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

BULLETIN 342 AUGUST 14, 1939.

1. APPELLATE DECISIONS - LICATA v. CAMDEN.

GAETANO LICATA,	:	
Appellant,	:	ON APPEAL
vs.	:	CONCLUSIONS
MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF CAMDEN,	:	
Respondent.	:	

Gene R. Mariano, Esq. and Feder & Rinzler, by Joseph A. Feder Esq., Attorneys for Appellant.
Edward V. Martino, Esq., Attorney for Respondent.
Frank M. Lario, Esq., Attorney for South Jersey Retail Liquor Dealers Association, an Objector.
Harry M. Mendell, Esq., Attorney for New Jersey Licensed Beverage Association, an Objector.

BY THE COMMISSIONER:

Appellant appeals from denial of a transfer of his plenary retail consumption license from 417-419 Walnut Street to 508 Federal Street, Camden.

The answer of respondent alleges that the transfer was denied because (1) to license the premises would depreciate the value of property in the vicinity; (2) an additional licensed premises in the vicinity would cause a crowded condition, dangerous to life and limb; (3) the vicinity was already adequately supplied with licensed premises; and (4) licensees in the vicinity would be irreparably injured in the profitable conduct of their business.

At the hearing, the South Jersey Retail Liquor Dealers Association moved to be admitted as a party respondent. Decision on the motion was reserved and the hearing proceeded, the association being afforded the status of an objector. The motion is denied. No rights of that association are involved. It was, of course, entitled to be heard as an objector.

The premises at 508 Federal Street, sought to be licensed, at the time of the hearing was a vacant store in a solid block of stores in a business district opposite the Camden County Court House and City Hall Plaza. The only evidence of depreciation of property values was that offered by a merchant operating a men's clothing store at 518 Federal Street, who voiced the objection of the Association of Businessmen (which has 16 members) and who personally thought there were sufficient saloons and that too many saloons on any street did it no good. Without pausing to determine whether depreciation of property values constitutes a valid reason for denial of a license or a transfer, I find that no substantial evidence was produced that the value of neighboring property would be depreciated.

The contention that another licensed premises in the vicinity would cause a crowded condition, dangerous to life and limb, was completely unsupported by any testimony. It, too, must be disregarded.

The vicinity does appear adequately supplied with licensed premises. Had the evidence shown that respondent was making a bona fide attempt to diminish the number of licensed places in that section of the city, the denial would be sustained on that ground. However, it appears that three days after appellant's application was denied, a consumption license was granted for premises around the corner at 12 Hudson Street; and that after the hearing herein, a transfer of a consumption license was granted to premises at 517 Market Street. While it is proper to refuse to license premises located in a vicinity already adequately supplied, nevertheless, where the issuing authority subsequent to denial of one application issues additional licenses in the same vicinity, the contention that the licensing of additional premises is socially undesirable falls of its own weight. Karpf vs. Way, Bulletin 81, item 15, DeVito vs. North Arlington, Bulletin 160, item 1. It is true that both places were formerly licensed premises, but that fact entitles them to no preference over other places. Re Konesky, Bulletin 217, item 7. Cf. Buechler vs. Perth Amboy, Bulletin 339, item 6. The subsequent licensing of these two premises in the immediate vicinity is sufficient to show that respondent has arbitrarily discriminated against appellant.

The contention that the holders of existing licenses in the vicinity would be irreparably injured in the profitable conduct of their businesses, even if true, is not a valid ground for denial of a license. Matters of economics are of no proper concern to issuing authorities. Great Atlantic and Pacific Tea Company vs. Conover, Bulletin 153, item 12, affirmed Conover vs. Burnett, (New Jersey Supreme Court 1937), Bulletin 201, item 4.

At the hearing, respondent amended its Answer to set forth the further ground that the application for transfer was made by appellant, not for himself, but on behalf of some other individual or corporation.

The evidence shows that Gaetano Licata operates a large grocery store located on the first floor of the premises known as 419-421 Walnut Street, Camden; that he also conducts a restaurant, with a separate entrance, on the second floor of said premises, for which he holds the license referred to herein. His grocery business is large and he intends to continue the conduct thereof if the transfer is granted. His restaurant business apparently has not been very successful because he testified that he closed said business during the months of May 1938, June 1938, July 1938 and August 1938, and did not apply for a renewal of his license until August 1938. He testified that his negotiations with reference to 508 Federal Street were conducted with E. George Aaron, an attorney in the City of Camden who was then President and Treasurer of Choice Liquors, Inc., a corporation which had previously made an application to transfer a plenary retail distribution license from a third person to itself for premises on North Sixth Street, Camden, which application was withdrawn after a hearing. Licata says that he made a verbal agreement with George Aaron whereby he was to lease the premises at 508 Federal Street for six months at a rental of Twelve Hundred Dollars ($1200.). It appears from the evidence that the premises known as 508 Federal Street are owned by Bernhard C. Foulon and Lillian S. Foulon, his wife; that, on October 22, 1938,

they leased said premises to Choice Liquors, Inc., a New Jersey corporation for the term of three years from November 1, 1938, and that said lease contains the following covenant:

