

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

BULLETIN 394

APRIL 3, 1940.

1. LOTTERIES - LIQUOR LICENSEES MAY NOT GIVE AWAY PARTICIPATION TICKETS WITH PURCHASES OF MERCHANDISE, WHETHER OF LIQUOR OR ANY OTHER ARTICLE - CHILDREN ARE NOT TO BE USED TO BOOM BUSINESS ON PREMISES LICENSED FOR THE SALE OF LIQUOR.

March 18, 1940

Mr. Burnett:

Will you please advise me whether I can join in the following children's contest being run in our community, in conjunction with the local movie.

We are to give a ticket for each purchase of 25¢ or over (excluding liquor) in our grocery dept. The child takes it to the movie and deposits it in a box. On Saturday, 12 toy guns are given to the lucky children.

As it is a contest for children, I did not question its legality until today. As it is scheduled to start on the 23rd of this month, may I have your ruling as soon as possible.

Thanking you.

Sincerely yours,

NATHAN OSTROV

March 21, 1940

Mr. Nathan Ostrov,  
West Collingswood, N. J.

Dear Mr. Ostrov:

I have your letter of March 18, 1940.

Liquor licensees may not give away tickets with purchases of merchandise, whether of liquor or any other article, if such tickets entitle the holder to take part in any drawing for gifts or prizes.

Such drawings constitute lotteries, and to distribute the tickets or otherwise participate, is in violation of Regulations 20, Rule 6.

The scheme outlined in your letter is, therefore, not permissible. Violation is cause for suspension or revocation of license.

Any plan which uses children as bait for booming business on premises licensed for the sale of liquor, even though not necessarily making them liquor conscious, is disapproved.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

2. SEIZURES - CONFISCATION PROCEEDINGS - PADLOCK ORDER MODIFIED.

In the Matter of the Seizure	)	Case 5585
on October 2, 1939 of a still	)	
at 84 Monmouth Street, in the	)	ON PETITION
City of Newark, County of Essex	)	ORDER
and State of New Jersey.	)	

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Joseph Bohrer, Esq., Attorney for Max Peinick, Petitioner.

On January 16, 1940, Conclusions and Order were entered herein whereby, among other things, it was ordered that the five-room second floor apartment of the dwelling at 84 Monmouth Street, in the City of Newark, should not be used or occupied for any purpose whatsoever for a period of three months, commencing the 2nd day of March, 1940. Re Seizure Case 5585, Bulletin 377, Item 15.

Max Peinick, the owner of the premises, subsequently filed a verified petition herein, wherein he prays that the aforesaid padlock order be vacated in its entirety.

The new matter contained in the petition sets forth that after the entry of the order, Mrs. Louise Paris, the former tenant, vacated the apartment in which the still was found; that the meagre rents, burdensome taxes, interest, and other operating expenses make it difficult for petitioner to maintain the premises; and that he fears that the continued loss of rental from the apartment in question may result in the foreclosure of the mortgage on the premises.

Since the object of the penalty in this case was to teach Peinick to exercise more care in the selection of his tenants, and was not based upon a finding that he knew or should have known that the illicit still was in the apartment, the period of padlocking will be reduced from three months to one month.

Accordingly, the final paragraph of Conclusions and Order dated January 16, 1940, is hereby amended to read as follows:

"ORDERED that the five-room second floor apartment at 84 Monmouth Street, Newark, being the premises in which the still was found, shall not be used or occupied for any purpose whatsoever for a period of one (1) month, commencing the 2nd day of March, 1940."

D. FREDERICK BURNETT,  
Commissioner.

By: Edward J. Dorton,  
Deputy Commissioner  
and Counsel.

Dated: March 27, 1940.

3. SEIZURES - CONFISCATION PROCEEDINGS - ORDER MODIFIED, PROPERTY FORFEITED.

In the Matter of the Seizure on )  
 November 20, 1939, of Patsy ) Case 5627  
 Oropallo's Chevrolet Sedan, and )  
 two containers of alcohol found ) ORDER  
 therein, on Spruce Street near )  
 Market Street, in the City of )  
 Paterson, County of Passaic and )  
 State of New Jersey. )  
 ----- )

By Order entered on February 9, 1940, a Chevrolet Sedan was ordered returned to Patsy Oropallo, provided that on or before March 9, 1940 he paid the costs involved in the seizure and storage of the automobile.

