21 does not apply to newspaper advertising.

Rule 3 was designed to put an end to the price sign abuse which created so serious a problem not so long ago. But that problem arose from retailers plastering their windows with offensive and unsightly signs. The rules were not intended to eliminate all advertisement of price. The abuse was confined to the signs, hence, so was the rule.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

10. MUNICIPAL REGULATIONS - LIMITATION OF LICENSES - CLEAR AND ACCURATE REGULATION ESSENTIAL.

July 17, 1939

Peter Menzak,
Borough Clerk,
Manville, N. J.

My dear Mr. Menzak:

My attention is directed to the resolution adopted by the Council on June 28, 1939, authorizing the issuance of nineteen plenary retail consumption licenses. These nineteen, together with the renewal issued by me to Polish Home, Inc., to which the Council consented by resolution of June 22, 1939, make twenty plenary retail consumption licenses in all, outstanding in the Borough.

My attention is also directed to the ordinance pertaining to alcoholic beverages adopted by the Council on December 24, 1935, Section 10 of which provides:

"Section 10. NUMBER OF LICENSES AND SPACE.
No new Plenary Retail Consumption license shall be issued by the municipality, the result of which will be to increase the number of licenses issued and outstanding to twenty (20) in number in said Borough.

"Upon the sale or transfer of a business and application is made therefor in the same manner as for any other new license, qualification of the applying licensee and surrender of the license under which the seller

transacted business, a license may be issued to the purchaser or transferee of such licensed beverage business.

"No new licenses authorized to be issued by the municipality shall be issued except to those now holding licenses and those acquiring licenses as above provided, unless after the adoption of this ordinance the number of licenses issued and outstanding shall have been reduced by revocation or surrender so that there is less than (20) licenses in said Borough."

There is apparently some confusion in the terms of the limitation. The first paragraph declares that no new licenses shall be issued, the result of which will be to increase the number to twenty. That would seem to impose a limitation of nineteen. The last paragraph provides that no new licenses shall be issued, unless and until the number is reduced to less than twenty. That would seem to imply permission to issue a new license as soon as the number dropped to nineteen; in other words, to fix the quota at twenty.

If the limitation is nineteen, the ordinance has been violated, because twenty plenary retail consumption licenses have been issued. If the limitation is twenty, the ordinance has not been violated, but the quota is now filled. As presently written, either construction may be made, but neither with certainty. The limitation is, therefore, bad for indefiniteness.

Will you kindly bring this before the Council with my recommendation that Section 10 of the ordinance be amended to express the limitation accurately, at once. I take it that the Council meant to fix the quota at twenty. For form of such amendment, I suggest:

"Section 10. NUMBER OF LICENSES. The number of plenary retail consumption licenses outstanding in the Borough of Manville at the same time shall not exceed twenty."

The other matters presently covered by Section 10, namely, the exception authorizing transfers and the prohibition of new licenses until the number outstanding is reduced to less than twenty, are wholly unnecessary. The privilege of transferring is conferred by the Act. The limitation, as above worded, is wholly adequate to prevent the issuance of new licenses so long as the quota is filled.

Please request the Council to proceed to clarify Section 10 with dispatch. Until some such amendment is put through, you will not have an enforceable limitation.

Kindly certify to me the further action of the Council.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

11. DISCIPLINARY PROCEEDINGS - ELECTION DAY RULE - TEN DAYS.

July 17, 1939

Francis S. Grogan, Clerk,
Riverside, N. J.

My dear Mr. Grogan:

I have before me staff report and your letter of July 13th re disciplinary proceedings conducted by the Township Committee against Steve Mieliwocki, charged with sale of alcoholic beverages on Special Election Day last past, and note that his license was suspended for ten days.

Please express to the members of the Township Committee my appreciation for their conduct of these proceedings and the penalty imposed.

I note that you report that the licensee was told in plain language what to expect on the second offense. That's the way!

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

12. DISCIPLINARY PROCEEDINGS - GAMBLING - PAY-OFF ON BAGATELLE MACHINE.

July 17, 1939

Earl C. Nelson, Town Clerk,
Dover, N. J.

My dear Mr. Nelson:

I have before me staff report and your letter re disciplinary proceedings conducted by the Mayor and Board of Aldermen against Dominick Caporaso, 9 S. Morris Street, charged with making pay-offs on a bagatelle machine, and note that his license was suspended for six and one-half days.

Please express to the Mayor and the Board my appreciation for their conduct of these proceedings and the penalty imposed. It was gratifying to have the Mayor state:

"We are charged with the responsibility in the Town of Dover of enforcing the laws which govern this business and we can't shirk our responsibilities. We are going to keep this Town clean. If anyone comes before us on a second case it will mean the revocation of the license. The Board dislikes the duty of sitting as judge and jury and it is not fair to us when a licensee creates this situation, it is not only the violation of the law, it is unfriendly to the people of our Town, we are going to do the job assigned to us. We want the places to run properly in the Town of Dover, if not, we will use drastic measures when a case comes before us."

Well spoken!

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

13. LICENSEES - EMPLOYEES - DISQUALIFICATION - COMMISSION OF TWO OR MORE VIOLATIONS OF THE ACT CONSTITUTES MANDATORY BAR TO HOLDING A LICENSE OR BEING EMPLOYED BY A LICENSEE.

Dear Sir:

I am writing on behalf of Anna Gerencer who formerly held a Plenary Retail Consumption license in the Town of Phillipsburg. She was forced to surrender this license by reason of the fact that she was convicted twice of violations of the Control Act. She pleaded guilty both times because the violations occurred on the premises licensed by her, although in each instance she insisted that she personally did not commit the violations.

