

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

BULLETIN NUMBER 197

JULY 23, 1937.

1. SPECIAL PERMITS - PICNIC, EXCURSION OR SPECIALLY CHARTERED TRAINS - RESPONSIBILITY OF CARRIER - NO SPECIAL PERMITS ISSUED UNLESS TRAINS ARE COMPOSED OF VESTIBULED CARS ONLY.

July 20, 1937.

Lehigh Valley Railroad Co.,
New York City.

Attention: R. W. Barrett, Vice President.

Gentlemen:

Kindly refer to my letter of March 23rd, 1937, (Bulletin 168, item 13) re Special Permits on trains.

That ruling declared that when a railroad consented to the issuance of Special Permit to a social organization to sell alcoholic beverages on a picnic, or excursion, or other specially chartered train, the railroad thereby assumed responsibility to see to it that the law was obeyed and the conditions of the permit observed, as, for instance, that no sales be made to minors; only the kind of beverages specified in the permit be dispensed; etc.

On further reflection, I believe that ruling is too onerous. If the affair were held in a particular municipality, the local Chief of Police, by consenting to it, would not thereby become a personal guarantor. It would be his duty, if he saw any violation, to stop it, but he would not be personally responsible for the fact of its occurrence.

Hence that ruling is hereby modified to the extent that the consent of the railroad does not thereby impose upon it any absolute responsibility to see to it at its peril that the law is obeyed. If your trainmen find, however, that the law is being violated or the conditions of the permit disregarded, they must stop it to the full extent of their ability and, in any event, cause immediate report of the matter to be made to this Department for appropriate action.

On the other hand, the modified ruling requires additional safeguards. Passengers always incur danger when they walk from one car to another while the train is in motion. The hazard is measurably increased after partaking of alcoholic refreshment. Hence, no Special Permits will be issued in respect to picnic, excursion or specially chartered trains unless they are composed of vestibuled cars only, fully closed at all times while the train is in motion.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

New Jersey State Library

2. SOLICITORS' PERMITS - MORAL TURPITUDE - FACTS EXAMINED -
CONCLUSIONS

July 20, 1937.

IN RE: Case No. 72

Applicant denied he had ever been convicted of a crime. His fingerprint records disclosed that he had been arrested "charge board bill, disposition three years probation." At a hearing duly held, applicant testified that he had been boarding at the house of the complainant who made the criminal charge for a period of about five years; that for the greater part of said time he had been steadily employed and regularly paid his board; that about 1933 his regular employment ceased and he was carried by the railroad as an "extra", working a few days a month; that because of this situation he was unable to pay his board regularly and became indebted to the woman who ran the boarding house for the sum of more than Two Hundred (\$200.) Dollars; that he left the boarding house about two weeks before his arrest and went to live with his sister who resided in another part of New Jersey.

Applicant testified that after his indictment he was brought before a Judge of the Court of Common Pleas in Special Sessions, and pleaded guilty. At that time the Judge postponed imposition of sentence, advising applicant to endeavor to make a settlement. Applicant testified he thereafter attempted to make a settlement with the complainant, but was unable to do so. Thereafter he was again called before the Judge of the Court of Common Pleas and was placed on probation for three years. The facts of this case do not in my opinion warrant a finding that the applicant has been convicted of a crime involving moral turpitude.

As to his affidavit, applicant testified that he did not believe the offense of which he was convicted constituted a crime. I am inclined to believe him but, even if some punishment should be meted out for the affidavit which is not technically correct, it seems that applicant has been sufficiently punished because his solicitor's permit has been withheld since July 8th, the date of his application.

It is recommended, therefore, that a solicitor's permit be granted.

Edward J. Dorton
Attorney-in-Chief.

Approved:

D. FREDERICK BURNETT
Commissioner.

3. SPECIAL PERMITS - NOT ISSUED FOR OPENING NIGHT OF UNLICENSED
PIZZERIA

July 21, 1937.

Mr. Michael Brucoli,
Union City, N. J.