It now appears that these costs have not been paid, and that Patsy Oropallo has not responded to a letter sent him on March 11, 1940, requesting him to advise immediately whether he intended to comply with the conditions of the order.

So much of the Order as directed the return of said motor vehicle is hereby rescinded, and instead it is ORDERED that said motor vehicle be retained for the use of hospitals and State, County and municipal institutions.

D. FREDERICK BURNETT,  
Commissioner.

By: Edward J. Dorton,  
Deputy Commissioner  
and Counsel.

Dated: March 28, 1940.

4. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES - VIOLATION OF SPECIAL RULING PROHIBITING SIGN.

In the Matter of Disciplinary )  
 Proceedings against )  
 )  
 MINNIE SIMPSON, ) CONCLUSIONS  
 403 Myrtle Avenue, ) AND ORDER  
 Irvington, New Jersey, )  
 )  
 Holder of Plenary Retail Distri- )  
 bution License D-21, issued by )  
 the Board of Commissioners of the )  
 Town of Irvington. )  
 ----- )

Minnie Simpson, Pro Se.  
Charles Basile, Esq., Attorney for the State Department of  
Alcoholic Beverage Control.

The licensee has pleaded guilty to (a) charge of selling liquor at less than the Fair Trade price at the licensed premises on February 8, 1940, in violation of Rule 6 of State Regulations No. 30; and (b) maintaining a sign reading "A.B.C. Wines & Liquor Delicatessen" on March 1, 1940 and divers days prior thereto, contrary to Special Ruling contained in the Commissioner's letter to the licensee dated February 1, 1940.

The usual penalty for (a) is ten days. The penalty for violation under (b) is three days.

By entering these pleas in ample time before the day fixed for hearing, the Department has been saved the time and expense of proving its case. For violation under (a) the license will be suspended for five (5) days instead of ten (10) days, and for the violation under (b) the license will be suspended for two (2) days instead of three (3) days.

Accordingly, it is, on this 29th day of March, 1940,

ORDERED, that Plenary Retail Distribution License D-21, heretofore issued to Minnie Simpson by the Board of Commissioners of the Town of Irvington, be and the same is hereby suspended for a period of seven (7) days, effective April 3, 1940, at 3:00 A.M.

D. FREDERICK BURNETT,  
Commissioner.

By: E. W. Garrett,  
Chief Deputy Commissioner.

5. DISCIPLINARY PROCEEDINGS - OBSCURING VIEW OF LICENSED PREMISES - INCREASED PENALTY FOR SECOND OFFENSE.

In the Matter of Disciplinary )  
Proceedings against )  
HORSE KLEIN, INC., )  
275 Halsey Street, )  
Newark, New Jersey, )  
Holder of Plenary Retail Consump- )  
tion License C-893, issued by the )  
Municipal Board of Alcoholic )  
Beverage Control of the City of )  
Newark. )  
- - - - - )

CONCLUSIONS  
AND ORDER

Sidney Simandl, Esq., Attorney for the Defendant-Licensee.  
Charles Basile, Esq., Attorney for the State Department of  
Alcoholic Beverage Control.

The licensee has pleaded guilty to charges of failure to draw aside the curtains and screens obscuring the view from the street to the interior of its licensed premises after 3:00 A.M. on or about January 11 and 13, 1940, and failure to afford to the public a free and unobstructed view from the street to the interior, in violation of Section 1 of Newark Ordinance No. 3930, adopted December 21, 1938.

The usual penalty for this type of violation is five days.

The previous record of this licensee, however, is not clear. On June 26, 1939, for being open and selling during prohibited hours on confession of guilt, the Commissioner suspended its license for the balance of its term and further ordered that no renewal of its license be granted prior to July 5, 1939 (Bulletin 328, Item 3).

The license will therefore be suspended for ten days, less two days because of the guilty plea, making a total suspension of eight (8) days.

Accordingly, it is, on this 29th day of March, 1940,

ORDERED, that Plenary Retail Consumption License C-893, heretofore issued to Horse Klein, Inc. by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of eight (8) days, effective April 3, 1940, at 3:00 A. M.

D. FREDERICK BURNETT,  
Commissioner.

By: E. W. Garrett,  
Chief Deputy Commissioner.

6. ELIGIBILITY - MORAL TURPITUDE - FACTS EXAMINED - CONCLUSIONS.

March 28, 1940.

