

Commissioner Burnett
Sent to Regular Mailing List

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

BULLETIN NUMBER 142.

October 15, 1936.

1. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - A NEW ALIBI - HEREIN
OF LICENSEES FRISKING THEIR CUSTOMERS.

October 8, 1936.

Dr. George M. Whitfield,
Borough Clerk,
Eatontown, N. J.

Dear Dr. Whitfield:

I have before me staff report of the proceedings before the Borough Council of Eatontown in connection with charges against Gino Folci, holder of Plenary Retail Consumption License C-2, for having possessed illicit alcoholic beverages in his licensed premises.

The report states:

"On August 20, 1936, at about 2:15 P.M. Investigators Beck and Linnenkohl inspected the licensed premises.

"In gauging and testing the opened bottles of alcoholic beverages they found four off proof and the contents not as represented by the labels. They seized the four bottles and took two unopened bottles from stock.

"The report of analysis of the Department Chemist disclosed the following:

An opened quart bottle, 4/5 full, labeled 'Glenmore's Kentucky Tavern Whiskey, 100 pf.' contained a blended whiskey 91 pf. and was not whiskey as represented by the label.

A quart bottle, about 1/3 full, labeled 'Glenmore's Kentucky Tavern Whiskey 100 pf.' contained a blended whiskey 91 pf. and was not whiskey as represented on the label.

An originally sealed quart bottle of whiskey bearing label as above proved to contain whiskey as represented on the label.

A quart bottle, about 1/8 full, labeled 'Schenley's A.A. Straight Rye Whiskey' contained a blended whiskey 90.7 pf.

A quart bottle, full, labeled 'Schenley's A.A. Straight Rye Whiskey' contained a blended whiskey 90.7 pf. and was not whiskey as represented on the label.

An originally sealed quart bottle labeled 'Schenley's A.A. Straight Rye Whiskey' contained a natural whiskey as represented on the label."

I note that the charges were dismissed.

The Investigators report that the licensee testified he never tended bar and had nothing to do with the liquor; that the bartender advanced the naive suggestion that a customer might have tampered with the bottles when they were left at a table; that at times as many as five opened bottles are taken to a table

New Jersey State Liquor

and left there - as bait, I presume, for gift bearing customers to fill rather than empty.

It is quite common for licensees, when caught, to try to shield themselves behind their hired help, from bartenders down to kitchen scullions, with recourse as well to their brothers and even their wives, but this is the first time I have ever heard the blame laid on the customers! The thought is worthy of Boccaccio!! The denouement is so droll!!! When the licensee is charged with possessing illicit liquor to sell to his customers, he declares "Forsooth, 'twas not I! It was my customer, curses on him, who hath brought this foul liquor across my threshold and filled my bottles with it".

Before we know it, licensees will be frisking their customers!

Of the making of alibis there is no end. Your Council will grow weary of them with longer experience. I cordially suggest that hereafter they do not lend ear to these obvious "outs".

Very truly yours,

D. FREDERICK BURNETT
Commissioner.

2. SPECIAL PERMITS - DISPLAY OF MINIATURES - REGULATIONS.

October 7, 1936.

Albany Distributing Co.,
New Brunswick, New Jersey.

Gentlemen:

Att: M. Lukacs

*5/2/37.
Superseded by
Bulletin 173,
Items 13 + 14.*

I have yours of September 29th re the display of miniatures on your licensed premises.

The Commissioner will entertain application for a Special Permit from you to display miniatures containing alcoholic beverages on your licensed premises for limited periods. The fee for such permit is \$5.00, payable in cash, money order or certified check, drawn to the order of D. FREDERICK BURNETT, Commissioner, and a permit must be obtained on each occasion that you desire to effect such display.

You may not, however, have such display except pursuant to the foregoing Special Permit because Rules Concerning Size of Containers of Alcoholic Beverages provide that no retail distribution licensee may purchase or permit delivery to him of any alcoholic beverages in containers which do not meet the minimum standards of fill. These minimum standards are: distilled spirits, one-tenth gallon; brandy and Holland gin, three-fourths pint; cordials, liqueurs, cocktails, gin fizzes, champagnes and bottled highballs, one-half pint, and wines, six ounces.