Dear Mr. Brucoli:

I am writing in reply to your letter requesting a permit to serve wine and beer free of charge to your customers

on the night you open your Pizzeria.

According to my records, there is no license issued in your name or for your premises.

Special permits are not issued for the purpose of allowing businesses not licensed to sell alcoholic beverages to give alcoholic beverages to customers. The dispensing of wine and beer in the manner that you propose is not permissible.

Herewith is copy of ruling made in Re Zoellner, Bulletin 146, Item 10, and the items referred to therein, which will give you the reasons.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

4. BINGO - THE GAME AND THE PRIZES.

July 21, 1937.

Mr. Leon Okerson,
New Brunswick, N. J.

Dear Sir:

You inquire:

1. Can a bingo party give liquor as prizes?

If an admission is charged or tickets sold to the bingo party, alcoholic beverages given as prizes constitute a sale thereof. In such a case, it would be necessary for the organization conducting the affair to obtain a Special Permit before it could legally give liquor as prizes.

2. Can a saloon or tavern keeper give a bottle of liquor to a charity party or a church affair to be given away as a prize?

There is nothing in the Control Act or the regulations which would prevent a retail licensee from giving away a bottle of liquor. Under a plenary retail consumption license the privilege is accorded the licensee to make sales and deliveries to consumers. Whether a charge is made or how much or the liquor given away does not make any difference. Of course, the gift cannot be for the purpose of resale. If the organization to whom the liquor is to be given intends to charge admission, then the offering of the bottle of liquor as a prize would constitute a sale thereof. In such an event, the gift could not be made to such an organization unless they possessed a Special Permit, as set forth in answer to Question 1.

3. Can any licensed premises wherein a public hall is attached thereto be rented or its use donated for a bingo party?

Yes, provided there is no bar in the room where the bingo party is held, and provided further, that in that room where the bingo game is to be played, no drinks of alcoholic beverages are

sold, or served or consumed. Enclosed is copy of the Rule relative to the playing of Bingo and other such games on licensed premises.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

5. MUNICIPAL ORDINANCES - - INTERPRETATION - HOURS OF SALE DISTINGUISHED FROM HOURS DURING WHICH PREMISES MUST BE CLOSED - HEREIN OF HOW TO ACCOMPLISH THE LATTER OBJECTIVE.

July 21, 1937.

Hon. William A. Stevens,
Red Bank, N. J.

My dear Mr. Stevens:

The Rumson ordinance reads:

"Section 16. No alcoholic beverage shall be sold except on week days between the hours of 7: A.M. to 3: A.M. of the following day, and on Sundays between the hours of 12:00 noon to 3:00 A.M. of the following day, prevailing time then existing, and said hours shall constitute the opening and closing hours, and no such sales shall be made except between said opening and closing hours."

You seek my ruling whether this ordinance requires the closing up of the licensed premises during the hours that sales are prohibited.

It is true that certain hours are expressly designated as "closing" hours. But closing hour for what? The business conducted - or the place itself? Nothing is expressly said about closing the place. The operative words pertain only to sale, viz.: "No alcoholic beverage shall be sold.....exceptbetween" certain hours, and again: "no such sales shall be made except between said opening and closing hours."

I conclude that this ordinance merely fixes the hours of sale and does not require that the licensed premises be closed during the prohibited hours of sale.

If the Borough desires to require that the place shall be closed as well as sales stopped at 3 A. M., it will be necessary to express such intention in clear, unequivocal language; for instance, by adding an additional clause reading "between the hours hereinabove fixed when sales are prohibited, all licensed premises except bona fide hotels and restaurants shall be closed."

To prevent hotels and restaurants evading the regulation by permitting consumption, after the closing hour, of alcoholic beverages purchased earlier, you may add: "No alcoholic beverages shall be served or consumed on the licensed premises during the hours when sales are prohibited."

Very truly yours,

D. FREDERICK BURNETT
Commissioner

6. LICENSES - SPECIAL CONDITIONS - AUTOMATIC FORFEITURE UPON COMMITTING A VIOLATION DISAPPROVED.

July 21, 1937.