Re: Case No. 317

On February 21, 1940, applicant was convicted on a charge of atrocious assault and battery, placed on probation for three years, and ordered to pay the medical expenses of the complainant.

At the hearing applicant testified that the charge arose out of a fist fight, as a result of which complainant received a broken jaw; that the fight resulted from remarks made by complainant about a girl who was very friendly with applicant herein; that no weapon of any kind was used.

Independent investigation confirms the testimony given at the hearing, and further discloses that the complaining witness recommended leniency to the Court.

Applicant has never been arrested or convicted at any other time. Under the circumstances of this case, I find that the crime did not involve moral turpitude, and hence, that the applicant is eligible to be employed by liquor licensees in the State of New Jersey.

D. FREDERICK BURNETT,  
Commissioner.

By: Edward J. Dorton,  
Deputy Commissioner  
and Counsel.

7. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against )  
 )  
 WILKINSON, GADDIS & CO., ) CONCLUSIONS  
 173 East Broad Street, ) AND ORDER  
 Westfield, New Jersey, )  
 )  
 Holder of Plenary Retail Distribution License D-6, issued by )  
 the Town Council of the Town of )  
 Westfield. )  
 ----- )

Wilkinson, Gaddis & Co., Pro Se.  
 Charles Basile, Esq., Attorney for the State Department of  
 Alcoholic Beverage Control.

The licensee has pleaded guilty to a charge of selling liquor at less than the Fair Trade price at the licensed premises on February 26, 1940, in violation of Rule 6 of State Regulations No. 30.

The usual penalty for this violation is ten days.

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

Accordingly, it is, on this 29th day of March, 1940,

ORDERED, that Plenary Retail Distribution License D-6, heretofore issued to Wilkinson, Gaddis & Co. by the Town Council of the Town of Westfield, be and the same is hereby suspended for a period of five (5) days, effective April 3, 1940, at 6:30 A.M.

D. FREDERICK BURNETT,  
 Commissioner.  
 By: E. W. Garrett,  
 Chief Deputy Commissioner.

8. DISQUALIFICATION - APPLICATION TO LIFT - GRANTED.

In the Matter of an Application to Remove Disqualification because of a Conviction, pursuant to R. S. 33:1-31.2 (as amended by Chapter 350, P.L. 1938). ) CONCLUSIONS  
 ) AND ORDER  
 )  
 Case No. 85 *Sing Sing* )  
 ----- )

In 1923 petitioner pleaded guilty to a conspiracy to substitute for another person in an examination for auto driver's license, received a suspended sentence and was placed on probation. In 1928, he was found guilty of disorderly conduct and sentenced to 30 days in the workhouse. In 1931, at the age of 26, he was convicted of second degree robbery and sentenced to Sing Sing for a term of 2½ to 5 years. After serving less than

two years of the term, petitioner was paroled with the understanding that he was to reestablish himself in New Jersey and was placed under the supervision of the New Jersey Division of Parole. Immediately upon his release from prison, he took up residence in a New Jersey municipality, became engaged in automobile repair work, and has made his home there ever since. About a month before the hearing, he gave up his repair business in order to take a temporary job as bartender for his brother-in-law.

At the hearing, three character witnesses - a Probate Clerk, a county employee and the garageman on whose premises petitioner maintained his repair shop - testified that his reputation in the community was good. All of the witnesses reside in the same neighborhood as does the petitioner and all have known him from the time that he established his home in New Jersey seven years ago. All spoke highly of the petitioner.

The New Jersey Division of Parole reports that the petitioner, while under its jurisdiction, appeared to have made a good rehabilitation and that it was felt that he would not again engage in any criminal activities. Petitioner's fingerprint record and report from the Police Department of the municipality wherein he resides reveal that he has been in no trouble since 1931.

It is concluded, despite his past unsavory record, that petitioner has turned over a new leaf; that he has been law-abiding for at least five years last past, and that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 29th day of March, 1940,

ORDERED that his statutory disqualification because of the convictions described herein be and the same is hereby lifted in accordance with the provisions of R. S. 33:1-31.2 (as amended by Chapter 350, P. L. 1938).

D. FREDERICK BURNETT,  
Commissioner.

By: Earle W. Garrett,  
Chief Deputy Commissioner.

9. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED,  
PADLOCK ORDERED.

