

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

BULLETIN 666

MAY 10, 1945.

1. DISCIPLINARY PROCEEDINGS - SUPPRESSION OF MATERIAL FACT IN
CERTIFICATE OF CHANGE IN OWNERSHIP, IN VIOLATION OF R. S. 33:1-34 -
ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR A PERIOD OF
10 DAYS.

In the Matter of Disciplinary Proceedings against)

RUTHERFORD FOOD SHOP, INCORPORATED)
65 Park Avenue)
Rutherford, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-2 issued by the Borough Council of the Borough of Rutherford.)
-----)

Rutherford Food Shop, Inc., by Joseph I. Roseff, President, Pro. se.
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to a charge that it suppressed certain facts in filing a certificate of change in the ownership of its corporate stock, in violation of the provisions of R. S. 33:1-34.

It appears from the investigation by agents of the State Department of Alcoholic Beverage Control that Joseph I. Roseff, then resident of New York, on or about December 4, 1944 acquired the entire beneficial interest in all the stock of defendant corporation. The former stockholders then surrendered their stock certificates and new stock certificates were issued to Harold Benedict for 50%, to Anna Roseff for 49%, and to Roseff for only 1% of the stock of defendant corporation. A certificate of change in ownership of the stock of defendant corporation, certifying to the new holding of said stock as aforesaid, was duly filed. No mention was made in said certificate that Roseff was the real and beneficial owner of all of said stock. This false and incorrect certificate was apparently filed to cover the fact that Roseff was then ineligible to own, directly or indirectly, more than 10% of the stock of defendant corporation.

It further appears that Roseff had been, since December 1944, endeavoring to secure living quarters in New Jersey for himself and family. Finally, in February 1945, he succeeded and has now become, with his family, a bona fide resident of this state. A correct certificate has now been filed.

Apparently, the illegal situation has now been corrected. However, I cannot excuse the filing of a false certificate.

Defendant corporation has no adjudicated record of violations since 1938. At that time its license was suspended for five days for "sale on Sunday." In view of the length of time during which defendant has apparently obeyed all the laws and regulations, I shall not consider its 1938 conviction as an aggravating circumstance. Re Cancro, Bulletin 661, Item 4. In view of all the circumstances, I shall suspend the license for ten days.

Accordingly, it is, on this 30th day of April, 1945,

ORDERED, that Plenary Retail Distribution License D-2, issued by the Borough Council of the Borough of Rutherford to Rutherford Food Shop, Incorporated, for premises 65 Park Avenue, Rutherford, be and the same is hereby suspended for a period of ten (10) days, commencing at 12:01 a.m. May 7, 1945, and terminating at 12:01 a.m. May 17, 1945.

ALFRED E. DRISCOLL
Commissioner.

2. LICENSED PREMISES - V-E DAY - VOLUNTARY AGREEMENT BY LICENSEES TO CLOSE FOR DESIGNATED PERIOD ON THE OCCASION OF V-E DAY.

April 27, 1945

Mr. N. Rittenhouse
City Clerk
Lambertville, N. J.

Dear Mr. Rittenhouse:

I am in receipt of a certified copy of an agreement, dated April 3rd, signed by all of the City's retail alcoholic beverage licensees, and reading:

"If the announcement of Victory should come before noon, we will close all day and night.

"If the announcement of Victory should come after noon, we will close for the rest of the day and night and all the next day and night.

"If the announcement should come on Sunday, we will close all day and night on Monday."

Since the date of the quoted agreement you will have received my V-E Day statement of April 4th contained in Bulletin 661, Item 10. The voluntary agreement on the part of all Lambertville licensees is entirely in keeping with the spirit of the occasion and is altogether commendable.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

3. MORAL TURPITUDE - CRIME OF LARCENY INVOLVES MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED -
APPLICATION TO LIFT DENIED.In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, Pursuant)
to R. S. 33:1-31.2.)ON HEARING
CONCLUSIONSCase No. 412.
-----)

BY THE COMMISSIONER:

Between 1924 and 1940 the petitioner was convicted on six different occasions, four times on gambling charges, once as a disorderly and intoxicated person, and again for unlawful entry and attempted robbery.

