

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

BULLETIN 767

JUNE 19, 1947.

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

BULLETIN 767

JUNE 19, 1947.

1. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR  
15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

THOMAS G. DALLESSIO )  
T/a JERRY'S TAVERN )  
450 William Street )  
Somerville, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-7 issued by the )  
Borough Council of the Borough of )  
Somerville. )  
----- )

Leo J. Berg, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to a charge alleging that he pos-  
sessed illicit alcoholic beverages at his licensed premises, in  
violation of R. S. 33:1-50.

On April 18, 1947, an investigator of the State Department of  
Alcoholic Beverage Control seized one 4/5 quart bottle labeled  
"Canadian Club Blended Canadian Whisky", when his field tests indi-  
cated that the contents thereof were not genuine as labeled.  
Subsequent analysis by the Department chemist warrants the conclusion  
that said bottle had been at least partly refilled with an alcoholic  
beverage different from that disclosed on its label.

Defendant, admitting the act of refilling, seeks to mitigate his  
violation by alleging that he poured the contents of a glass into  
the wrong bottle. Retailers are not permitted to refill bottles.  
Cf. Re Leda, Inc., Bulletin 678, Item 1.

Defendant has no prior adjudicated record.

I shall suspend his license for fifteen days (Re Rudolph, Bulle-  
tin 680, Item 1) and remit five days because of the plea (Re Gelb,  
Bulletin 741, Item 8), leaving a net suspension of ten days.

Accordingly, it is, on this 28th day of May, 1947,

ORDERED that Plenary Retail Consumption License C-7, issued by  
the Borough Council of the Borough of Somerville to Thomas G.  
Dallessio, t/a Jerry's Tavern, for premises 450 William Street,  
Somerville, be and the same is hereby suspended for ten (10) days,  
commencing at 1:00 a.m. June 3, 1947, and terminating at 1:00 a.m.  
June 13, 1947.

ERWIN B. HOCK  
Commissioner.

2. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN LICENSE APPLICATION  
 CONCEALING MATERIAL FACT - AIDING AND ABETTING NON-LICENSEE TO  
 EXERCISE RIGHTS AND PRIVILEGES OF LICENSE - ILLEGAL SITUATION  
 CORRECTED - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary )  
 Proceedings against )

ANDREW DOLOBACK and CHARLES KUSH )  
 T/a SPORTSMAN'S BAR & GRILL )  
 136 East Union Avenue )  
 Middlesex )  
 P.O. Bound Brook, R.D. 1, N. J., )

CONCLUSIONS  
 AND ORDER

Holders of Plenary Retail Consump- )  
 tion License C-6, issued by the )  
 Borough Council of the Borough of )  
 Middlesex. )  
 ----- )

John J. Rafferty, Esq., Attorney for Defendant-licensees.  
 William F. Wood, Esq., appearing for Department of Alcoholic  
 Beverage Control.

BY THE COMMISSIONER:

Defendants have pleaded non vult to charges alleging (1) that the application for their current license, originally issued to Andrew Doloback and Mary Kush, contained a false answer to a question set forth therein; (2) that Charles Kush exercised the rights of a license issued to and held by another; and (3) that Andrew Doloback aided and abetted the exercising of said rights by the said Charles Kush.

Since May 10, 1941, the defendants, Andrew Doloback and Charles Kush, as co-partners, have been the real owners and operators of the licensed business. From said date and until after the investigation culminating in the instant charges, on or about March 1, 1947, the license had been issued to and held by Andrew Doloback and Mary Kush. It is admitted that Mary Kush, who is the wife of Charles Kush, never had any interest in the business conducted under the license.

Apparently, the "front" situation was motivated by the fact that Charles Kush desired to remain in outside employment pending a "trial" period of operation, and second, that he feared that he was disqualified by a conviction of crime in his youth. The outside employment question was soon solved. Charles Kush ceased his other employment within months of the time the tavern business was started. However, no effort was made to transfer the license or to resolve the doubt then apparently existing in his mind as to his eligibility. After the investigation herein commenced, Charles Kush secured a ruling from the Commissioner of Alcoholic Beverage Control that he had not been convicted of a crime involving moral turpitude within the meaning of R. S. 33:1-25. The license was then transferred.