Alexander Clifford,
Borough Clerk,
Haledon, N. J.

Dear Sir:

I have before me the resolution adopted by your Borough Council authorizing the issuance of a plenary retail consumption license to Matthew Unger, subject to the special condition that "said license shall be forfeited and picked up by the police if the said Matthew Unger violates the provisions of the State Liquor Laws and/or the local Borough Ordinance or permits loud noises or music after 12 P. M."

As I understand the condition, it means that upon violation, the license must be given up at once and surrendered to the police, or at least, it may be taken from him; that upon misconduct the forfeiture shall operate automatically and instantly. Thus, it purports to effect a peremptory revocation of the license. This, however, cannot be done. Who is to determine whether there has been a violation? Is the licensee to be condemned and his business destroyed without a chance to hear his side of the story? Not in New Jersey!

Licenses may not be suspended or revoked except after a five-day notice of the charges preferred has been given to the licensee and a reasonable opportunity to be heard thereon afforded him. The procedure is prescribed in Section 28 of the Act. Revocation may be made only in accordance with the Act. See the Rules and Instructions as to Revocations, Compiled Rules, pages 40 through 49.

The special condition should provide that violation of the law or of the Borough ordinances or loud noise or music after 12:00 P. M. shall be cause for the suspension or revocation of the license. As it now stands, for the reason given above, it is disapproved.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

7. RETAIL LICENSEES - CASES OF BEER MAY BE DISPLAYED ON THE SIDEWALK SO LONG AS NO MUNICIPAL REGULATIONS PROHIBIT IT BUT PRICE SIGNS THEREON MAY NOT EXCEED THE ALLOWABLE $1\frac{1}{2}$ " x $1\frac{1}{2}$ ".

Dear Sir:

Is it permissible to have outside of one's store on the sidewalk a number of cases of beer with the price in large figures on same?

Very truly yours,

Central Provision Mkt., Inc.

July 21, 1937.

Central Provision Market, Inc.,
Beach Haven, N. J.

Gentlemen:

There is nothing in the State law or State regulations which would prevent you from displaying cases of beer on the sidewalk in front of your store. You may not, however, advertise the price of the beer by the use of any signs of greater size than the allowable $1\frac{1}{2}$ " x $1\frac{1}{2}$ " maximum. See Rule 3 of the Rules Governing Signs, copy enclosed.

As to whether or not there are any general regulations in Beach Haven which would prohibit the display of wares and merchandise on the public sidewalk, communicate directly with Mr. A. Paul King, the Borough Clerk.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

8. MINORS - LICENSED PREMISES - MUNICIPAL REGULATION PROHIBITING MINORS ON LICENSED PREMISES UNLESS ACCOMPANIED BY A PARENT - HEREIN OF THE ABSENCE OF A PRONOUN.

Dear Sir:

I own and operate a bar at the above address, dispensing beer, liquor and sandwiches. We do not have any tables in the barroom, and since the city ordinance prohibits women being served directly over the bar, we cater to men exclusively.

Occasionally, some of our best customers stop in for a beer and they have a small child with them to mind, in many cases while their wives do the Saturday shopping around the corner on the main street.

Naturally, we do not serve minors intoxicating beverages, but I would like to know if a parent can bring his or somebody else's child in with him to wait while he has his drink, or should we order the parent and child to leave the premises.

Another point in mind is the case where three customers come in and one is under twenty-one years of age.

The two over 21 order beer and the minor orders sarsaparilla or any soft drink. Can the minor be allowed on the premises, regardless of what he eats or drinks?

Yours truly,

ROBERT A. FIELD

July 21, 1937.

Mr. Robert A. Field,
Plainfield, N. J.

My dear Mr. Field:

There is nothing in the State law or the State regulations forbidding adults from bringing minors with them onto licensed premises. The mere presence of minors on licensed premises is not prohibited. See Re Grubb, Bulletin 125, Item 6.