In the Matter of the Seizure	)	Case 5631
on November 24, 1939, of a number	)	
of still parts at 1329 Newkirk	)	ON HEARING
Street, in the Township of North	)	CONCLUSIONS AND ORDER
Bergen, County of Hudson and	)	
State of New Jersey.	)	
-----	)	

Alfred Abbata, Pro Se.  
Harry Castelbaum, Esq., Attorney for Department of Alcoholic  
Beverage Control.

On November 22, 1939 Alfred Pintabona was arrested in Hillsdale Township while doing repair work on a house where a "bootleg" still had apparently just been removed. He was released after asserting that he had merely been hired to do the repair work and knew nothing about the still.

However, an agent of this Department carried on investigation and learned from neighbors near the house that, on the day previous, paraphernalia had been taken from the house and loaded onto a truck bearing the name of a truckman in West New York. The agent contacted this truckman and learned that he had been hired by Pintabona to take the paraphernalia to 1329 Newkirk Street, North Bergen Township.

On November 24, the agent visited those premises, which are owned and occupied by Alfred Abbata, a bricklayer on "W.P.A." In a garage at the rear the agent discovered and seized various still parts (a cooker, a receiving tank, a galvanized cooler, and copper coil), which, so Abbata admitted to the agent, had been temporarily stored there by Pintabona.

The still parts, not being registered with this Department, constitute unlawful property. Their forfeiture is not contested. R. S. 35:2-1 et seq.

However, Abbata seeks to avoid padlock of the premises (R. S. 33:2-5), claiming that he did not know that the articles which he had allowed to be stored at the garage were actually still parts. He thus testified (contrary to the statement he made to the agent) that he had, a few days before the seizure, permitted, not Pintabona (an old friend of his), but an utter stranger, whom he never saw before or since, to store the articles there free of charge, and believed that they were milkman's "junk."

Despite Abbata's present story, I am satisfied, from all the evidence, that the person whom he allowed to store the still parts in the garage was none other than his friend Pintabona and that Abbata knew (from mere physical observation of those parts, if from nothing else) what they actually were. Hence, Abbata's claim of innocence failing, padlock will issue.

However, since there is no evidence that Abbata was himself in any way interested in the still parts or in any still activity, it would be an unduly harsh penalty to padlock both his garage and also the dwelling where he and his family live, thus evicting them from their home. Padlock will, therefore, issue for only the garage, and will run for two months.

Accordingly, it is ORDERED that the property seized herein, more particularly set forth in Schedule "A", be and hereby is forfeited, and that it be retained for the use of hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner; and

It is further ORDERED that the garage at 1329 Newkirk Street, in the Township of North Bergen, County of Hudson and State of New Jersey, in which the still parts were found, shall not be used or occupied for any purpose whatsoever for a period of two (2) months, commencing the 29th day of April, 1940.

D. FREDERICK BURNETT,  
Commissioner.

By: Earle W. Garrett,  
Chief Deputy Commissioner.

Dated: March 29, 1940.

SCHEDULE "A"

- 1 - 250-gallon steel cooker and copper coil
- 1 - 200-gallon galvanized cooler and copper coil
- 1 - 150-gallon galvanized receiving tank

10. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against )  
 ANTHONY PAULA, )  
 840 Newark Avenue, )  
 Jersey City, N. J., )  
 Holder of Plenary Retail Consumption License C-388, issued )  
 by the Board of Commissioners of the City of Jersey City. )  
 ----- )

CONCLUSIONS AND ORDER

J. Garry Keely, Attorney for the State Department of Alcoholic Beverage Control.  
 John J. Meehan, Attorney for Defendant-Licensee.

The licensee has pleaded guilty to a charge of selling liquor at less than the Fair Trade price at the licensed premises on February 24, 1940, in violation of Rule 6 of State Regulations No. 30.

The usual penalty for this violation is ten days.

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

Accordingly, it is, on this 29th day of March, 1940,

ORDERED, that Plenary Retail Consumption License C-388, heretofore issued to Anthony Paula by the Board of Commissioners of the City of Jersey City, be and the same is hereby suspended for a period of five (5) days, effective April 3, 1940, at 2:00 A. M.

D. FREDERICK BURNETT,  
 Commissioner.

By: Earle W. Garrett,  
 Chief Deputy Commissioner.

11. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED.

In the Matter of the Seizure on February 9, 1940, of a still in the vicinity of Beaver Dam Bog, on Route 40, in the Township of Manchester, County of Ocean and State of New Jersey.  
 ----- )

Case 5681  
 ON HEARING  
 CONCLUSIONS AND ORDER

Harry Castelbaum, Esq., Attorney for the Department of Alcoholic Beverage Control.  
 No other appearance.