Application for this permit may be made in petition or affidavit form setting forth:

1. Name and address of applicant.
2. Type of license and license number.
3. Number of miniatures to be displayed.
4. Whether miniatures are loaned, donated or owned by the licensee, and from whom obtained.
5. Describe in detail as to where and how the miniatures will be displayed.
6. State accurately the period during which such display will be made.

If the above permit is issued it will be required and made a condition of the permit that the permittee place a placard in the show window or other places of display, bearing the legend:

"The miniature bottles in this window are used here for display purposes only and are not for sale."

Application for the above permit must be made on each occasion that you desire to make such display.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

By: Erwin B. Hock
Deputy Commissioner

3. DISCIPLINARY PROCEEDINGS - GAMBLING - TEN DAY SUSPENSION.

October 8, 1936.

Peter Heinz, Jr., Esq.,
Town Clerk,
Guttenberg, N. J.

Dear Mr. Heinz:

I have staff report of the proceedings before your Board of Council in the matter of charge against Samuel Valck for having violated State Rule #7 of "Rules Concerning Conduct of Licensees and Use of Licensed Premises" in that he permitted bookmaking on the results of horse racing to be conducted on the licensed premises.

The report states:

"On August 31, 1936, at about 3:15 P. M. Investigators King and Miskovsky entered the licensed premises. They observed a man later identified as Charles Dundorf enter a rear room at frequent intervals for the purpose of answering telephone calls. Several patrons were holding racing charts in their hands. The Investigators entered the rear room and found slips which recorded bets on horses. Both the licensee and Dundorf admitted that bookmaking was being carried on in the licensed premises. The licensee stated that he had permitted Dundorf to run a book there since November 1935."

I note the licensee pleaded guilty and that his license was suspended for ten days beginning October 6, 1936.

The action of your Board in imposing this penalty is

decidedly heartening to the cause of law enforcement and will go a long way to impress on errant licensees that they must live up strictly to the regulations promulgated relative to their licenses.

The disposition on the part of the American public to take a chance, to speculate, to put money stakes on so many things they do, makes it a very difficult situation confronting enforcement officials. The action of your Town Council attests that they believe, as I do, that the only proper course for us to take is that, so long as the law against gambling remains on our statute books, it is our duty to enforce it, at least so far as concerns licensed premises. Otherwise, commercialized gambling will get a foothold in such places, leading to racketeering and other evils which will quickly get out of hand if we do not keep the lid on all the time. Let us stop at the source the abuses that brought Prohibition.

Please convey to the members of your Town Council my respect and appreciation.

Cordially yours,
D. FREDERICK BURNETT
Commissioner.

4. CONSUMPTION LICENSEES - CONSUMERS ARE NOT PROHIBITED BY LAW FROM BRINGING THEIR OWN LIQUOR WITH THEM ONTO LICENSED PREMISES BUT MAY BE FORBIDDEN TO DO SO BY THE LICENSEE IF HE CHOOSES - THE LICENSEE IS MASTER OF HIS TAVERN.

Gentlemen:

Will you kindly advise me whether there is any law, rule or regulation in the State of New Jersey which prohibits an individual from purchasing liquor from a responsible dealer, and then taking such liquor with him to a public social gathering held at a place licensed to sell and dispense alcoholic beverages, and then instead of buying liquor at such place, using his own purchased as above. In using his own, the individual does so without undue disturbance and purchases the so-called "set-ups" from the establishment.

I have been informed by an owner of such public establishment that if such action were taken by an individual he would be liable to arrest and fine and I would like to know if this is correct or merely made by an owner in the interest of his own business.

Any information you can give me on this point would be greatly appreciated.

Very truly yours,

W. A. ROLLKA

October 9, 1936:

Mr. W. A. Rollka,
Teaneck, N. J.

My dear Mr. Rollka:

There is nothing in the Alcoholic Beverage Control Act or in the State Rules and Regulations which would prohibit

your taking legitimate liquor purchase elsewhere onto a licensee's premises and consuming it with set-ups bought from the licensee.