In February 1940 he was convicted of the crime of larceny of an automobile and sentenced to a fine of \$100.00 and placed on probation for a period of two years. This conviction was had under the provisions of R. S. 2:145-6, which reads: "Any person who shall steal or take unlawfully any motor vehicle... shall be guilty of a high misdemeanor...." Such conviction involves the element of moral turpitude (see Case No. 281, Bulletin 579, Item 11) and disqualifies the petitioner from holding a liquor license or being employed on licensed premises in this state. R. S. 33:1-25, 26.

At the hearing afforded to the petitioner under R. S. 33:1-31.2, his testimony was false, evasive and contradictory. He first denied that he was employed in any capacity at his wife's tavern but, when two of his character witnesses stated that he had acted as a bartender there on many occasions, he admitted that he had served beer and otherwise aided his wife in the operation of her licensed business. He further claimed, when first questioned, that he was employed as a railroad brakeman but later changed his testimony and admitted that, when his wife had purchased the tavern several months before, "I laid off from work." There is furthermore a grave suspicion that petitioner has an unlawful proprietary interest in the liquor license issued to his wife.

It is needless to detail the rest of the petitioner's evasive and contradictory statements. Suffice it to say that the record indicates that petitioner is not entitled to a lifting of the statutory disqualification resulting from his conviction of the crime of larceny. Cf. Re Case No. 180, Bulletin 504, Item 5; Re Case No. 278, Bulletin 574, Item 12; Re Case No. 309, Bulletin 600, Item 6.

Hence, without any further consideration of the merits of the application, the petition is hereby dismissed.

ALFRED E. DRISCOLL
Commissioner.

Dated: April 27, 1945.

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

In the Matter of Disciplinary Proceedings against)

HELEN CHIZIK)
T/a CASABLANCA)
474 River Road)
Garfield, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-58, issued by the Mayor and Council of the City of Garfield.)
-----)

Carmen M. Belli, Esq., Attorney for Defendant-licensee.
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that she possessed three 4/5th quart bottles: a bottle of "Imperial Hiram Walker's Blended Whiskey", a bottle of "Four Roses A Blend of Straight Whiskies", and a bottle of "Seagram's V. O. Canadian Whiskey", the contents of all of which contained alcoholic beverages not genuine as labeled.

On March 9, 1945 the three containers in question were part of the defendant's open stock of thirty-four variously labeled bottles of liquor. They were seized on that date by a Federal ATU Inspector after admission by the defendant's husband that all three bottles had been refilled with other whiskey.

Since the defendant has no previous record, I shall suspend her license for a period of ten days. Cf. Re Raffa, Bulletin 619, Item 1.

Accordingly, it is, on this 30th day of April, 1945,

ORDERED, that Plenary Retail Consumption License C-58, issued by the Mayor and Council of the City of Garfield to Helen Chizik, t/a Casablanca, for premises 474 River Road, Garfield, be and the same is hereby suspended for a period of ten (10) days, commencing at 12:01 a.m. May 7, 1945, and terminating at 12:01 a.m. May 17, 1945.

ALFRED E. DRISCOLL
Commissioner.

5. ACTIVITY REPORT FOR APRIL, 1945

To: Alfred E. Driscoll, Commissioner

<u>ARRESTS:</u>	Licensees and employees - - - - -	2	Bootleggers - - - - -	18
	Total number of persons arrested- - - - -			20
<u>SEIZURES:</u>	Stillts - 1 to 50 gallons daily capacity - - - - -			4
	50 gallons and more daily capacity- - - - -			0
	Total number of stillts seized - - - - -			4
	Mash - gallons- - - - -			50
	Motor vehicles - Trucks - - - - -			0
	Passenger cars - - - - -			0
	Total number of motor vehicles seized - - - - -			0
	Beverage alcohol - gallons- - - - -			0
	Brewed malt alcoholic beverages (beer, ale, etc.) - gallons - - - - -			51
	Wine - gallons- - - - -			235
	Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons - - - - -			24.50

RETAIL LICENSEES:

Total number of premises inspected- - - - -	1,147
Total number of bottles gauged- - - - -	9,160
Total number of premises where violations were found- - - - -	71
Total number of violations found- - - - -	91
Type of violations found:	
Illicit (bootleg) liquor-11 Improper beer tap markers - - - - -	0
Gambling devices- - - - - 6 Stock disposal permits necessary- - - - -	15
Prohibited signs- - - - - 2 No sign denoting legal sale hours - - - - -	
Unqualified employees - - - - - 40 off-premises consumption- - - - -	8
"Fronts" (concealed Other types of violations - - - - -	7
ownership) - - - - - 2	