On December 19, 1946, I held in a case, wherein the reason for the creation of the "front" was apparently similar to that in the instant case, that:

"Hereafter, in the absence of aggravating circumstances, the minimum period of suspension will be thirty days in cases where the person for whom the 'front' was created has been convicted of a crime but has obtained an order removing his statutory disqualification or a ruling that the crime did not involve moral turpitude."

Re Benson, Bulletin 742, Item 6.

I shall suspend the license herein for thirty days.

Accordingly, it is, on this 28th day of May, 1947,

ORDERED that Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of Middlesex to Andrew Doloback and Charles Kush, t/a Sportsman's Bar & Grill, for premises 136 East Union Avenue, Middlesex, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. June 3, 1947; and it is further

ORDERED that if any license be issued to these licensees, or anyone else, for the premises in question for the 1947-48 fiscal year, such license shall be under suspension until 2:00 a.m. July 3, 1947.

ERWIN B. HOCK  
Commissioner.

3. APPELLATE DECISIONS - LAWRENCE TOWNSHIP BEVERAGE ASSN. v. TOWNSHIP OF LAWRENCE.

LAWRENCE TOWNSHIP BEVERAGE  
ASSOCIATION and BERNARD McEVOY,

Appellants,

-vs-

TOWNSHIP COMMITTEE OF THE TOWNSHIP  
OF LAWRENCE (Mercer County),

Respondent

ON APPEAL  
ORDER

William T. Cahill, Esq., Attorney for Appellants.  
Kenneth J. Dawes, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from respondent Township Committee's action, taken on December 4, 1946, whereby it adopted an ordinance increasing the permissible number of plenary retail consumption licenses from seventeen to eighteen.

The attorney for appellants has advised the Department that his clients desire to withdraw the appeal and has submitted the written consent of the attorney for respondent to the discontinuance of the appeal. Since no reason appears to the contrary,

It is, on this 28th day of May, 1947,

ORDERED that the appeal herein be and the same is hereby dismissed.

ERWIN B. HOCK  
Commissioner.

## 4. APPELLATE DECISIONS - HASNEDL v. LAKEHURST AND HENRIKSEN.

ANNA HASNEDL,

Appellant,

-vs-

BOROUGH COUNCIL OF THE BOROUGH  
OF LAKEHURST, and HILDA HENRIKSEN,

Respondents

ON APPEAL  
CONCLUSIONS AND ORDER

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Joseph A. Citta, Esq., Attorney for Appellant.  
Robert A. Lederer, Esq., by Milton Miller, Esq., Attorney for  
Respondents.

## BY THE COMMISSIONER:

This is an appeal from the action of the respondent issuing authority in granting a plenary retail consumption license to respondent Hilda Henriksen for premises on Union Avenue in the Borough of Lakehurst.

Appellant contends, among other things, that "The population within the Borough limits has not changed appreciably, clearly indicating no public need for an additional license."

The premises for which the license was granted are located opposite the Borough Hall and are known as the Lakehurst Inn. It appears that the premises in question had been licensed for the sale of alcoholic beverages from repeal of the National Prohibition Law to the early part of 1946, when a license then held by the former lessee of the premises was transferred to another person for a different location.

Appellant, holder of a plenary retail consumption license in the Borough of Lakehurst, testified that in her opinion there is no need for the issuance of an additional liquor license in the Borough. Joseph Schuster, who manages appellant's tavern, testified to the same effect as appellant. Appellant produced three other witnesses who live in communities located from six to thirty-one miles distant, and who testified that in their opinions the demand for alcoholic beverages in respondent Borough was not enough to warrant the issuance of another liquor license.

Respondent Hilda Henriksen testified that she owns the Lakehurst Inn, which contains thirteen rooms, and that she serves meals.

The Mayor, Stephen Morris, testified that although he was not required to vote on the application of respondent Hilda Henriksen, he was of the opinion that there was a need for a license in the premises in question. Mayor Morris testified that four premises had previously been licensed for consumption but that he "felt for a long time that Lakehurst was in need of a hotel -- a place with accommodations for the laboring people coming into town -- a suitable and clean place -- and there didn't seem to be such a place in Lakehurst. Consequently, I really felt such a place, to be run properly, should have a license, a liquor license, which was the reason I approved -- personally approved of the granting of this license, although it was passed over my head. Anyhow I simply gave my approval for that reason."