It is, however, competent for municipalities to enact pertinent regulations in this regard and if they do so and the regulation has been duly approved by me as required by the statute, it must be obeyed by all licensees to whom it has been made to apply. According to my records, Plainfield has such a regulation. Section 18 of the City's ordinance to regulate the sale of alcoholic beverages, adopted by the Council on June 7, 1937 and approved by the Mayor on June 8, 1937, provides, in part, that no minor shall be allowed in any room in which any bar is located unless accompanied by a parent.

Under the ordinance, you may allow minors in your barroom if the minor is accompanied by a parent. If not, the minor must be excluded. The ordinance says "a parent." It does not require that the parent be the minor's parent. Hence, any parent will do.

You may serve such a minor sarsaparilla or any other "soft" drink.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

9. RETAIL LICENSEES - WAREHOUSES - RETAILERS MAY STORE ALCOHOLIC BEVERAGES ONLY ON THEIR LICENSED PREMISES.

June 28, 1937.

Clerk of Municipal Board of
Alcoholic Beverage Control,
Morristown, N. J.

Dear Sir:

Owing to the fact that special discounts were offered by distributors prior to the enforcement of the Fair Trade Act of the State of New Jersey, I found it necessary to purchase a quantity of merchandise for which I have not sufficient storage space at the above licensed premises.

I have, however, sufficient room in the cellar of my home at #18 Condict Place, Morristown, New Jersey, to meet my requirements for storage.

In a telephone conversation with Herman Silverstein, Esquire, our state counsel, he advised me that the practice of the office of the Commissioner of Alcoholic

Beverages has been to leave the granting of permits for such storage places at the discretion of each local board.

Therefore, I am applying to you for permission to use the cellar of my home, at the address stated above, as a storage room for alcoholic merchandise.

Will you kindly advise?

Very truly yours,

Theodore I. Kornfield

July 21, 1937.

Nelson S. Butera,
Town Clerk,
Morristown, N. J.

My dear Mr. Butera:

I have before me your letter of June 29th and copy of Mr. Kornfield's letter of June 28th addressed to the Clerk of the Morristown Municipal Board of Alcoholic Beverage Control.

Retail licensees may not store alcoholic beverages elsewhere than on their licensed premises. No special warehousing privileges can be granted. Re Max, Bulletin 24, Item 10, and Re Bock, Bulletin 118, Item 5, will give you the pertinent rulings.

The Morristown Board has no power to grant retail licensees permits to store alcoholic beverages off the licensed premises.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

10. BOTTLES - EMPTY LIQUOR BOTTLES MAY NOT BE REFILLED WITH TURPENTINE OR OTHER PAINTERS' SUPPLIES - WHEN EMPTIED THEY SHOULD BE BROKEN.

Dear Mr. Burnett:

We conduct a paint & hardware business in Wildwood and have use for empty bottles for the purpose of selling linseed oil, turpentine, etc.

The saloon keepers refuse to let us have the empty bottles as they feel it is not in accordance with the law.

We would appreciate it very much if you would advise us if permissible for them to let us have the empty bottles for the purpose we use them for.

Yours truly,

Baker Brothers

July 21, 1937.

Baker Brothers,
Wildwood, N. J.

Gentlemen:

There is no provision in the Control Act or any State regulation forbidding the use of empty liquor bottles for refill by linseed oil, turpentine, etc. But there is a Federal regulation which forbids possession of used liquor bottles by any person other than the one who has emptied the same. See re Shipper, Bulletin 84, Item 2, copy enclosed.

The tavern keepers of Wildwood were therefore correct in their refusal to give you their empty bottles.

Empty liquor bottles should be promptly broken.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

11. LICENSEES - NOT DISQUALIFIED FOR MEMBERSHIP ON BOARD OF EDUCATION OR ON SINKING FUND COMMITTEE.

July 21, 1937.