You were therefore correct in your surmise that the licensee incorrectly told you that you were liable to arrest and fine. He could have refused to sell you the set-ups or, bolder, have forbidden you to consume any liquor on his premises except such as you bought from him and to eject you if you persisted. The licensee is Master of his tavern. He who is responsible for the conduct of it has the right to decide for himself what behavior he shall permit. It would have been better if he had frankly told you that he was not in business solely for the love of it rather than attempt to frighten you with a law that does not exist.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

5. APPELLATE DECISIONS - HOBBS vs. LOWER PENNS NECK TOWNSHIP

EDITH HOLLAND HOBBS,)	
Appellant,)	
vs)	ON APPEAL
TOWNSHIP COMMITTEE OF THE)	ON REHEARING
TOWNSHIP OF LOWER PENNS NECK,)	CONCLUSIONS
Respondent..)	
-----)	

Joseph Narrow, Esq., Attorney for Appellant.
W. Orvyl Schalick, Esq., Attorney for Respondent.
Harry M. Mendell, Esq., Of Counsel, with Appellant upon Rehearing.

BY THE COMMISSIONER:

This case came before me on appeal from the denial of renewal of a retail consumption license.

The answer alleged that the application had been denied because appellant's place of business had been "improperly conducted", and the premises were "unsanitary", "the reasons more fully set forth being" (a) lack of proper toilet facilities; (b) sale to minors; (c) sale to persons under the influence of liquor; (d) women acting as barmaids.

On reading the transcript of the testimony taken before the Hearer, designated by me for that purpose, I found nothing therein concerning specifications (b) and (c), and only fragmentary and wholly insufficient testimony concerning specifications (a) and (d), but I did find that the stress of practically the entire record was on the use of the licensed premises as a place of prostitution, which testimony was permissible under the pleadings, if at all, only because of the general charge of improper conduct; that neither appellant nor her lawyer had taken any exception to the pleadings or to the admission of such testimony or had claimed surprise or asked for an adjournment or for permission to call further witnesses; that in fact the attorneys on both sides agreed at the end of

that hearing that the matter was to be submitted to me on the record.

I took it, therefore, that the parties had fought the case out on the basis that the charge of "improper conduct" meant prostitution and was not to be confined to the specifications set forth in the answer, and therefore, she was bound by the issue which she had accepted. On the record as it then stood, I affirmed the action of the Township Committeemen in refusing a renewal.

Thereafter, on allegations duly verified that appellant did not realize when she came here that any charge of improper conduct was to be made against her on the ground of prostitution and that she had been mistakenly advised to proceed with the trial without attempt to bring in the proof which she claimed available to disprove that charge, I granted a rehearing in view of the pleadings, faulty in the respects above pointed out, and the fact that she claimed that she was misled thereby, which is possible, and because of the seriousness of the charges reflecting upon her personal character.

The case was reheard on the single issue of whether or not the licensed premises had been used as a house of prostitution or assignation.

In order to have the benefit of observing the demeanor of the several witnesses upon the stand, I sat personally.

The new testimony adduced by appellant was given by servants, employees and customers, witness after witness, who testified that they had been on the licensed premises in the morning, in the afternoon, in the early evening, and at late night, some of them many hours, one of them nearly two hundred times, but none of these many witnesses saw anything out of the way or anything which would make them believe that there was anything wrong going on. High-class witnesses testified that they had taken their wives to the licensed premises on repeated occasions. I am sure they wouldn't do that if they had any suspicion that the place was one of ill-repute. One after the other testified to the good reputation of appellant. *Trick Mark!*

The only affirmative testimony was that of Mrs. Stumpf who testified as to unprintable language overheard by her and which she justifiably believed was incident to and concurrent with the use of the licensed premises as a house of prostitution or assignation. She frankly admitted that she had not actually seen anything wrong going on or being done, but that she had reached her conclusions because of what she had overheard. Her demeanor on the stand carried conviction that hers was not a trumped up story. I believe she did hear the things to which she testified. But the things which she testifies she heard, while undoubtedly relating to sexual matters, when weighed in the light of the new testimony are not sufficient to prove a case. The necessary evidence is lacking.

Charles Humphreys, a member of the Township Committee, who had voted in favor of the issuance of the license declared that Mrs. Stumpf did come over to him and complain about what she thought was going on in the tavern. He told her "you have to get evidence". He testified she had said nothing to him since Mrs. Hobbs was the owner of the tavern; that he lived cater-

cornered across the street not over 100 feet; that as he sat in his front room he could see into the licensed premises; that he had sat for hours in his bedroom window after the complaint was made but never saw anything wrong or anything to attract his attention.