On February 9, 1940, investigators of this Department, in company with several police officers, discovered a still in full operation deep in the woods in the vicinity of Beaver Dam

Bog, Route 40, Manchester Township, Ocean County. They seized the property described in Schedule "A" herein.

At a hearing held to determine whether the seized articles should be confiscated, no one appeared to contest their forfeiture.

The still was not registered with this Department. Under the statute (R. S. 33:2-2), therefore, the still, all articles used or adaptable for use in connection therewith and all personal property found on the still site, are unlawful property.

Accordingly, it is ORDERED that the seized property be and the same is hereby forfeited in accordance with the provisions of R. S. 33:2-5, and that it be retained for the use of hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,  
Commissioner.

By: Earle W. Garrett,  
Chief Deputy Commissioner.

Dated: March 29, 1940.

SCHEDULE "A"

- 3 - sections copper column
- 1 - copper gooseneck
- 2 - copper dephlegmators
- 2 - steel preheaters
- 3 - steel receiving tanks
- 1 - steam boiler
- 1 - galvanized cooler
- 1 - set copper coils
- 1 - steel mixing tank
- 1 - 30-gallon drum of molasses
- 11 - 50-gallon drums of molasses
- 2 - Worthington steam pumps
- 75 - bags of coke
- 9 - vats with mash
- 1 - copper tri box
- 17 - 50-gallon empty drums
- 18 - 30-gallon empty drums
- 144 - 5-gallon empty cans
- 7 - 5-gallon cans of alcohol

12. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED.

In the matter of the seizure on	)	Case 5692
February 22, 1940, of a number	)	
of still parts, in the vicinity of	)	ON HEARING
Stump Tavern Road, near Cassville,	)	CONCLUSIONS AND ORDER
in the Township of Jackson, County	)	
of Ocean and State of New Jersey.	)	
-----	)	

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

No other appearances.

On February 22, 1940, investigators of this Department, accompanied by several Alcohol Tax Unit agents, seized the still parts and other personal property referred to in Schedule "A" herein, in the woods in the vicinity of Stump Tavern Road, near Cassville, Jackson Township, Ocean County.

At a hearing held to determine whether the seized property should be forfeited, no one appeared to contest the proceedings.

The still parts were not registered with this Department. Hence, they and the other articles found therewith constitute unlawful property. R. S. 33:2-2.

Accordingly, it is ORDERED that the seized property be and the same is hereby forfeited in accordance with the provisions of R. S. 33:2-5, and that they be retained for the use of hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,  
Commissioner.

By: Earle W. Garrett,  
Chief Deputy Commissioner.

Dated: March 29, 1940.

SCHEDULE "A"

- 1 - upright steam boiler
- 2 - steel mixing tanks
- 1 - steel receiving tank
- 3 - vats
- 10 - bags of coke
- miscellaneous personal property

13. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED.

In the Matter of the Seizure	)	Case 5683
on February 12, 1940, of a Ford	)	
Roadster and a 1-gallon jug of	)	ON HEARING
alcoholic beverages contained	)	CONCLUSIONS AND ORDER
therein, in the vicinity of 163	)	
Berdan Place, in the City of	)	
Hackensack, County of Bergen and	)	
State of New Jersey.	)	
-----)	)	

James Coward, Pro Se.  
Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

On February 12, 1940, Hackensack Police seized an automobile belonging to James Coward and a gallon jug of alcoholic beverage which he was transporting therein.

The liquor was presumably bootleg since, although fit for beverage purposes, it bore no indicia of tax payment. P.L. 1939, c. 177. Hence, both it and the automobile in which it was being carried constitute unlawful property. R. S. 33:1-1(i and y).

Although Coward appeared at the hearing, he did not contest forfeiture of this property. R. S. 33:1-66.

Accordingly, it is ORDERED that the property seized in this case, more particularly set forth in Schedule "A", be and the same is hereby forfeited, and that it be retained for the use of

hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,  
Commissioner.

By: E. W. Garrett,  
Chief Deputy Commissioner.

Dated: April 1, 1940.