At the time that the license was granted to respondent Hilda Henriksen, three of the five members who were present at the meeting of the Borough Council voted in favor of the license. Were I a

member of the issuing authority I might well have cast my vote against the granting of the instant application. However, there is room for latitude of opinion in this case. My function on appeals of the type now before me is not to inflict or substitute my opinion on or for the license issuing authority, but rather to determine if reasonable cause exists for theirs, and, if so, to affirm whatever their view, irrespective of my own. Rafalowski v. Trenton, Bulletin 155, Item 8; Curry v. Margate City, Bulletin 460, Item 9.

After consideration of the testimony in the instant case I find that appellant has failed to sustain the burden imposed upon her. The majority of the Borough Council were of the opinion that an additional license was warranted in respondent Hilda Henriksen's hotel. In view of this, I cannot rightfully say that the local issuing authority abused its discretion in approving the application for the license. The action of the Mayor and Council will, therefore, be affirmed.

Accordingly, it is, on this 28th day of May, 1947,

ORDERED that the appeal herein be and the same is hereby dismissed.

ERWIN B. HOCK  
Commissioner.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - EFFECTIVE DATE FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING OF BUSINESS.

In the Matter of Disciplinary  
Proceedings against )

CEDAR RESTAURANT & CAFE CO. )  
T/a WEST END CASINO )  
717 Ocean Avenue )  
Long Branch, N. J., )

O R D E R

Holder of Seasonal Retail Consump- )  
tion License CS-2, issued by the )  
Board of Commissioners of the City )  
of Long Branch. )  
----- )

BY THE COMMISSIONER:

On August 14, 1946, the defendant's license was suspended for a period of thirty days after it was found guilty of possessing "refilled" liquor on its licensed premises. Bulletin 726, Item 11. Prior to the actual commencement of the suspension, the defendant obtained a writ of certiorari from the New Jersey Supreme Court to review my decision and, accordingly, the suspension was held in abeyance pending determination by the Court. On January 29, 1947 the writ of certiorari was dismissed by the Court and my decision affirmed. See Bulletin 748, Item 9.

The thirty-day suspension will now be reinstated against the present seasonal consumption license which was issued to the defendant on May 1, 1947.

Accordingly, it is, on this 3rd day of June, 1947,

ORDERED that Seasonal Consumption License CS-2, issued by the Board of Commissioners of the City of Long Branch to Cedar Restaurant & Cafe Co., t/a West End Casino, for premises 717 Ocean Avenue, Long Branch, be and the same is hereby suspended for thirty (30) days; commencing June 4, 1947, at 7:00 a.m., and terminating on July 4, 1947, at 7:00 a.m.

ERWIN B. HOCK  
Commissioner.

## 6. MORAL TURPITUDE - PASSING AND POSSESSING COUNTERFEIT MONEY.

DISQUALIFICATION - APPLICATION TO LIFT - EMPLOYMENT BY LICENSEE  
WHILE DISQUALIFIED - APPLICATION GRANTED.

In the Matter of an Application )  
to Remove Disqualification be- )  
cause of a Conviction, Pursuant )  
to R. S. 33:1-31.2. )

CONCLUSIONS  
AND ORDER

Case No. 594 )

- - - - - )

BY THE COMMISSIONER:

Petitioner was convicted on a plea of "guilty" to a charge of "passing and possessing counterfeit money". He was sentenced to four years in a Federal penitentiary and fined \$1,000.00 in February 1935. In December 1936 he was released on parole. There can be no doubt that this conviction is the conviction of a crime involving moral turpitude. Re Case No. 325, Bulletin 615, Item 4.

Petitioner was, at about the same time aforesaid, also convicted of the crime of possessing untaxed alcohol, given a suspended sentence and placed on probation. In view of the finding that the "counterfeiting" crime involved moral turpitude, no finding as to whether or not said element is present in the latter case is necessary.

Since his release in 1936, petitioner has apparently never been convicted of a crime and the only deviation from the path of rectitude apparent in his record is an arrest in 1939 on a charge of "illegal gambling", on which he was found not guilty.