Mrs. Stumpf also complained to the Department of Justice about what she had heard. That is additional proof of her good faith. But, the Federal men "covered" the place, never were able to find anything wrong and finally closed their files.

The new testimony adduced, coupled with the limitations on the scope and extent of the testimony of Mrs. Stumpf brought out at the rehearing, lead me without hesitation to the conclusion that on the full record as now presented the charges against appellant of permitting the licensed premises to be used as a house of prostitution or assignation have not been sustained.

There being no other grounds alleged why her license should not be renewed, I therefore reverse the action of respondent and direct that a renewal license be issued to her forthwith.

Dated: October 8, 1936.

D. FREDERICK BURNETT
Commissioner

6. ELIGIBILITY FOR SOLICITOR'S PERMIT - MORAL TURPITUDE - FACTS EXAMINED - CONCLUSIONS.

Case No. 38.

Petitioner was granted a hearing on October 8, 1936 for the purpose of determining whether he is eligible to receive a solicitor's permit. It is admitted that he was convicted about eight years ago in a Recorder's Court on a charge of keeping a disorderly house. He is otherwise fully qualified, and the sole question to be determined is whether the crime of which he was convicted involved moral turpitude and, hence, renders him ineligible to be employed by a licensee.

At the hearing petitioner testified that the occurrence which resulted in his conviction took place at his home in the latter part of May 1928. Petitioner testified that he had no knowledge of this affair until June 1st, when a married man, whom he knew, approached him and demanded the return of a sum of money which he claimed had been stolen from him about a week before by the woman who was then petitioner's wife. This married man told petitioner at that time that he had been at petitioner's home about a week previously, had had intercourse with the woman who was then petitioner's wife, had been made drunk and robbed of a large sum of money. After petitioner refused to make the payment demanded, he and his then wife were arrested on the following day. They were tried two days later in the Recorder's Court. A plea of guilty to a charge of keeping a disorderly house was entered by both of them. Each was fined the sum of \$50.00. Petitioner insists that he was innocent; that his then wife denied the charges, but pleaded with him not to waive examination for the Grand Jury, but rather, to enter a plea of guilty in the Recorder's Court so as to avoid further publicity of the charges made. Acceding to her wishes, he pleaded guilty in the

Recorder's Court.

Whatever may have been his former wife's degree of guilt, the role of injured husband assumed by petitioner in this domestic tragedy is not wholly unjustified in view of his further evidence that he divorced this woman a few years later. He has since remarried.

The crime of keeping a disorderly house is an indictable offence, and it would seem that the Recorder's Court had no power to find petitioner guilty on that charge. We need not determine, however, whether the conviction was technically correct. It is sufficient to say that this conviction, under the circumstances as outlined above, does not show any moral turpitude so far as petitioner is concerned. It is recommended, therefore, that he be advised that he is eligible to receive a solicitor's permit.

Edward J. Dorton,
Attorney-inChief.

Approved:
D. FREDERICK BURNETT
Commissioner

7. APPELLATE DECISIONS - HOLLAND vs. BLOOMFIELD

SARAH HOLLAND,)	
Appellant,)	
-vs-)	
TOWN COUNCIL OF THE TOWN OF)	On appeal
BLOOMFIELD,)	CONCLUSIONS
Respondent.)	
.....)	

Thomas J. Markey, Esq., Attorney for Appellant.
Edward C. Pettit, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the denial of a renewal of plenary retail consumption license for premises located at #16 Myrtle Street, Bloomfield.

Respondent denied the application because of alleged improper manner in which the premises were conducted in the past.