W. Richard Kahl
Oaklyn, N. J.

Dear Mr. Kahl:

There is nothing in the Control Act or the State Regulations to prevent a licensee being a member of the local Board of Education or a member of the local sinking fund committee simultaneously with being a licensee.

I foresee no situation where your being a licensee might conflict with your duty as a member of the Board of Education except in passing upon the question whether the Board shall waive the requirement under Section 76 of the Control Act that no licensed premises shall be located within 200 feet of a public school. In such instances, you would be disqualified from participating in the deliberations or decisions of the Board.

I cannot conceive that your duties as a member of the local sinking fund committee would conflict in any way with your self-interest as a licensee.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

12. ACCESSORIES - WHAT CONSTITUTES - MINIATURE PHARMACIES ARE NOT TO BE RUN AS ADJUNCTS TO PACKAGED LIQUOR STORES - HEREIN OF "HEALTH WATERS" AND MINERAL SALTS.

Dear Sir:

Will you please inform me if I can sell in my store the following items, without violating any town or state regulations:

- 1 - Soda water
- 2 - Health Mineral Waters
- 3 - Health Mineral Salts
- 4 - Beer and Wine supplies as empty barrels and bottles, corks, malt, hops, and flavoring agents.

Sincerely yours,

JOSEPH HUDES

July 22, 1937.

Schmidt's Wine & Liquor, Inc.,
Union City, New Jersey.

Attention: Joseph Hudes, President

Gentlemen:

According to my records, you hold a plenary retail distribution license.

The Board of Commissioners of Union City has ordained that no plenary retail distribution license shall be issued to permit the sale of alcoholic beverages in or upon any premises in which any other mercantile business is carried on. (Section 4-B of the alcoholic beverage ordinance adopted February 6, 1936.)

This means that under your plenary retail distribution license you may sell only alcoholic beverages and such non-alcoholic beverages as are accessory thereto. Accessory beverages are those which are commonly used for mixing or in conjunction with alcoholic beverages. The sale of such accessories is not, within the contemplation of the Act, another mercantile business. Re Boonton, Bulletin 57, Item 17; also Bulletin 41, Item 2.

You may, therefore, sell club soda, ginger ale, seltzer, vichy and other accessory beverages in original containers for off-premises consumption.

You may not, however, sell "health mineral waters" or "mineral salts" if by these terms you mean preparations supposed to possess some therapeutic values or curative properties. They are not commonly consumed with alcoholic beverages. Taking salts in Scotch or citrate with chartreuse may, perhaps, be done on occasion by one who desires to get the dose over as quickly and palatably as possible. But time-saving is not the objective of a real accessory. And no one would ever dream of anything so formidable as a "chaser." The sale of such items, therefore, constitutes the transaction of other mercantile business. You may not run a miniature pharmacy as an adjunct to your package goods store.

Neither may you sell barrels, bottles, corks, malt, hops and flavoring agents. Not only are such sales the transaction of other mercantile business but also, if such items are advertised, designed or intended for use in the manufacture of alcoholic beverages for personal consumption or otherwise, in violation of the Act, their sale or possession for sale by you would be a misdemeanor.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

13. DISCIPLINARY PROCEEDINGS - SELLING DURING CLOSED HOURS ON SUNDAYS - GRADUATED PENALTIES TO TEACH THAT DISOBEDIENCE DOES NOT PAY.

July 22, 1937.

Mr. Dominick J. Livelli,
Township Clerk,
Lyndhurst, N. J.

Dear Mr. Livelli:

I have staff report and your certification of the proceedings before the Board of Commissioners of Lyndhurst against Samuel Yurkiewicz, charged with having sold alcoholic beverages during prohibited hours on Sunday in violation of your local regulation.

I note the licensee admitted the charge and that the license was suspended for a period of two days.

Please request the Board in future cases of this kind to inflict a more drastic penalty. Licensees who sell during forbidden hours are deadly conscious that they are violating the law. What your Board has done in this case is sizable and, therefore, is appreciated, but I have the firm conviction that these cheating licensees need to have their nose rubbed into the grindstone to make them realize that disobedience doesn't pay. Once that is appreciated, as it will be by the imposition of severe penalties, your Board will have far less work of this disagreeable kind to do.