In 1940, petitioner moved to New Jersey and, apparently, has lived in this state ever since that time.

Petitioner produced three witnesses, one the Chief of Police in a neighboring community who has known him since petitioner moved to this state; another, petitioner's next door neighbor since 1940; the other a former Justice of the Peace and Police Recorder in petitioner's home town who has known petitioner for seven years. All three witnesses testified that during the periods which petitioner has been known to them, and at least during the five years immediately past, petitioner has borne a good reputation as an honest and law-abiding resident of the community.

Petitioner, for about two months early in 1947, was employed by the holder of a liquor license in this state. He ceased his employment when his possible disqualification was called to his attention by the State Department of Alcoholic Beverage Control and immediately filed his petition for relief. He has been unemployed for about two months. His sworn testimony, coupled with the fact that he is a rather recent resident of the state, and his prompt compliance, leads me to believe that he was actually unaware of his disqualification. Knowledge of the law is not a necessary ingredient of the good faith essential in rehabilitation proceedings. Cf. Case No. 61, Bulletin 338, Item 2.

I find that petitioner has conducted himself in a law-abiding manner at least during the 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 3rd day of June, 1947,

ORDERED that petitioner's statutory disqualification because of the convictions of crime disclosed herein be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2.

ERWIN B. HOCK  
Commissioner.

7. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

HELEN M. KAUS  
T/a TALLY HO  
Pfeiffer Avenue  
Raritan Township (Middlesex County)  
Box 238, Fords, New Jersey,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption  
License C-16, issued by the Board of  
Commissioners of the Township of  
Raritan (Middlesex County).

Thomas L. Hanson, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The defendant has pleaded non vult to a charge alleging that, on April 25, 1947, she possessed illicit alcoholic beverages at her licensed premises, to wit, a 4/5 quart bottle labeled "White Label Blended Scotch Whisky" and a 4/5 quart bottle labeled "King William VOP Brand Blended Scotch Whisky", in violation of R. S. 33:1-50.

Since the defendant has no previous record, her license will be suspended for a period of fifteen days, less five days for the plea, leaving a net penalty of ten days. Cf. Re Club Diana, a corporation, Bulletin 763, Item 3.

Accordingly, it is, on this 4th day of June, 1947,

ORDERED that Plenary Retail Consumption License C-16, issued by the Board of Commissioners of the Township of Raritan (Middlesex County) to Helen M. Kaus, t/a Tally Ho, for premises on Pfeiffer Avenue, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. June 9, 1947, and terminating at 2:00 a.m. June 19, 1947.

ERWIN B. HOCK  
Commissioner.



## 8. MORAL TURPITUDE - FORGERY.

DISQUALIFICATION - APPLICATION TO LIFT - FALSE STATEMENT IN  
APPLICATION FOR SOLICITOR'S PERMIT - APPLICATION GRANTED AS OF  
JULY 1, 1947.

In the Matter of an Application )  
to Remove Disqualification because )  
of a Conviction, Pursuant to R. S. )  
33:1-31.2. )

CONCLUSIONS  
AND ORDER

Case No. 593.  
-----)

BY THE COMMISSIONER:

Petitioner was convicted in March 1937 in a neighboring state of attempted forgery. His sentence was suspended conditioned upon his making restitution and he was placed on probation. In December 1939 he was discharged from probation, having made full restitution and established a good probation record.

After his conviction, petitioner was employed in New York Harbor as a checker, and during the late war worked for the Army Transport Service. On February 26, 1947, pursuant to application therefor, he was issued a solicitor's permit by the State Department of Alcoholic Beverage Control.

Petitioner has presented three witnesses, one a salesman, another an engineer, and the third an officer in a city police department. All know him socially and have so known him from fifteen to thirty years. They all testify that for at least the last five years petitioner's reputation has been of the best.

The police department of the municipality wherein petitioner now resides certifies that petitioner has no police record in that city.

In his application the petitioner set forth, under oath, that he had never been convicted of any crime. Subsequent investigation, however, disclosed that this statement was untrue and his permit accordingly was cancelled on April 2, 1947. When interrogated at the hearing herein relative to the reason why he had failed to disclose the above conviction, the petitioner stated that "because it slipped my memory at the time, and I thought as long as I had a suspended sentence and I made restitution and it was ten years back, that it might have been forgotten."