The evidence establishes that frequent complaints have been made by neighbors because of the boisterous, noisy manner in which the appellant's business had been conducted; that patrons have used adjacent lots and buildings instead of toilets; that the premises were permitted to remain open on several occasions after the closing hour fixed by respondent's ordinance; that brawls and lewdness in and about the premises are not infrequent; that there is considerable yelling and profanity during the late hours of the night and early hours of the morning; that the

licensee's minor son has served intoxicating liquors to patrons and in spite of the fact that he had been previously cautioned against such practice by an officer of this Department. A boy of 19 years stated he had been served beer by both the appellant and her son. He is the son of a neighbor and is well known to the licensee. Residents have been constantly annoyed by the conduct of intoxicated patrons. One of them used the wall of appellant's tavern as a urinal on Easter Sunday afternoon in full view of the witness and her young son. A next door neighbor testified to an outrageous act of indecency in the rear of the licensed premises. A woman testified that her husband was repeatedly served by the licensee while he was intoxicated, although she begged the licensee not to do so. On more than one occasion appellant's bartender was observed in an intoxicated condition while on duty. The policeman on the beat testified to the poor reputation which the tavern bore in the neighborhood. The contradictory evidence at the hearing on appeal was largely furnished by tenants of the licensee. One or two of appellant's witnesses showed remarkable unawareness of any improprieties. The weight of the testimony is overwhelmingly in support of respondent's charges.

The refusal of renewal was abundantly justified by the facts as I find them. Citation of authorities is superfluous.

The action of respondent is therefore affirmed.

D. FREDERICK BURNETT

Commissioner

Dated: October 9, 1936.

8. LIQUOR CONTROL IN NEW JERSEY - ANSWERS TO QUESTIONS OF SCHOOL OF CITIZENSHIP AND PUBLIC AFFAIRS OF SYRACUSE UNIVERSITY.

October 9, 1936.

Syracuse University,
School of Citizenship and Public Affairs,
Syracuse, New York.

Gentlemen:

You asked for information in connection with nine particular aspects of the liquor control situation in New Jersey. Your questions have been given careful consideration. The answers are as follows:

"1. How many municipalities of 15,000 or more have established municipal ABC boards? (Sec. 5). Is the make-up of these boards similar in most municipalities?"

Eleven municipalities have created Municipal Boards of Alcoholic Beverage Control pursuant to Section 5. These municipalities are:

Camden	Newark
East Orange	North Bergen
Elizabeth	Orange
Hillside	Rahway
Linden	West Orange
Morristown	

In each municipality, the Board consists of three members no more than two of whom belong to the same political party. The make-up of the Boards, except as to the political affiliation of their members, is controlled by the statute. See Section 5.

"2. In sixth class counties, do judges of the courts of common pleas wield all the regulatory power which Sec. 6 confers on them?"

The Judges of the Courts of Common Pleas in Cape May and Ocean, which are sixth class counties, have in the main wielded all of the regulatory powers conferred on them by Section 6. They have fixed license fees, regulated the hours of sale, prohibited the retail sale of alcoholic beverages in certain municipalities on Sundays, prohibited the issuance of certain types of retail licenses and have adopted general regulations concerning the conduct of licensed businesses and the nature and condition of licensed premises.

"3. What rules and regulations have you prescribed governing applications for licenses? (Sec. 22)."

I have sent you under separate cover the pamphlet containing the compiled Rules, Regulations and Instructions, promulgated March 1936. Commencing on Pages 7, 20 and 29, you will find respectively the Rules and Instructions Governing the Issuance of State Licenses, the Rules and Instructions Governing the Issuance of Municipal Licenses and the Rules and Instructions Governing the Issuance of Municipal Retail Licenses by the State Commissioner.

"4. Do you make any attempt to standardize throughout the state the conditions which local authorities are empowered to impose on the issuance of licenses? (Sec. 29)."

The special conditions contemplated by Section 29 are those which may be imposed upon the issuance of particular licenses. The section does not refer to the general regulations which municipal governing bodies may adopt applicable to all licenses in the municipality. General regulations are grounded upon the general powers conferred by Section 37 or those implied because of the municipality's inherent duty to protect the welfare of its inhabitants and to set up standards in order that only those fully qualified may obtain licenses. Section 29 was designed to meet special circumstances arising in particular cases. Hence, no attempt at standardization is desirable and none has been made.

"5. Have you attempted to standardize throughout the state the limitations on numbers of retail licensees and hours of sale which local authorities are empowered to make by Sec. 37?"