CURFEW VIOLATIONS (REGULATIONS NO. 40): - - - - - 7

MILITARY AREA PATROL INSPECTIONS: - - - - - 505

STATE LICENSEES:

Premises inspected - - - - -	41
License applications investigated- - - - -	28

COMPLAINTS:

Investigated, reviewed and closed- - - - -	424
Investigation assigned, not yet completed- - - - -	220

LABORATORY:

Analyses made- - - - -	124
"Shake-up" cases (alcohol, water and artificial coloring)- - - - -	12
Liquor found to be not genuine as labeled- - - - -	12

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made- - - - -	15
Persons fingerprinted for non-criminal purposes- - - - -	176
Identification contacts with other enforcement agencies- - - - -	224
Motor vehicle identifications via N. J. State Police Teletype- - - - -	5

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities- - - - -	18
Cases instituted at Department - - - - -	21

HEARINGS HELD AT DEPARTMENT:

Total number of hearings held- - - - -	37
Appeals- - - - - 2 Eligibility - - - - -	8
Disciplinary proceedings - - - - - 23 Application for license - - - - -	2
Seizures - - - - - 1 Stay pending appeal - - - - -	1

PERMITS ISSUED:

Total number of permits issued - - - - -	647
Unqualified employees - - - - -	154
Solicitors- - - - -	53
Social affairs- - - - -	137
Home manufacture of wine- - - - -	5
Disposal of alcoholic beverages - - - - -	112
Miscellaneous permits - - - - -	186

Respectfully submitted,
Erwin B. Hock
Deputy Commissioner.

6. DISCIPLINARY PROCEEDINGS - ORDER MODIFYING ORDER SUSPENDING LICENSE FOR BALANCE OF TERM - PERMISSION GRANTED TO BONA FIDE TRANSFEREE TO PETITION TO LIFT THE SUSPENSION AFTER THE EXPIRATION OF 90 DAYS.

In the Matter of Disciplinary Proceedings against CECIL MYLOR 543 Twenty-first Avenue Paterson, N. J., Holder of Plenary Retail Consumption License C-258 issued by the Board of Alcoholic Beverage Control of the City of Paterson.

ON PETITION ORDER

James D. Ward, Esq., Attorney for Petitioner.

On February 1, 1945 the Commissioner suspended defendant's license for the balance of its term, effective February 6, 1945, at 3:00 a.m., after he had found defendant guilty of a charge alleging that he had falsified his license application in violation of R. S. 33:1-25. Re Mylor, Bulletin 652, Item 2.

In response to a request for relief, defendant was thereafter advised that the period of suspension might be reduced to ninety days if a transferee of said license applied to the Commissioner for such relief.

Defendant has now presented an affidavit wherein he alleges that one Andrew Poleshuck is willing to buy his business provided the suspension can be lifted before the end of the present fiscal year. The affidavit further sets forth that, if the proposed sale is consummated and the license transferred to the proposed purchaser, the defendant will have no interest, directly or indirectly, in the business or the license. If relief is granted to a transferee of the license, defendant, of course, will continue to be ineligible to hold a liquor license or to be employed upon licensed premises because he has been convicted of a crime involving moral turpitude. R. S. 33:1-25, 26. The Commissioner is advised that an application has been filed with the local Board to transfer the license from Cecil Mylor to Andrew Poleshuck. It is the duty of the local Board to pass on the qualifications of the proposed transferee.

Under all the circumstances of this case, leave will be granted to a transferee of the license to file with the Commissioner a petition to lift the suspension after at least ninety days of the suspension have been served. Cf. Re Vesey, Bulletin 608, Item 1.

Accordingly, it is, on this 18th day of April, 1945,

ORDERED, that, if the Board of Alcoholic Beverage Control of the City of Paterson shall transfer the license, subject to the suspension previously imposed, to Andrew Poleshuck, the said Andrew Poleshuck may apply to the Commissioner, by a verified petition, for an order lifting said suspension upon the expiration of ninety (90) days from the effective date thereof.