Normally I would have removed the petitioner's disqualification without hesitation if it were not for his denial under oath of criminal conviction. Some punishment must be invoked for his dereliction. He has been deprived of his permit since April 2, 1947. Under the circumstances the statutory disqualification because of the conviction described herein will be removed, effective July 1, 1947. The petitioner thereby may, if he wishes, file a new application for solicitor's permit on or after July 1, 1947.

Accordingly, it is, on this 4th day of June, 1947,

ORDERED that petitioner's statutory disqualification because of a conviction described herein be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2.

ERWIN B. HOCK  
Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

MARGARET FAGAN  
81 Wayne Avenue  
Paterson 2, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-337, issued by the  
Board of Alcoholic Beverage Control  
of the City of Paterson.

Margaret Fagan, Defendant-licensee, Pro Se.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded guilty to a charge alleging that she sold and served alcoholic beverages at her licensed premises during prohibited hours on a Sunday morning, in violation of local regulation.

The regulation in question prohibits the sale and service of alcoholic beverages on Sunday between the hours of 3:00 a.m. and 1:00 p.m. The violation occurred on Sunday, May 18, 1947, at about 10:30 a.m., when several ABC agents entered the licensed premises and were served alcoholic beverages by a bartender. The defendant was not present at the time.

The defendant has no prior record and no aggravating circumstances appear to have attended the instant violation. Under the circumstances, I shall suspend the license for the usual fifteen-day period, with five days remitted for the plea, leaving a net suspension of ten days. Cf. Re Wolf, Bulletin 753, Item 9.

Accordingly, it is, on this 4th day of June, 1947,

ORDERED that Plenary Retail Consumption License C-337, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Margaret Fagan, 81 Wayne Avenue, Paterson 2, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. June 9, 1947, and terminating at 3:00 a.m. June 19, 1947.

ERWIN B. HOCK  
Commissioner.

10. DISQUALIFICATION - APPLICATION TO LIFT - FIVE YEARS' GOOD CONDUCT  
SINCE APPLICATION PREVIOUSLY DENIED - APPLICATION GRANTED.

In the Matter of an Application )  
to Remove Disqualification be- )  
cause of a Conviction, Pursuant )  
to R. S. 33:1-31.2. )

CONCLUSIONS  
AND ORDER

Case No. 611  
- - - - - )

BY THE COMMISSIONER:

In 1937, petitioner, then a Federal postal employee, was convicted of violation of a Federal statute involving tampering with or rifling the mail, and sentenced to a term of a year and a day. The operation of the sentence was suspended and petitioner placed on probation for ten years. On May 26, 1938, it was ruled that petitioner had been convicted of a crime involving moral turpitude. Re Case 224, Bulletin 248, Item 6.

The above recited conviction appears to have been petitioner's only breach of the law.

Petitioner presented three witnesses, all of whom have known him for more than five years last past. They all testify that petitioner, during the last past five years, has lived a law-abiding life and that his reputation is excellent. It further appears that petitioner served about one year in the U. S. Army during the recent war and was honorably discharged by reason of a physical incapacity received in the service. On his discharge his character was certified as "very good".

Petitioner is now married and appears to have been completely rehabilitated.

The police of his home municipality certify that there are "no complaints or investigations presently involving" this petitioner.

I therefore conclude that petitioner has been law-abiding for at least five years last past, that he has lived a respectable and law-abiding life, and that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 5th day of June, 1947,

ORDERED that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2.

ERWIN B. HOCK  
Commissioner.

11. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION FOR  
EMPLOYMENT PERMIT - PERMIT REVOKED.

In the Matter of Disciplinary  
Proceedings against

HANS HANSEN

729 South Main St.

Pleasantville, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Employment Permit No.  
3752, issued by the State Com-  
missioner of Alcoholic Beverage  
Control. - - - - -)

Hans Hansen, Defendant-permittee, Pro Se.

Edward F. Ambrose, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded guilty to a charge alleging that he falsified his application for an employment permit by denying that he had ever been convicted of a crime, in violation of R. S. 33:1-25.