The problem of limiting the number of retail licenses and the hours between which retail sales may be made is one which local municipal authorities in the first instance must decide. The statute places the primary responsibility upon the members of the local governing body and, in my opinion, rightfully so as they, being in a position to know fully the local situation, are better able to tell just exactly how many licenses and what hours the people in their community want. To my mind, there is no substantial reason why a limitation arbitrarily establishing a ratio between number of licenses and population should be made to apply in sparsely settled rural districts such as Sussex as well as to

resort sections catering to a large transient trade such as Atlantic City nor why the hours of sale need be the same in such rural sections and in metropolitan Newark.

"6. In combatting bootlegging: (a). Do you find that federal agents are better equipped to handle some phases of the problem, your own agency for others, and local officers for still others?"

In New Jersey, different from many other States, the liquor control authority has been set up for the purpose of exercising a general supervision over all aspects of the liquor situation throughout the entire State. The Department, though small (there being but ninety-four men available for active enforcement work), is equipped to handle all phases of the problem.

In New Jersey, there are approximately 12,000 retail licensees and 638 manufacturers, wholesalers, warehousemen and transporters, over which we must exercise constant supervision. In addition, there are the problems of illicit manufacture and distribution which New Jersey's geographical location has done much to increase. The Federal authorities have given continued helpful cooperation. They have not only done much to cope with the interstate aspects of the illegal liquor traffic but also have worked with us at home. Municipal authorities in the main have also been of assistance. Local officers are particularly useful in connection with violations of local municipal regulations and in supervising retailers to the end that their businesses and premises are conducted properly.

"(b). Do you use undercover men to locate bootleg stills and illegal stores of liquor?"

Information as to the location of bootleg stills and illegal stores of liquor comes from various sources. Much is the result of the investigations of our own men; some comes from the local police; some from persons making complaints and some from informants. We use our own men working, without revealing their identity, as undercover men to locate stills.

"7. Do you attempt to control local officials in enforcing the liquor act in any of the following ways:

"(a). Require reports from local officials;"

Reports are required from local officials in regard to the issuance, transfer, surrender and revocation of licenses and in connection with special matters and investigations which from time to time may be referred to them. Certified copies of any local regulations which may be adopted, certification of and appointments to Municipal Boards of Alcoholic Beverage Control and reports of referenda which may have been held together with the results are also required.

"(b). Inspect personnel, facilities and operation of local agencies;"

No routine or periodic inspections of the personnel, facilities and general operation of local agencies are made. It is not the function of this Department to do so. The personnel of the municipal bodies entrusted with the administration and enforcement of the liquor laws does, however, come under our

scrutiny in specific instances where it appears that the individual involved has private interests incompatible with the proper discharge of his public office; for example, a member of the municipal governing body who also is a licensee, a magistrate who is a licensee or an employee of a licensee, a police officer who is interested in a licensed business. In such cases, appropriate action is taken to correct the situation. We have no direct supervision over the operation of municipal agencies other than to prescribe certain forms and procedures for their use. When their conduct in specific instances has proved unsatisfactory, our recourse is to take the matter out of their hands and administer it ourselves.

"(c). Give information as to best methods to local officials;"

Administrative methods and procedures are prescribed, rules and regulations are formulated and bulletins containing rulings, interpretations and instructions of the law are periodically issued.

"(d). Issue orders to local officials;"

The administrative procedures prescribed by the Department must be followed by local officials. Orders bearing on the rehearing of retail applications, on the issuance or denial of retail licenses, are often issued. Specific matters, such as complaints involving retail licensees, are often referred to local officials for investigation and report. Improper administrative technique is ordered corrected.

"(e). Proposed action of local officials has to be approved by you;"

Pursuant to Section 29 of the Act, special conditions imposed by municipal authorities upon the issuance of retail licenses and pursuant to Section 37, municipal regulations of the conduct of licensed retail businesses and the nature and condition of the licensed premises must first be approved by the Commissioner.

"(f). Grant local agencies money on condition that they comply with certain standards;"

This Department does not dispense any monies to local municipal agencies conditioned upon compliance with certain standards.

"(g). Remove local officials from office for inefficiency, non-cooperation, etc.;"

We have no jurisdiction to remove local officials from office for inefficiency or non-cooperation.

"(h). Initiate criminal prosecution of local officials."