I am writing on her behalf to inquire whether she may be permitted to work in a licensed place. She is the owner of a building which has been a licensed place in Phillipsburg for many years. She is a widow with four children and has sent two of them through high school, and has two who are still in high school.

She has a good reputation in this community and it would be of great assistance to her if she were permitted to work in a licensed place. It is her only means of livelihood and I feel certain that she would be deeply appreciative of the fact if anything could be done in her behalf.

Very truly yours,
Frank J. Kingfield

May 9, 1939

Frank J. Kingfield, Esq.,
Phillipsburg, N. J.

Dear Sir:

Our records show that, on June 29th, 1936, the Board of Commissioners of the Town of Phillipsburg suspended the license of Anna Gerencer for the balance of its term and again, on April 15th, 1937, suspended her license for the balance of its term; that, in both cases, she was guilty of possessing illicit alcoholic beverages.

R. S. 33:1-25 (Control Act, Section 22) provides that no license of any class should be issued to any individual who has committed two or more violations of this Chapter. R. S. 33:1-26 (Control Act, Section 23) provides that no person who would fail to qualify as a licensee under this Chapter shall be knowingly employed by or connected in any business capacity whatsoever with the licensee.

Mrs. Gerencer is, therefore, barred, by statute, from working in licensed premises. I am sorry for her but I have no discretion to permit her to be so employed.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

14. APPEALS - CAMP NORDLAND - INTERIM RELIEF - WHY THE DISCRETION NOT EXERCISED - HEREIN OF THE HEARING ON APPEAL.

July 17, 1939

Hon. Egbert Rosecrans,
Blairstown, N. J.

Dear Judge Rosecrans:

Re: Camp Nordland.

I have yours of the 15th in capacity of counsel for objectors to grant of license to August Klapprott, requesting that in case of appeal by the applicant from the action of the Andover Township Committee, that you be given opportunity to be heard in the event that application is made to me for an ad interim license.

An appeal was filed on July 15th by Wilbur V. Keegan, Esq. in behalf of August Klapprott. The petition contained the usual prayer for ad interim relief until the appeal could be heard and decided. I did not grant any stay or extension notwithstanding that I normally do in cases where the renewal of an existing license has been denied. The reason why the discretion was not exercised was because I had had to cancel, for cause, a special permit issued at the close of the fiscal year to tide over the hearings then in process before the local Township Committee. While that cancellation was made without prejudice to any appeal which might be made on the merits, I saw no reason for again granting interim relief until the matter could be thoroughly and fairly threshed out on the merits. In lieu thereof, I set the case down for early hearing and will endeavor to decide it as soon as the testimony to be taken is transcribed and presented to me with the pleadings and exhibits.

The appeal hearing is set for Monday, July 24th, at 10:00 A.M. The rules provide that all appeal cases are tried de novo. It will therefore be necessary for you and your witnesses to attend on the 24th, as the decision will be rendered exclusively on the facts as testified by witnesses both sworn and subject to cross-examination, and upon the law applicable thereto.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

15. DISCIPLINARY PROCEEDINGS - BINGO - TECHNICAL VIOLATION - HEREIN OF THE IRVINGTON COMMISSIONERS AND THE IRVINGTON ELKS.

July 17, 1939

W. H. Jamouneau, Town Clerk,
Irvington, N. J.

My dear Mr. Jamouneau:

Your Board discharged a public duty splendidly in handling the disciplinary proceedings against the Elks and suspending their license because of infraction of the bingo rule. I understand from Exalted Ruler Spitz that every member of your Commission that sat were Elks; that Town Attorney William Newman is likewise an Elk and a member of the very Lodge. I know, from the record, that while the game was played in a room in which a bar was located, the bar was not in use and moreover was not in condition to be used as a bar. The violation, therefore, was wholly technical.

The stage was thus set for an easy "out." Instead of that the license was suspended - for only three days to be sure - but long enough to vindicate the law under the facts of this case.

Such action commands wholesome respect. It is not only that great oaks of lawlessness grow from little acorns of so-called technical offenses, but, beyond that, it is well that our democratic processes give assurance that no one is above the law and that justice is meted out with even hand despite racial, political, personal or fraternal considerations.

Sincerely yours,
D. FREDERICK BURNETT,
Commissioner.

16. LOTTERIES - BEAN GUESSING CONTEST - CEASE AND DESIST ORDER
ISSUED.

July 18, 1939

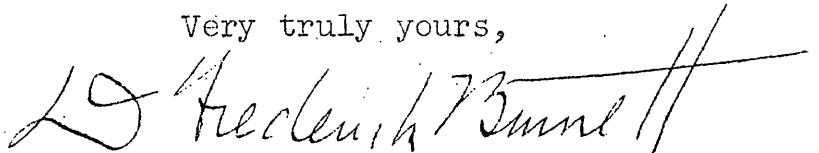
Grand Union Stores, Inc.,
233 Broadway,
New York City.

Gentlemen:

During the course of a routine inspection at your licensed premises located at 382 Kinderkamack Road, Oradell, N. J., investigators found a circular advertising, among other things, "The Contest of Tomorrow." This circular states that "1001 prizes, value more than \$6,000.00", will be distributed based upon customers' guessing the number of coffee beans in a miniature perisphere.

"The Contest of Tomorrow" may not be held in any of your licensed premises in this State today, tomorrow, or any other day. Cease and desist forthwith. Violation will subject your license to suspension or revocation.

Very truly yours,



Commissioner.

New Jersey State Library