The defendant, a non-citizen, received an employment permit from this Department when the application submitted by him showed a negative answer to the question therein reading: "Have you ever been convicted of any crime?". In point of fact, the defendant had been convicted, in August 1933, of the crimes of aggravated assault and battery and also robbery. The latter crime involves the element of moral turpitude (Re Case 466, Bulletin 713, Item 6) and disqualifies the defendant from employment on licensed premises. See R.S.33:1-25, 26.

The only explanation offered by the defendant for the falsification is that he did not want his employer to know of his criminal record. This explanation furnishes neither defense nor excuse and, moreover, indicates a deliberate attempt to withhold his record, not only from his employer, but from the Commissioner as well.

The permit will be revoked.

Accordingly, it is, on this 9th day of June, 1947,

ORDERED that Employment Permit No. 3752, issued by the State Commissioner of Alcoholic Beverage Control to Hans Hansen, be and the same is hereby revoked, effective immediately.

ERWIN B. HOCK  
Commissioner.

## 12. MORAL TURPITUDE - ROBBERY - INELIGIBLE TO HOLD LICENSE OR PERMIT.

June 4, 1947

Re: Case No. 598

Subject holds Employment Permit No. 3752, necessitated by reason of his non-citizenship. Although his application falsely denied any criminal record, fingerprint returns disclose that he was convicted of the crimes of aggravated assault and battery and also robbery, in August 1933. He was sentenced to not less than two nor more than five years in prison, and was released on parole in August 1935.

The crime of robbery involves the element of moral turpitude. Re Case No. 466, Bulletin 713, Item 6.

In disciplinary proceedings decided simultaneously herewith, the subject's permit has been ordered revoked.

It is recommended that subject be advised that, in the opinion of the Commissioner, the crime of robbery involves the element of moral turpitude and that subject's attention be called to the provisions of R. S. 33:1-25 and 26, which prohibit a person so convicted from holding a liquor license or being employed on licensed premises.

Samuel B. Helfand  
Attorney.

APPROVED:

ERWIN B. HOCK  
Commissioner.

## 13. MORAL TURPITUDE - COMMERCIALIZED GAMBLING.

DISQUALIFICATION - APPLICATION TO LIFT - PENDING INDICTMENT -  
APPLICATION DENIED.

In the Matter of an Application )  
to Remove Disqualification because )  
of a Conviction, Pursuant to R.S. )  
33:1-31.2. )

CONCLUSIONS  
AND ORDER

Case No. 604.

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BY THE COMMISSIONER:

On February 13, 1942, petitioner pleaded non vult in a Court of Common Pleas in New Jersey to an indictment alleging that he "did aid, abet and did manage a lottery and did have lottery paraphernalia in his possession". As a result thereof he was fined \$1,000.00. Under the circumstances in this case I find that said conviction was the conviction of a crime involving moral turpitude, and that, therefore, petitioner is disqualified from holding a liquor license in this state and from being employed by or connected in any way with the holder of such a license within the intentment of R.S. 33:1-25, 26.

In June 1942 petitioner was arrested on an indictment in the United States District Court for the Eastern District of Michigan. He was released on \$2,500.00 bail and is still awaiting trial. This indictment charges "conspiracy" in connection with what would appear to be a nation-wide lottery or series of lotteries involving some sixty or more individuals.

The lottery conspiracy indictment indicates a connection with a rather wholesale violation of the law. Accordingly, I cannot find,

as I am required to find, that petitioner's "association with the alcoholic beverage industry will not be contrary to the public interest", R. S. 38:1-31.2, at least until the still pending indictment is satisfactorily disposed of.

Accordingly, it is, on this 4th day of June, 1947,

ORDERED that the petition herein be and the same is hereby dismissed.

ERWIN B. HOCK  
Commissioner.

14. LICENSED PREMISES - ENTERTAINMENT - "AMATEUR NIGHTS" PERMISSIBLE  
SUBJECT TO SPECIFIED RESTRICTIONS.

June 15, 1947

Eva Bieler  
Roselle, N. J.

Dear Madam:

You state that you desire to run "amateur nights" at your tavern and to give cash prizes to the winners, and you inquire whether this is permissible.