SCHEDULE "A"

- 1 - 1-gallon jug alcoholic beverages
- 1 - Ford Roadster, Serial No. 18.1957893,  
1939 N. J. Registration No. RC 98 J

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

In the Matter of Disciplinary Proceedings against )

GEORGE L. LILAKOS,  
5 Saybrook Place,  
Newark, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-29, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )

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George L. Lilakos, Pro Se.  
Richard E. Silberman, Esq., Attorney for Department of Alcoholic Beverage Control.

The licensee has pleaded **guilty** to a charge of selling an alcoholic beverage after 3:00 A.M., in violation of Section 1 of Ordinance 3930 adopted by the Board of Commissioners of the City of Newark on December 21, 1938.

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

Accordingly, it is, on this 2nd day of April, 1940,

ORDERED, that Plenary Retail Consumption License C-29, heretofore issued to George L. Lilakos by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of three (3) days, effective April 8th, 1940, at 3:00 A. M.

D. FREDERICK BURNETT,  
Commissioner.

By: Earle W. Garrett,  
Chief Deputy Commissioner.

15. ENFORCEMENT DIVISION ACTIVITY REPORT FOR MARCH, 1940

To: D. Frederick Burnett, Commissioner

ARRESTS: Total number of persons - - - - - 41  
 Licensees - 1 Non-licensees - 40

SEIZURES: Stills - total number seized- - - - - 6  
 Capacity 1 to 50 gallons- - - - - 4  
 Capacity 50 gallons and over- - - - - 2

Motor Vehicles - total number seized - - - - - 4  
 Trucks - 0 Passenger cars - 4

Alcohol  
 Beverage Alcohol - - - - - 138 Gallons

Mash - total number of gallons - - - - - 1220

Alcoholic Beverages  
 Beer, Ale, etc.- - - - - 5 Gallons  
 Wine - - - - - 439 "  
 Whiskies and other hard liquor - - - - - 247 "

RETAIL INSPECTIONS:

Licensed premises inspected- - - - - 1749  
 Illicit (bootleg) liquor - - - - - 19  
 Gambling violations- - - - - 9  
 Sign violations- - - - - 30  
 Unqualified employees- - - - - 102  
 Other mercantile business- - - - - 17  
 Disposal permits necessary - - - - - 3  
 "Front" violations - - - - - 5  
 Improper beer markers- - - - - 5  
 Other violations found - - - - - 23  
  
 Total violations found - - - - - 213  
 Total number of bottles gauged - - - - - 17056

STATE LICENSEES:

Plant Control inspections completed- - - - - 86  
 License applications investigated- - - - - 18

COMPLAINTS:

Investigated and closed- - - - - 400  
 Investigated, pending completion - - - - - 452

LABORATORY:

Analyses made- - - - - 130  
 Alcohol and water and artificial  
 coloring cases- - - - - 14  
 Poison and denaturant cases- - - - - 0

Respectfully submitted,

E. W. Garrett,  
 Chief Deputy Commissioner.

16. SEIZURES - TRANSPORTATION WITHOUT PROPER INSIGNIA - SPECIAL PERMIT TO VALIDATE.

In the Matter of the Seizure on	)	On Hearing
September 26, 1939, of a G.M.C.	)	
truck and 49 cases of Cinzano	)	Case 5572
Vermouth contained therein, at	)	CONCLUSIONS AND ORDER
629 Grove Street, in the City of	)	
Jersey City, County of Hudson and	)	
State of New Jersey.	)	

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John J. Meehan, Esq., Attorney for Henry Kelly & Sons, Inc.  
 Harry Castelbaum, Esq., Attorney for Department of Alcoholic  
 Beverage Control.

On September 26, 1939, investigators of this Department observed a truck bearing the name of Henry Kelly & Sons, Inc., a New Jersey wholesale liquor licensee, about to transport 49 cases of Vermouth from the loading platform of the Lackawanna Terminal and Warehouse in Jersey City. Since the truck bore no liquor transportation insignia, the investigators queried the driver and, when he produced two loose insignia, neither of which was for the truck he was then driving, seized both the truck and the liquor. Thereafter, and pending the present proceedings, Henry Kelly and Sons, Inc. obtained return of these seized articles on posting, in their stead, a surety bond with this Department. R. S. 33:1-66.

Although New Jersey wholesale and retail liquor licensees may use their own or leased trucks to transport liquor in this State in the course of their licensed liquor business, they must, however, first obtain transportation insignia from this Department for the specific trucks to be so used (R. S. 33:1-28) and such insignia must actually be affixed to the vehicles (Rule 6 of State Regulations No. 16).