Nor do we initiate criminal prosecution of local officials unless, perchance, in connection with a violation of the liquor laws.

"8. Do you inspect distilleries and breweries regularly?"

Distilleries and breweries, as well as all other licensees, are inspected regularly.

"9. Do you require regular reports from distillers and brewers?"

Distillers and brewers are not required to make regular reports to this Department. They are required, however, to file monthly reports with the State Tax Department, Beverage Tax Division. The State Tax Department which works in close cooperation with this Department, reports to us any irregularity which may be found.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALE ON SUNDAYS DURING CLOSED HOURS - AN UNPLEASANT JOB WELL DONE - HEREIN OF THE EFFECT OF SUSPENSION OF LIQUOR LICENSE UPON THE CONDUCT OF A RESTAURANT BUSINESS UPON THE SAME PREMISES.

October 15, 1936.

Arthur V. Conover, Esq.,
Clerk of Manalapan Township,
Freehold, R. D. 3, N. J.

Dear Mr. Conover:

I have staff report and your letter of the 12th relative to proceedings before the Manalapan Township Committee against Stanley Kwasnica of Rue's Corner Road, Englishtown, and Steve Sobechko of Englishtown-Old Bridge Road. I note that both licensees pleaded guilty to having sold alcoholic beverages on Sunday before 1:00 P. M. in violation of your Township Resolution and that their licenses were suspended for ten (10) days, effective October 17th to 26th.

I heartily applaud the statement which Investigator Lockwood reports as having been made by Mr. Laird, your Chairman, in imposing sentence, viz.:

"We feel we do not want to be too hard on licensees but desire to teach you a lesson and also all others who have been granted the privilege of a license in this Township. It is an unpleasant job for us, but you must abide by the law."

It is only by such action as taken by your Committee that licensees will come to the realization they are to be held to strict accountability. The law was made to be obeyed.

I note your inquiry as to whether or not the penalty imposed will prevent the licensees from continuing their restaurant business conducted on the same premises covered by their respective licenses. It does not. A suspension prevents a licensee from carrying on any of the licensed privileges but does not affect any other business carried on by him under his common law right. Consequently, he would be able to conduct his restaurant business during the period of suspension of his liquor license.

While I realize that there may be some temptation to sell liquor during the period of suspension, I believe these licensees have been taught such a wholesome lesson that you will have no further trouble with them. Hence, I advise that you do not inflict upon them the expense of boarding up the archway to insure that the bar is sealed but simply keep watchful eye on the premises to see that they respect the decision of your Committee. If you should find they are cheating, that of itself would be sufficient to warrant outright revocation.

Cordially yours,

D. FREDERICK BURNETT,
Commissioner.

10. LICENSE APPLICATION HEARING - CHANCELLOR ASSOCIATION, INC. - IRVINGTON.

In the Matter of the Application of CHANCELLOR ASSOCIATION, INC., for Club License at 477 Union Avenue, Irvington, New Jersey.)

CONCLUSIONS

J. E. Hausmann, Esq., Attorney for Applicant.
George A. Henderson, Esq., Attorney for Objectors.

BY THE COMMISSIONER:

This application is made to the Commissioner because some of the members of the Board of Commissioners of the Town of Irvington are honorary members of Chancellor Association, Inc.

Written objections to the issuance of this license were filed with the Commissioner. Many of these objections reiterated those filed by appellant in the case of Burak vs. Irvington and Chancellor Association, Inc., Bulletin #130, Item #2. The objectors were given full opportunity to present any new evidence they might have as to the points considered and decided therein. They have produced no evidence which would lead me to change my views expressed in that opinion. The minute books of the Chancellor Playground Association and Chancellor Association, Inc., since August, 1932, produced at the hearing, confirm the conclusion that the applicant has been in existence more than three years. The evidence given at the hearing also confirms the finding that regular weekly meetings were held in the basement of the home of one of its members between the time that the club lost its old club-house at 483 Union Avenue and obtained possession of its present club quarters at 477 Union Avenue.