The Department has no objection to bona fide "amateur nights" at taverns under appropriate conditions mentioned below. At one time the Department took the view that, in addition, the contestants were to meet all the qualifications laid down for regular employees in the retail liquor business (Re Dersi, Bulletin 278, Item 11), but this view has since been abandoned.

The pertinent conditions which the Department is presently, and hereby, requiring are as follows:

1. The contestants may receive no payment of any kind except prizes or awards to be given to winners chosen on the basis of talent.

2. The prizes or awards must be wholly moderate, and may not include alcoholic beverages (for the reason, among others, that the winner may be a minor).

3. All pertinent local regulations covering "amateur nights" or other entertainment must be fully complied with.

4. The licensee must see to it that the contestants give performances which are in no way indecent, and that the conduct of the contestants on the licensed premises is at all times proper. As to possible minors, this means, among other things, that the licensee must see to it that they do not get or drink any alcoholic beverages.

5. No person under 18 years of age may be allowed to enter the contest. To avoid possible difficulties, the licensee may be well advised to adopt a voluntary policy of keeping minors of even 18 or older from engaging in the contest. In any event, as already indicated, the licensee may under no circumstances allow any minor under 18 to engage therein.

As to any possible regulations which the State Department of Labor may have concerning performers in "amateur nights" at taverns,

you should communicate with the Department of Labor, State House, Trenton 7, N. J. We may also call attention to the fact that, by allowing "amateur nights", you may perhaps be subjecting yourself to the Federal Cabaret Tax. On this question you should communicate with the Federal Bureau of Internal Revenue, Federal Building, Newark, N. J.

Very truly yours,  
ERWIN B. HOCK  
Commissioner.

15. RETAIL LICENSEES - SELF-SERVICE OF PACKAGE GOODS PERMITTED SUBJECT TO SPECIFIED RESTRICTIONS - PRIOR RULING MODIFIED.

June 13, 1947

Carpenter, Gilmour & Dwyer, Esqs.  
Jersey City 2, N. J.

Gentlemen:

I have carefully reviewed the Department's position with reference to so-called self-service of alcoholic beverages at duly licensed stores or markets.

Heretofore, the Department has disapproved this method of sale in any form. See Re Mallon, Bulletin 214, Item 8; Re Freund, Bulletin 700, Item 2; Re Trentz Community Market, Inc., Bulletin 736, Item 2. You make claim that the ruling should be abrogated or modified in view of the fact that self-service has become a generally accepted mode of retail merchandising to the public.

I believe it is fair to say that generally accepted business practices should be permitted at liquor establishments BUT NOT if they are prejudicial in any substantial way to the maintenance of sound liquor control. In the latter event the public interest, which is the paramount consideration, requires that any such business practice be prohibited at liquor establishments or else so regulated as to purge it of its dangers.

As I conceive it, the underlying reason for the Department's ban heretofore on self-service at liquor stores or markets has been the fear that, through this method, improper sales of alcoholic beverages may occur (as, for example, sales to minors); and unless this risk can reasonably be curbed, the ban clearly should remain.

On carefully weighing the matter, I cannot agree that the Department's ruling should be abrogated but I shall experimentally modify it to allow self-service of alcoholic beverages at duly licensed stores or markets under the following conditions and subject to any pertinent regulations which each municipality may have:

1. The physical setup must be such that no patron who has picked up any merchandise may leave the store except through a regular cashier's aisle or exit where an adult cashier is in constant attendance and to whom the purchaser is to make payment.

2. Since the sale does not actually occur until cleared through the cashier, such cashier must fully comply with all the laws and regulations governing the qualifications and conduct of employees who sell alcoholic beverages. As already indicated, this means, among other things, that the cashier may not be a minor.

3. Every sale of alcoholic beverages must be in strict compliance with all the liquor laws and regulations. Any licensee using this self-service method will be held fully and sternly accountable for any and all violations and will not be heard to say that the cashier just "made a mistake" or "was too busy"; and the cashier, if making any sale contrary to the Alcoholic Beverage Law, such as selling to a minor (R. S. 33:1-77), will be subject to arrest for a criminal misdemeanor.

Should actual experience with self-service, even as above limited, prove it to be unworkable or reveal any abuses or dangers inconsistent with sound liquor control, I shall promptly and unhesitatingly restore the total ban on self-service.