ALFRED E. DRISCOLL Commissioner.

By: Edward J. Dorton Deputy Commissioner.

- 7. DISCIPLINARY PROCEEDINGS - LICENSE SUSPENDED FOR BALANCE OF TERM WITH PERMISSION GRANTED TO BONA FIDE TRANSFEREE TO PETITION TO LIFT LIFT AFTER THE EXPIRATION OF 90 DAYS' SUSPENSION - BONA FIDE TRANSFER APPROVED BY MUNICIPAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED AFTER EXPIRATION OF 90 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)

CECIL MYLOR)
 343 Twenty-first Avenue)
 Paterson, N. J.,)

ON PETITION
 O R D E R

Holder of Plenary Retail Consumption License C-258 issued for the 1943-44 and 1944-45 fiscal years by the Board of Alcoholic Beverage Control of the City of Paterson.)
 -----)

Ward & Levinthal, Esqs., Attorneys for Petitioner, Andrew Poleshuck.

BY THE COMMISSIONER:

On February 1, 1945 I suspended defendant's license for the balance of its term, effective at 3:00 a.m. February 6, 1945, after I had found defendant guilty of a charge alleging that he had falsely denied in his application for a license that he had ever been convicted of a crime. Re Mylor, Bulletin 652, Item 2.

By subsequent order entered on April 18, 1945, leave was granted to Andrew Poleshuck, a proposed transferee of the license, to apply to me by a verified petition for an order lifting said suspension upon the expiration of ninety days from the effective date thereof.

Pursuant to said leave, Andrew Poleshuck has filed a verified petition wherein he sets forth that he has entered into a contract for the purchase of the business heretofore conducted by Cecil Mylor at 343 Twenty-first Avenue, Paterson; that on April 26, 1945 the Board of Alcoholic Beverage Control of the City of Paterson granted to him a transfer of said license subject to the suspension previously imposed and that, upon the consummation of the contract, Cecil Mylor will have no interest, either directly or indirectly, in the license or the business which will be owned exclusively by petitioner. A copy of the resolution of the Board of Alcoholic Beverage Control of the City of Paterson has been received by the Department of Alcoholic Beverage Control.

It appearing from the facts set forth in the verified petition that the unlawful situation has been corrected, and it further appearing that the suspension will have been in effect for ninety days at 3:00 a.m. on May 7, 1945, the suspension will be lifted effective at that time.

Accordingly, it is, on this 1st day of May, 1945,

ORDERED, that the suspension heretofore imposed be lifted and that Plenary Retail Consumption License C-258, issued by the Board of Alcoholic Beverage Control of the City of Paterson, be and the same is hereby restored to full force and operation, effective at 3:00 a.m. May 7, 1945. Until that time the license stands suspended.

ALFRED E. DRISCOLL
 Commissioner.

8. DISCIPLINARY PROCEEDINGS - SALE AND SERVICE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (SUNDAY), IN VIOLATION OF MUNICIPAL REGULATION - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

ELIZABETH MEIZINGER)
68 Matlock Street)
Paterson, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-46, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

Charles S. Silberman, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to a charge alleging that she sold and served alcoholic beverages during prohibited hours, in violation of local regulation.

On Sunday, April 15, 1945, two ABC agents observed four patrons drinking alcoholic beverages at defendant's bar shortly after 10:00 a.m. By municipal regulation, sale and service of alcoholic beverages are prohibited before 1:00 p.m. on Sunday. The defendant's husband, who was acting as bartender, also sold a glass of whiskey and a glass of beer to one of the agents.

Since the defendant has not heretofore suffered any suspension of her license, I shall impose the usual fifteen-day penalty for the violation herein. Five days will be remitted for the plea, leaving a net penalty of ten days.

Accordingly, it is, on this 2nd day of May, 1945,

ORDERED, that Plenary Retail Consumption License C-46, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Elizabeth Meizinger, for premises 68 Matlock Street, Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 12:01 a.m. May 8, 1945, and terminating at 12:01 a.m. May 18, 1945.

ALFRED E. DRISCOLL
Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR A PERIOD OF 10 DAYS.