The objectors filed a petition containing twenty-five (25) names; four (4) objectors appeared in person at the hearing. The only new issue raised is that the club has improperly conducted the licensed premises under a temporary permit issued to it, as suggested in Bulletin #133, Item #1, under which special permit the club is now operating. The objectors charge that the club has permitted unnecessary noises on the premises until 1:00 A. M. or 2:00 A. M.; that it was necessary to call the police on two occasions because of the loud noise, and that persons under the influence of liquor had been seen coming from the club-house. All of these charges were denied by the officials of the club and by many members of the Women's Auxiliary of the club who were present at the various functions conducted therein. As to the two occasions on which the police were called, the policeman was produced. He testified that

on the first occasion he was sent to the club at about 1:00 A. M. and found no disturbances or unnecessary noises; that on the second occasion he was sent to the club at about 10:00 P. M. and found that at that time the meeting of the Women's Auxiliary was being conducted and that there were no disturbances or unnecessary noises. The weight of the evidence in this case does not show that the club has been improperly conducted.

The objections of Mr. and Mrs. Burak seem to be directed to the existence of the club next to their property, rather than to the issuance of a club license. The club has the right to operate at its present location under the zoning ordinance of the Town of Irvington. It has previously been in possession of another club-house in the immediate vicinity and held a club license for premises it formerly occupied. So far as appears, it has always complied with all of the rules and regulations while operating under a club license at the former premises. I see no reason why the club should not be able to conduct its affairs without becoming a nuisance to the neighbors.

I shall, therefore, issue the club license applied for.

D. FREDERICK BURNETT,
Commissioner.

Dated: October 15, 1936.

11. APPELLATE DECISIONS - WENIG v. SECAUCUS.

MORRIS WENIG,)	
	Appellant,)
-vs-		ON APPEAL
		CONCLUSIONS
TOWN COUNCIL OF THE TOWN OF)	
SECAUCUS,)	
	Respondent)

Herbert A. Chary, Esq., Attorney for Appellant.
John A. Degelman, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant's retail consumption license was revoked because of the alleged improper manner in which the premises were being conducted. Hence this appeal.

The evidence establishes that frequent complaints have been made by neighbors because of the boisterous, noisy character of the premises; that patrons have used adjacent lots and buildings as toilets; and that the premises were habitually permitted to remain open until 3 or 4 o'clock in the morning and on Sundays until after 7 A. M.; that the neighborhood in which the premises are located is largely residential, consisting principally of one-family houses and a few neighborhood stores; that the residents have been constantly disturbed by the clamor and profanity of patrons leaving the premises; that conditions have been getting progressively worse since the appellant was licensed in February, 1936.

One of the neighbors testified to an act of immorality which was committed during the spring of this year directly in front of his window by two patrons of the saloon.

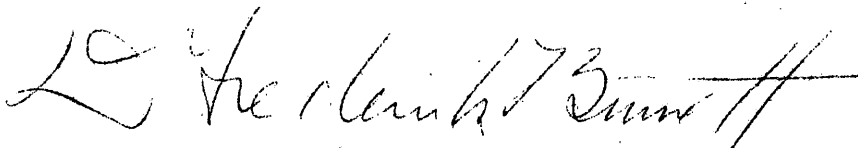
Between three and four o'clock on the morning of July 31st the premises were visited by a seventeen year old girl and her

escort. Both he and she testified that she had five or six glasses of beer in the premises. Appellant stated that he gave strict orders not to serve the girl because, as he averred, she had stolen a dress from the premises some three months previous, and also because she was intoxicated when she entered the saloon. He admitted, however, that she remained in the premises three hours and that no effort was made to put her out, and this notwithstanding his previous experience with her, despite her drunken condition and in spite of the fact that she "argued" with other patrons during the entire time she was there. About 6:30 A. M. she and her companion left the premises but loitered in the neighborhood until they were finally taken to police headquarters where the girl was charged with being drunk and disorderly. Shortly prior she had used the side of the licensed building as a toilet in broad daylight. One of the few disinterested witnesses who appeared for the appellant was so impressed by the girl's actions that she told the arresting officer he had "missed a show".

It is the licensee's responsibility to maintain order and decency at all times. Serving minors has been repeatedly held to be a proper ground for revocation.

There is abundant evidence in the record to support respondent's revocation of appellant's license.

The action of respondent is, accordingly, affirmed.



Commissioner.

Dated: October 15, 1936.