Very truly yours,  
ERWIN B. HOCK  
Commissioner.

16. APPELLATE DECISIONS - MILITARY ORDER OF THE COOTIE, V.F.W. v. WRIGHTSTOWN.

MILITARY ORDER OF THE COOTIE,  
ATOMIC LICE PUP TENT #19, VETERANS  
OF FOREIGN WARS OF THE UNITED  
STATES,

Appellant,

-vs-

BOROUGH COUNCIL OF THE BOROUGH  
OF WRIGHTSTOWN,

Respondent

ON APPEAL  
CONCLUSIONS AND ORDER

Charles Becker, Esq., Attorney for Appellant.  
Powell & Parker, Esqs., by Robert W. Criscuolo, Esq., Attorneys for Respondent.

BY THE COMMISSIONER:

This is an appeal from the denial of a club license for premises on Trenton Road, Old Creamery Building, in the Borough of Wrightstown.

Respondent moved to dismiss the appeal on the ground that such licenses are prohibited in the Borough of Wrightstown under the provisions of an ordinance duly passed and presently existing.

At the hearing herein, it was stipulated and agreed by the parties hereto that application for the club license was properly filed on or about March 13, 1947; that said application was denied on April 10, 1947, and that, on May 7, 1947, the Borough Council adopted an ordinance providing that "No club license shall be issued in the Borough of Wrightstown." Said ordinance is now in effect.

The Alcoholic Beverage Law of the State of New Jersey provides, among other things, that "The governing board or body of each municipality may, by ordinance, enact that no club licenses shall be granted within its respective municipality." R.S. 33:1-12(5). The issuance of the license is barred by the provisions of the ordinance now in effect. It is well established that the State Commissioner has no jurisdiction to review the reasonableness of such an ordinance as is herein under discussion. Forest Hill Boat Club v. Cinnaminson,



Bulletin 372, Item 7; Italian American Citizens Club v. Greenwich,  
Bulletin 392, Item 9.

The appeal will be dismissed.

Accordingly, it is, on this 5th day of June, 1947,

ORDERED that the appeal herein be and the same is hereby  
dismissed.

ERWIN B. HOCK  
Commissioner.

17. STATE LICENSES - NEW APPLICATIONS FILED.

Chas. Schaefer Corporation  
Magee & Harding Road, Townley, Union Township, Union, N. J.  
Application for Limited Wholesale License (1947-48) filed  
June 5, 1947.

Merchants' Service Co.  
200 Market St., Newark, N. J.  
Application for Transportation License filed June 6, 1947.

James C. Maresca  
514 Central Ave., Jersey City, N. J.  
Application for State Beverage Distributor's License filed  
June 9, 1947 (1947-48).

Aaron M. Siegelman, Victoria Metzger and Henry W. Metzger  
T/a Stevens & Moffett Co.  
1613-19 Hudson Boulevard, Jersey City, N. J.  
Application for Warehouse Receipts License (1947-48) filed  
June 9, 1947.

Spector Motor Service, Inc.  
15-21 Florence St., Jersey City, N. J.  
Application for Transportation License filed June 10, 1947.

Louis Garodnick, t/a Garo Transportation Co.  
156 Rome St., Newark, N. J.  
Application for Transportation License (1947-48) filed  
June 11, 1947.

Joseph, Frank and John Pestrak; Mary Pestrak Mehok and Frank M. Welde  
T/a Perawel Trucking Company  
56 North Logan Ave., Trenton, N. J.  
Application for Transportation License (1947-48) filed June 16,  
1947.

Great Notch Winery, Inc.  
77 - 21st Ave., Paterson, N. J.  
Application for Wine Wholesale License (1947-48) filed June 16, 1947.

A. Baldanza Co.  
151 Getty Ave., Clifton, N. J.  
Application for Wine Wholesale License (1947-48) filed June 16, 1947.

Jersey Shore Lines, 21 First Ave., Atlantic Highlands, N.J.  
Steamer "Liberty Belle"  
Application for Plenary Retail Transit License (1947-48) filed June 16, 1947.

Henrietta and Samuel Packman, t/a Packman Brothers  
310-318 N. Indiana Ave., Atlantic City, N. J.  
Application for Limited Wholesale License (1947-48) filed June 17, 1947.