In the Matter of Disciplinary Proceedings against)

PORT TERMINAL TAVERN, INC.)
57 East 32nd Street)
Bayonne, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-81, issued by the Board of Commissioners of the City of Bayonne.)
-----)

Nathan Susskind, Esq., Attorney for Defendant-licensee.
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded not guilty to charges alleging the sale, service and delivery of alcoholic beverages to minors, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

Three minor sailors, two nineteen and one eighteen years of age, testified that they entered the licensed premises about 5:00 p.m. on Tuesday, March 6, 1945 and were each served five or six glasses of whiskey with beer chasers. Two of the minors, both prior to and at the hearing herein, made positive identification of the bartender who had served them. All three minors testified that they were certain that they had consumed the liquor at defendant's tavern.

On behalf of defendant, the president of the corporate licensee and the bartender denied that the minors had visited the tavern on the occasion in question. They further stated that, if the minors had been there, they would have remembered it because, viewing them at the hearing, the minors appeared to be somewhat under twenty-one years of age.

The evidence given by the three sailors is straightforward and impressive. The mere categorical denials of the defendant's witnesses is entitled to little weight in view of the definite and detailed testimony offered by the three minors. A careful examination of the entire record convinces me that the prosecution has sustained the burden of proving the ~~fact~~^{truth} of the charges by a preponderance of the evidence, and I therefore find the defendant guilty as charged.

The record of this defendant is otherwise clear of any violations. Considering all of the circumstances attending the instant offense, I shall suspend the license for a period of ten days.

Accordingly, it is, on this 2nd day of May, 1945,

ORDERED, that Plenary Retail Consumption License C-81, issued by the Board of Commissioners of the City of Bayonne to Port Terminal Tavern, Inc., for premises 57 East 32nd Street, Bayonne, be and the same is hereby suspended for a period of ten (10) days, commencing at 12:01 a.m. May 8, 1945, and terminating at 12:01 a.m. May 18, 1945.

ALFRED E. DRISCOLL
Commissioner.

10. DISCIPLINARY PROCEEDINGS - PERMITTING PINBALL MACHINES ON LICENSED PREMISES, IN VIOLATION OF RULE 7 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR A PERIOD OF 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against RECREATION & AMUSEMENT UNIT INC. 183-185 Twentieth Avenue Paterson 3, N. J., Holder of Plenary Retail Consumption License C-63 issued by the Board of Alcoholic Beverage Control of the City of Paterson.

CONCLUSIONS AND ORDER

Morris Isserman, Esq., Attorney for Defendant-licensee. Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has entered a plea of nolo contendere to the following charge:

"On February 19, 1945 and theretofore, you possessed and allowed, permitted and suffered on and about your licensed premises two machines or devices commonly known as bagatelle or pinball machines, in violation of Rule 7 of State Regulations No. 20."

The licensee explains that the pinball machines are owned by another organization which occupies part of the same building in which defendant's licensed premises are located. The licensee further states that, prior to February 19, 1945, these machines were temporarily stored in the licensed premises for the purpose of safe-keeping and that the machines were not used while they were on the licensed premises. At the time an ABC investigator observed these machines on the licensed premises on February 19, 1945, the machines were not in use, but the individual in charge of defendant's premises stated that the machines had been there for a period of approximately two and one-half months, and promised that they would be immediately removed. In any event, Rule 7 of State Regulations No. 20 provides that no licensee shall allow any machine, or device commonly known as a bagatelle or pinball machine, on or about the licensed premises. Under the circumstances, I must find defendant guilty as charged even in the absence of proof that the machines were actually used on the licensed premises. The mere possession of the machines constitutes a violation of the Rule.

The licensee has no prior record. I shall, therefore, suspend its license for ten days, less five days for the plea, making a net suspension of five days. Re Kaznica, Bulletin 646, Item 4.

Accordingly, it is, on this 3rd day of May, 1945,

ORDERED, that Plenary Retail Consumption License C-63, issued by the Board of Alcoholic Beverage Control of the City of Paterson, to Recreation & Amusement Unit Inc., for premises 183-185 Twentieth Avenue, Paterson, be and the same is hereby suspended for five (5) days, commencing at 12:01 a.m. May 14, 1945, and terminating at 12:01 a.m. May 19, 1945.

ALFRED E. DRISCOLL Commissioner.

11. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF MUNICIPAL REGULATION - FAILURE TO KEEP INTERIOR OF LICENSED PREMISES OPEN TO PUBLIC VIEW, IN VIOLATION OF MUNICIPAL REGULATION - HINDERING INVESTIGATION, IN VIOLATION OF R. S. 33:1-35 - LICENSE SUSPENDED FOR A PERIOD OF 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

LOUISE VOLINO and ANN MAHELTZ
317 Market Street
Paterson, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-340, issued by the Board of Alcoholic Beverage Control of the City of Paterson.

Charles S. Silberman, Esq., Attorney for Defendant-licensees.
Anthony Meyer, Jr., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendants pleaded non vult to charges alleging that, on February 8, 1945, (1) and (2) they sold alcoholic beverages, and failed to keep the interior of their licensed premises open to public view, during the hours of 3:00 a.m. and 3:30 a.m., in violation of local regulations, and (3) they hindered an investigation made upon their licensed premises, in violation of R. S. 33:1-35.

The municipal regulations prohibit the sale of alcoholic beverages during the hours of 3:00 and 7:00 a.m. on weekdays and require that, during those hours, the interior of the licensed premises shall remain open to public view. On Thursday, February 8, 1945, at about 3:20 a.m., an ABC agent gained entrance to the licensed premises when the door, which had theretofore been locked, was opened by Patrick Volino, the husband of one of the licensees. Five persons were drinking alcoholic beverages at the bar. Three others, together with Patrick Volino, were engaged in a game of shuffleboard. The agent ordered and was served a glass of beer by Patrick Volino. At about 3:30 a.m. another ABC agent entered the premises and was refused service by Mr. Volino, who remarked that he was in process of closing the premises. Mr. Volino then drew open the venetian blinds which had theretofore obstructed the view into the interior.

When a third ABC agent entered the tavern shortly thereafter, the agents identified themselves to Mr. Volino, who thereupon became infuriated and, with a sweep of his hand, knocked to the ground the glass of beer which he had previously served to one of the agents.

The defendants have no previous record. The violations of the local regulations merit a fifteen-day penalty, to which ten days will be added because of the offense resulting in the institution of charge (3). From the total penalty, five days will be remitted because of the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 3rd day of May, 1945,

ORDERED, that Plenary Retail Consumption License C-340, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Louise Volino and Ann Maheltz, for premises 317 Market Street, Paterson, be and the same is hereby suspended for twenty (20) days, commencing at 12:01 a.m. May 9, 1945, and terminating at 12:01 a.m. May 29, 1945.

ALFRED E. DRISCOLL
Commissioner.

12. NEW LEGISLATION - MUNICIPAL REFERENDUM - R. S. 33:1-47.1
 AMENDED - EXPLANATORY STATEMENT REQUIRED TO BE PRINTED ON BALLOT
 IMMEDIATELY FOLLOWING THE QUESTION TO BE VOTED UPON.

Assembly Bill No. 208 was approved by Governor Edge on April 30, 1945, and thereupon became Chapter 259, P. L. 1945.

It reads as follows (new matter is underlined):

"AN ACT concerning alcoholic beverages, and amending section 33:1-47.1 of the Revised Statutes.

"BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

"1. Section 33:1-47.1 of the Revised Statutes is amended to read as follows:

"33:1-47.1. Whenever a petition, signed by at least fifteen per centum (15%) of the qualified electors of any municipality as evidenced by the total number of votes cast at the then next preceding election for members of the General Assembly in such municipality, shall be presented to the governing board or body thereof, requesting a referendum on any proposed questions as to whether the hours between which the sale of alcoholic beverages at retail may be made in such municipality on week days, Sundays, either or both, shall be fixed as provided in such petition, which questions shall be specifically and separately set forth in the petition, such governing board or body shall adopt forthwith a resolution directing the clerk of the county in which such municipality is situated to print such question or questions stated in the petition pursuant to Title 19, Elections, hereinafter referred to as the 'general election law,' upon the official ballot to be used in such municipality at the next ensuing general election. Thereupon the clerk or secretary of such governing board or body shall forthwith deliver to such county clerk a certified copy of such resolution. If such copy shall be delivered to such county clerk not less than thirty days before such general election, he shall cause such question or questions to be printed in an appropriate place on the ballot to be used in such municipality at the next ensuing general election, pursuant to the general election law, and shall cause to be printed on the ballot immediately below the printed question or questions the following: 'EXPLANATORY STATEMENT -- A "Yes" vote is a vote to permit sales only within the hours set forth in the question or questions printed above. A "No" vote is a vote against changing the hours during which sales of alcoholic beverages are now permitted in this municipality.' and thereupon all proceedings with respect to the referendum on such question or questions shall be subject to and governed by the general election law as in other cases of the submission of public questions to the electorate.