I recommend in this type of case a penalty of five days' suspension for the first offense; double that for the second and revocation of the license for third offenders.

Cordially yours,

D. FREDERICK BURNETT
Commissioner

14. DISCIPLINARY PROCEEDINGS - STATE BEVERAGE DISTRIBUTORS -
SHARING THE PRIVILEGE OF THE LICENSE WITH INDEPENDENT OPERATORS.

In the Matter of Revocation)
Proceedings against)
LOUIS GALINKIN, INC.,)
676 South 12th Street,)
Newark, New Jersey)
Holder of SBD-License 133)
)

CONCLUSIONS
AND ORDER

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Jacob S. Glickenhau, Esq., Attorney for Licensee, Louis Galinkin, Inc.
Jerome B. McKenna, Esq., Attorney for the Department of Alcoholic Beverage Control

BY THE COMMISSIONER:

Notice was served upon licensee to show cause why its license should not be suspended or revoked under charges preferred against it; notice was also served upon the owner of the premises in question that said premises may be disqualified under Section 28 of the Control Act.

The charges against licensee were:

1. That on and prior to January 6, 1937, licensee knowingly aided and abetted one Norman Kremer to operate as a State Beverage Distributor under color of being a solicitor for licensee, contrary to Sections 2, 48 and 50 of the Control Act.
2. That licensee did the same with reference to one Abraham Weigensberg.
3. That in its statement filed with this Department, dated June 5, 1936, licensee erroneously, and contrary to "Rules Governing Identification of State Licensees and Their Employees," listed the aforesaid Norman Kremer and Abraham Weigensberg as employees and solicitors for licensee, whereas in fact each of those persons was the operator of his own independent business.

A hearing was duly held. Subsequently, licensee obtained a renewal of its State Beverage Distributor's license for the current term, subject, however, to the determination of this proceeding.

The essential facts were disclosed without dispute at the hearing.

During 1934 and 1935 the aforementioned Kremer was associated with his brother in operating a beer route under a State Beverage Distributor's license. Licensee claims that it purchased this business at the expiration of the 1934-1935 term for \$700, and that it retained Kremer to operate the route for licensee under a solicitor's permit.

From the time of alleged purchase of the route up to and including January 6, 1937, licensee and Kremer worked under the following arrangement:

Kremer supplied himself with beer at licensee's warehouse for delivery to the customers along the route. The beer which he thus took was receipted as "sold" to Kremer. Indeed, the statement of Louis Galinkin, the President of the licensee, given to Investigator Fred G. Pfeiffer of this Department, frankly admits that the practice was for licensee to "sell" the beer to Kremer.

After withdrawing the beer from licensee's warehouse, Kremer sold the same to customers along the route at a price of which he was the sole judge and determiner. His earnings were the difference between that price and the reduced wholesale price which licensee charged him for the beer.

Licensee's truck was used on the route. Its name was prominently displayed on that truck and presumably all customers were thus given notice that Kremer was purporting to act on behalf of licensee. However, Kremer paid licensee \$20 per week for the use of the truck, and also paid the day-to-day running expenses such as gas and oil.

Helping Kremer on the route was one Kermit King, listed in licensee's statement on file in this Department as one of the employees of licensee. This helper, however, was admittedly paid by Kremer.

Licensee contends that, despite the above facts, Kremer was actually an employee and solicitor. It points to the fact that licensee had purchased the route; that licensee had covered Kremer in its Workmen's Compensation insurance; that records of the customers were kept by licensee; that Kremer was not charged for any beer until he had made collections from the customers; and that the risk of loss from bad accounts or from accidental destruction of the beer en route fell upon licensee. It further contends that the method of payment to Kremer was devised merely as an incentive to Kremer to make sales.