Since no such insignia had been attached or even obtained for the truck in question, both it and the cargo of liquor which it was about to transport constitute unlawful property subject to forfeiture. R. S. 33:1-1 (i and y), 66.

However, Henry Kelly & Sons, Inc. claims that the violation was wholly unintentional and that therefore, in clemency and equity, it should be relieved of any forfeiture in the case.

In explanation of the violation, John J. Maguire, its clerk in charge of liquor shipments in New Jersey and New York, testified that the company holds a liquor wholesaler's license in both states but does the great bulk of its business in New York; that it has maintained no office in New Jersey since 1937 and, in general, makes its deliveries of liquor into and out of this State by a regular transportation licensee; that, however, it still uses its own trucks once or twice a month for special New Jersey "pick-ups" of liquor purchased in its wholesale business, the occasion in question being such a "pickup."

He further testified that, July last, the company had obtained regular transportation insignia for the present fiscal year for two of its trucks for use in the New Jersey "pick-ups"; that, however, when the insignia were received, he did not affix them because the trucks for which they were issued were being or were about to be painted; that, after the paint job, he neglected to affix the insignia but held them loose in his desk and merely

handed them to the driver on the occasion of a "pick-up" to be made in New Jersey; that this is what he did when sending the driver to Jersey City for the "pick-up" in question.

Simon Kluger, the driver, testified that, after being ordered to Jersey City and given the insignia, he inadvertently took a truck other than the two for which the insignia had been issued.

The company has now (apparently to avoid any possibility of future trouble) obtained insignia for all its trucks.

It is clear that Maguire's failure to affix the two original insignia to the trucks for which they have been issued, his practice of keeping such insignia loose in his desk, and Kluger's use, on the "pick-up" in question, of a truck which not only bore no insignia but for which no insignia had even been issued, were wholly out of order. However, what occurred seems to have been the result of neglect and inadvertence rather than deliberate intent to violate the law or State regulations. It is scarcely likely that Henry Kelly & Sons, Inc. would, to avoid obtaining a transportation insignia (costing but \$2.00) for the truck in question, risk losing its New Jersey wholesaler's license (costing \$1500.00) and also the truck and the liquor being transported therein.

Hence, no forfeiture will be declared. Instead, enforcement of the bond which it has posted in lieu of the seized property will be waived, but only on condition that the company pay the costs of seizure and storage in the case and also applies for and obtains a special permit (costing \$25.00) to validate retroactively the attempted unlawful transportation. Re Seizure in Hackensack, Bulletin 336, Item 2.

Accordingly, it is ORDERED that if, on or before April 15, 1940, Henry Kelly & Sons, Inc. pays the costs of seizure and storage in this case and applies for and obtains a special validating permit for the attempted transportation, both Henry Kelly & Sons, Inc., as principal, and United States Fidelity and Guaranty Company, as surety, will be released from liability to the State Commissioner of Alcoholic Beverage Control (except as to their indemnification of the Commissioner against the suits or claims of third persons) on their joint bond herein of October 2, 1939.

D. FREDERICK BURNETT,  
Commissioner.

By: E. W. Garrett,  
Chief Deputy Commissioner.

Dated: April 1, 1940.

17. SOLICITORS' PERMITS - MORAL TURPITUDE - FACTS EXAMINED -  
CONCLUSIONS.Case No. 318

April 2, 1940

Applicant's fingerprint returns disclosed that applicant has been convicted of drunken driving in 1933, in a bastardy proceeding in the domestic relations court in 1935, and as a disorderly person in 1937.

None of the convictions were convictions of crime. Drunken driving for which prosecution is had under the Motor Vehicle Act is not a crime. Re Case No. 133, Bulletin 170, Item 7. A proceeding under the bastardy act is not a criminal but a civil action. Leconey v. Overseer, 43 N. J. L. 406. Cf. Re Case No. 260, Bulletin 305, Item 12. A conviction as a disorderly person is not a conviction of crime. Re Case No. 65, Bulletin 193, Item 11.

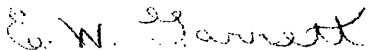
It is recommended that the applicant be advised that he is not disqualified from holding a solicitor's permit by reason of the convictions above mentioned.

Emerson A. Tschupp,  
Attorney.

APPROVED:

D. FREDERICK BURNETT,  
Commissioner.

By:



Chief Deputy Commissioner.