"If a majority of the legal voters shall vote affirmatively on the question of whether the hours of sale shall be fixed in the manner set forth in such question or questions, the clerk of the governing board or body of such municipality shall forthwith in writing notify the commissioner and municipal board, if any, of the action taken by the legal voters of such municipality.

and thereafter the retail sale of alcoholic beverages may be made only within the hours fixed by such referendum. Such sale at any other time within such municipality shall be unlawful and constitute a violation of this chapter.

"If a majority of legal voters voting upon such question or questions shall vote in the negative on the question of whether the hours of sale shall be fixed in the manner set forth in such question or questions, the clerk of the governing board or body of such municipality shall forthwith in writing notify the commissioner and municipal board, if any, of the action taken by the legal voters of such municipality and thereafter the hours between which the sale of alcoholic beverages at retail may be made may be regulated as theretofore in such municipality.

"No petition under this section shall be received by the governing board or body while any other petition covering the same subject matter which has theretofore been presented hereunder has not been voted upon.

"Whenever a referendum shall have been had in any municipality pursuant to this section, no further referendum on the same question shall be held therein prior to the general election to be held in such municipality in the third year thereafter and so long as such referendum remains effective, all ordinances, resolutions or regulations inconsistent with the result of such referendum shall have no effect within such municipality.

"2. This act shall take effect immediately."

13. NEW LEGISLATION - HEREIN OF THE ISSUANCE OF A CLUB LICENSE BY THE MUNICIPAL ISSUING AUTHORITY OR A SPECIAL PERMIT BY THE STATE COMMISSIONER IN MUNICIPALITIES WHEREIN A REFERENDUM HAS BEEN HELD PURSUANT TO R. S. 33:1-46.

Assembly Bill No. 209 was approved by Governor Edge on March 30, 1945, and thereupon became Chapter 55, P. L. 1945.

It reads as follows:

"AN ACT concerning alcoholic beverages, and supplementing chapter one of Title 33 of the Revised Statutes.

"WHEREAS, Revised Statutes, section 33:1-46 makes provision for a referendum on the question:

"'Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to chapter one of the Title, Intoxicating Liquors, of the Revised Statutes (§33:1-1 et seq.), be permitted in this municipality?'; and

"WHEREAS, pursuant to said section, if the vote on such question in any municipality is 'No,' the said section prohibits the said municipality from issuing plenary retail consumption, plenary retail distribution and limited retail consumption licenses, but does not prohibit the issuance of club licenses as defined in Revised Statutes, section 33:1-12, (5); and

"WHEREAS, it is deemed to be desirable to clarify the law pertaining to the same; now, therefore,

"BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

"1. It shall be lawful for the governing board or body of any municipality in which a referendum has been held pursuant to the provisions of Revised Statutes, section 33:1-43, wherein a majority of the legal voters of said municipality voted 'No,' to issue a club license as defined in and regulated by Revised Statutes, section 33:1-12, (5), to a bona fide golf and country club in said municipality, incorporated not for pecuniary gain, and to adopt an enabling ordinance therefor.

"2. The commissioner may, subject to rules and regulations, issue special permits to such bona fide golf and country club in the event that the said municipality has failed or neglected to adopt an enabling ordinance as aforesaid, or has failed or neglected to properly act upon an application by such bona fide golf and country club for a club license, as aforesaid; the fee for the same shall be determined in each case by the commissioner and shall not be less nor more than the fee provided for by Revised Statutes, section 33:1-12, (5).

"3. Nothing in this act shall be deemed to limit or modify any powers otherwise granted by law to the commissioner.

"4. This act shall take effect immediately."

14. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - EMPLOYING A FEMALE TO TEND BAR, IN VIOLATION OF MUNICIPAL REGULATION - PREVIOUS RECORD - LICENSE SUSPENDED FOR A PERIOD OF 90 DAYS.