There is no need to argue legal niceties in this matter. It is palpable that the net effect of the above arrangement was to put Kremer in the actual position of a State Beverage Distributor under the nominal status of solicitor for licensee. In fact and in substance, licensee leased or farmed out this branch of its business to Kremer and provided for a means of profit to itself in return. In practical parlance, licensee (as was admitted) sold the beer to Kremer, who in turn resold it to customers along the route.

Such an arrangement involved a violation of licensee's State Beverage Distributor's license. Section 12(2c.) of the Control Act, does not permit licensee to sell to any wholesalers or to unlicensed retailers. It required that Kremer obtain a State Beverage Distributor's license. Instead, he operated a State Beverage Distributor's business (a gross of \$500 and a net of at least \$50 per week) under a \$5.00 solicitor's permit. The State was deprived of a State Beverage Distributor's fee of \$500 per annum; all legitimate State Beverage Distributors were subjected to unfair competition from this distributor who thus dodged payment of the requisite fee.

Weigensberg stands on a similar footing, although on a reduced scale. Licensee claims that Weigensberg was employed by it to operate one of its soda water and beer routes. He was paid a straight salary of \$7.00 per week for servicing customers on the route with soda water. But his arrangement with the licensee was similar to Kremer's respecting the beer which was sold along the route.

I find licensee guilty of the first and second charges. Therefore, I find it guilty of the third charge, having falsely listed Kremer and Weigensberg as mere employees and solicitors.

Licensee contends that if its arrangement with Kremer and Weigensberg on and prior to January 6, 1937 in effect constituted them as State Beverage Distributors, such a result was not craftily or consciously intended. On notice on January 6, 1937 that the arrangement might be illegal, licensee immediately installed a complete set of books to reflect its structure in detail, and at once put Kremer and Weigensberg on a straight salary basis.

Perhaps there was no deliberate intent consciously to violate the law. However, it is essential to destroy at the outset any notion that such an arrangement may be a profitable resort by which to circumvent the necessity of obtaining a State Beverage Distributor's license until caught.

Since this case is one of first impression, and since licensee corrected its mistake immediately on notice, I shall not inflict the penalty which hereafter will be called for by this type of violation.

Accordingly, it is on this 22nd day of July, 1937,

ORDERED that the State Beverage Distributor's license #133 heretofore issued to and presently held by Louis Galinkin, Inc. be and is hereby suspended for seven (7) days, effective the 25th day of July, 1937.

The proceedings against the owner are hereby dismissed.

D. FREDERICK BURNETT
Commissioner

- 15 DISCIPLINARY PROCEEDINGS - SELLING DURING CLOSED HOURS ON SUNDAY AND EMPLOYMENT OF PINCH-HITTING BARTENDER - 30 DAY PENALTY SHOWS DETERMINATION TO ENFORCE LAW IN MANNER TO COMMAND RESPECT

July 22, 1937.

Mr. R. C. Baer,
Township Clerk of Gloucester,
Blackwood, R.D., New Jersey

Dear Mr. Baer:

I have staff report and your certification of the proceedings before the Township Committee of Gloucester against Mae Gatliff, t/a The Three Pines Inn, charged with having sold alcoholic beverages on Sunday during prohibited hours and having employed on or about the licensed premises disqualified persons.

I note that the licensee pleaded guilty to the charge of having sold alcoholic beverages during the prohibited hours and that she was adjudicated guilty on the other charge; that the judgment of the Township Committee was that her license be suspended for a period of thirty (30) days.

That certainly is a substantial penalty and should bring home in no uncertain manner the fact that your Township Committee is determined that the law and the regulations will be enforced in manner to command respect.

Please convey to the members of your Committee my great appreciation.

Sincerely yours,

D. FREDERICK BURNETT
Commissioner

16 ELECTIONS - LICENSED PREMISES - LIMITED EXTENT TO WHICH LICENSED PREMISES MAY BE USED FOR POLLING PLACES - THE REVISED RULE.