In the Matter of Disciplinary Proceedings against)
MARTIN'S INCORPORATED)
27 Church Street)
Paterson, N. J.,)
Holder of Plenary Retail Consumption License C-126, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)
-----)

CONCLUSIONS AND ORDER

Herbert F. Myers, Esq., Attorney for Defendant-licensee.
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee, through its attorney, pleads non vult to charges alleging that (1) alcoholic beverages were sold to and permitted to be consumed by two minors on the licensed premises, in

violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20, and (2) a female employee tended bar, in violation of Section 7 of a Resolution adopted by the Board of Aldermen of the City of Paterson on June 28, 1935, as amended by the said Board on December 5, 1938.

Defendant originally pleaded not guilty to the aforementioned charges. At a hearing held herein the two youths, both nineteen years of age, testified that they had two glasses of beer apiece on the evening of March 19, 1945. Subsequent thereto, permission to retract this plea was granted to defendant and in its place and stead a plea of non vult as to both charges was entered.

The file discloses that the wife of the manager of defendant's establishment was observed tending bar.

Defendant has a previous adjudicated record. Defendant's license was suspended by the local issuing authority for five days for an "hours" violation, effective November 10, 1941. Again, effective July 13, 1943, defendant's license was suspended by the State Commissioner of Alcoholic Beverage Control for fifteen days as a result of being adjudged guilty of possession of illicit liquor. Effective July 28, 1943, defendant's license was again suspended by the State Commissioner for thirty days as a result of being adjudged guilty of sale of alcoholic beverages to minors. At that time the defendant was warned that any further violation of the Alcoholic Beverage Law might result in revocation of its license. The violations in the instant case, however, are not too aggravated. In view of that, I shall, under the circumstances, suspend defendant's license for a period of ninety days.

Accordingly, it is, on this 7th day of May, 1945,

ORDERED, that Plenary Retail Consumption License C-126, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Martin's Incorporated, for premises 27 Church Street, Paterson, be and the same is hereby suspended for the balance of its term, effective 12:01 a.m. May 11, 1945; and it is further

ORDERED, that if any license be issued to this licensee, or other person, for the premises in question, for the 1945-46 fiscal year, such license shall be under suspension until 12:01 a.m. August 9, 1945.

ALFRED E. DRISCOLL
Commissioner.

15. HOURS OF SALE (MIDNIGHT CURFEW) - STATE REGULATIONS NO. 40
ABROGATED.

667-6
State Regulations No. 40 (effective March 1, 1945) were promulgated to implement the midnight curfew request of War Mobilization Director Byrnes. They were deliberately designed to eliminate the widespread confusion and doubt that followed the Federal pronouncement and to insure in New Jersey an even-handed enforcement of the curfew.

The Regulations accomplished their purpose.

In a statement accompanying the publication of Regulations No. 40, it was announced that they would "remain in force until modified or abrogated by the Commissioner" and that this would "occur immediately following any announcement of a change in national policy."

The Federal curfew has been lifted and, therefore, in keeping with my previous announcement, State Regulations No. 40 are hereby abrogated effective at midnight, Wednesday, May 9, 1945.

Municipal "hours" regulations continue in full force and effect and must be complied with by licensees. The same is true, of course, of State Regulations No. 38, which prohibit the sale of alcoholic beverages in original containers for off-premises consumption after 10:00 p.m. and before 9:00 a.m. on weekdays and all day on Sundays.

The record from March 1st to date discloses that the public and licensees alike accepted the curfew in good spirit and conscientiously followed the letter and spirit of the Regulations. There were comparatively few violations. Indeed, many licensees and a substantial portion of the public registered approval of the closing hour. It is, therefore, my hope that licensees will voluntarily continue to adopt an earlier closing hour than that required by local ordinance.

Now that the members of the Legislature and local municipal officials have had an opportunity to observe the operation of a 12:00 midnight closing hour, uniformly applicable throughout the entire State, it is my earnest hope that renewed consideration will be given a subject on which I have made numerous previous recommendations. In those cases where municipalities now permit licensed premises to remain open for abnormally long hours, a reasonable closing hour requirement should be adopted.

With a hard and cruel war yet to be won in the Pacific, this is not the time for unrestrained revelry by night.

Alfred E. Driscoll
Commissioner.

Dated: May 9, 1945.