My dear Commissioner Burnett:

I have taken up your letter of June 22, 1937 and the bulletins you sent me therewith with the Utspanning Troch Ynspanning, an association not for pecuniary profit, located at Church Street, Haledon, N. J. and whose premises are affected by your ruling.

Utspanning Troch Ynspanning is a mutual benefit organization composed of Hollanders and has a membership of about 200. They own property known as Guild Hall, Church Street, Haledon, N. J. It is a two-story structure built into a hillside. The first floor is level with the ground at the entrance and the remainder of it is built into the hill. The floor above is a large hall with a stage at one end. The translation of Utspanning Troch Ynspanning is "Recreation Through Effort" and the organization holds theatrical performances and socials by its own members and other like affairs in the building. The bar is located on the ground floor. The entrance to the second floor is up a wide stairway outside the building. The room where the liquor is kept and sold is open and used only when social affairs are held in the building. The hall on the second floor has for many years past been used as a polling place because there is plenty of room, light and air, it is in the center of the municipality and is accessible to everyone in the election district. The place where the liquor is kept and sold is never opened on election day and, as I have before stated, is never used, except when affairs are held in the Hall, nor is a stairway in the interior of the building from the second floor to the first floor open any time other than when the Hall is used for social affairs.

In view of this, and because this organization needs the rent it receives for the hall, I respectfully ask you to reconsider the ruling you gave Mr. Alexander Clifford, Clerk of the Borough of Haledon. None of the bulletins issued by you seem to apply to situations analogous to the Guild Hall situation in Haledon. If there is any further information you desire, I am at your service.

Respectfully yours,

PETER HOFSTRA

July 23, 1937.

Peter Hofstra, Esq.,
Paterson, N. J.

Dear Mr. Hofstra:

Your interesting letter in behalf of Utspanning Troch Ynspanning impels me to review the rulings previously made.

In re Lehman, Bulletin 146, Item 1, I said:
"A bar is no place for a poll. To be sure, all bars are closed by State regulation while the polls are open. But when the polls are closed, the count begins. A taproom is not the proper setting for such a purpose."

In re Lisa, Bulletin 166, Item 12, I instructed the Clerk of Chesilhurst Borough: "Do not, however, select any premises licensed to sell liquor for a polling place in the future. Regardless of its reputation for good conduct or of facilities to separate the part used as the polling place from the premises proper, a liquor store or tavern is no place to hold an election or tabulate the resulting vote."

In re Clifford, Bulletin 189, Item 10, I said:
"The rule applies to all licensed premises and to those operated under club licenses as well as to those holding the regular commercial licenses."

"The only fair way is to apply the rule uniformly to all liquor licensees irrespective of the particular kind of license they happen to hold."

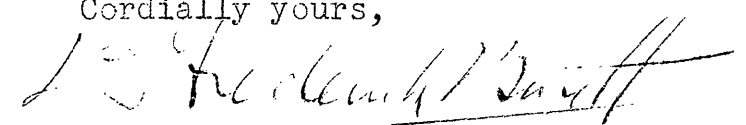
The object of the rule was to prevent the use of bar rooms and taverns for polling places. When it appears, however, as in your case, that the hall in which the voting takes place is on a different floor from the bar room and there is no connection between the two rooms saving incidental access due to the fact that they happen to be in the same building, the reason for the rule fades.

Hence the rule is hereby modified to the following extent, viz: A hall or room in which there is no bar, may be used for a polling place despite the fact that such hall or room is technically a part of a licensed premises, providing, however, that no alcoholic beverages are sold, served or consumed upon any part of the licensed premises while the polls are open and until after the votes shall have been counted and tabulated, and the election officers shall have fully completed their duties in respect to the election, and, in any event, during any part of the twenty-four hours of the calendar day on which the election is held.

Any violation of the rule or of the conditions hereby imposed will subject the licensee to disciplinary proceedings to be conducted directly by the Department.

With best wishes for the continued prosperity and recreation of your good Hollanders, I am,

Cordially yours,


Commissioner

New Jersey State Library

Inspected by: E. E. B. ANDERSON and found O. K.