> "And the said party of the second part doth hereby covenant and agree to and with the said party of the first part to pay the said rent in the proportions and upon the conditions aforesaid; and not to assign this lease (reserving, however, to the party of the second part the right to sub-let the above described premises to any individual, association, partnership or corporation holding a Plenary Retail Consumption License, subject, however to the limitation hereinafter more fully set forth to the sale of alcoholic beverages in original containers for consumption off the licensed premises), and further agrees to observe the following, which are hereby agreed to be not only covenants but also rules and regulations governing said premises, viz: not to permit any person or persons, associations or corporations, to occupy the same or any part thereof, nor use or permit any part thereof to be used for any other purpose than as a business for the sale of alcoholic beverages for which a Plenary Retail Consumption License has been issued, provided, however, that such alcoholic beverages sold pursuant to such license shall be sold only in original containers for consumption off the licensed premises and that there shall be no alcoholic beverages sold for consumption on the above described premises; ***"

At the hearing Licata testified that he had never seen said lease, and that the application for the transfer considered herein was prepared and signed in the office of E. George Aaron. An examination of said application shows that the name of the lessor of the premises to which the license was sought to be transferred is given as Choice Liquors, Inc. Licata also testified that, while he intends to continue conducting his grocery business, he plans to have his son operate the licensed premises if the transfer is granted.

On the record presented, there are grave questions (1) whether Licata has any actual or active interest in the licensed business for which transfer is appealed; (2) whether the application for transfer was made for his own benefit or on behalf of Choice Liquors, Inc., and (3) whether or not, in view of the conditions of the lease and under the alleged oral subletting, Licata has any enforceable right to possession of the premises to which the transfer was sought. These questions are not resolved by the testimony. The burden of proof is on appellant. That burden has not been discharged so far as the amended answer of respondent is concerned.

The action of respondent is therefore affirmed.

D. FREDERICK BURNETT,
Commissioner.

Dated: August 8, 1939.

2. INDIRECT SALES OF ALCOHOLIC BEVERAGES - NO SALE WHEN SERVICE BY SOCIAL ORGANIZATION IS ABSOLUTELY GRATUITOUS - BUT NO DISCRIMINATION MAY BE MADE BASED ON PER CAPITA CONSUMPTION - HEREIN OF THE DOG HOUSE CLUB.

Dear Sir:

The Dog House Club of Springfield - Kennel No. 1 - social organization with a New Jersey charter - would appreciate a ruling on the following:

This club is conducting its meetings in a club room of its own, and wishes to know if it is within the law in purchasing beer from a licensed dealer, and serving same to its members, at regular, or special meetings?

This is a non-profit organization, and the money spent for the beer would come from the club's treasury, and would be served to the members, gratis.

The reason for requesting this ruling from you is our desire to heartily cooperate with your administration in every respect. We hold no social affairs at which beer would be sold — this is merely for the consumption of the members, during the meetings, regular or special.

Very truly yours,
Dog House Club of Springfield -
Kennel No. 1.
Murray W. Koonz,
President.

August 9, 1939

The Dog House Club of Springfield,
Kennel No. 1,
Box 418,
Springfield, N. J.

Gentlemen:

So long as the service of the beer is absolutely gratuitous in every respect and no fee is charged therefor directly or indirectly, by way of admission, assessment, or other debit, the club may purchase beer with its common funds and permit its members to consume it in the club quarters.

It therefore would not do at all for the kennel to discriminate and charge heavier dues, based on per capita consumption, to setters in the Condolence and Indignation sections in favor of pointers tapering off with a view to graduation and reinstatement at home.

While we Americans must have a club for it, and a public purpose is doubtlessly served by affording refugee husbands clean straw and temporary haven, care must be taken scrupulously to abide by the law and thereby avoid unwelcome visitations by its retrievers.

I should certainly dislike to have to padlock a Dog House!

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

3. WAREHOUSING AND TRANSPORTATION OF HOUSEHOLD GOODS BY STORAGE COMPANIES OR OTHER CARRIERS - ILLEGAL WITHOUT APPROPRIATE LICENSES.

Dear Sir:

Our business is that of storing general used household furniture. On our moving and storage contracts is included the following:

"Intoxicating liquors will not be handled unless fully covered by proper Government permits."

We have no interest in transporting or storage of alcoholic beverages but we wonder if some of it may be packed in barrels and boxes with general household effects prior to the moving by the owner.

We are interested in the proper procedure in this connection and wonder if you have any suggestions to offer or if our contract as it stands is sufficient.

Of course, we have no right of entry into barrels, boxes, chests, trunks, etc.

We would appreciate your opinion.

Very truly yours,
South Orange Storage Corporation.

August 8, 1939

South Orange Storage Corporation,
South Orange, N. J.

Gentlemen:

I have before me yours of June 14th and understand that yo do not hold any alcoholic beverage license, either as a transporter or warehouseman.

R. S. 33:1-2, so far as pertinent to your inquiry, provide

"It shall be unlawful to.....transport, warehouse, ...alcoholic beverages in this State, except pursuant to and within the terms of a license, or as otherwise expressly authorized,...."

The only exemption the law affords for transportation without a license, or permit, is that further set forth in the sam section, viz.:

"alcoholic beverages intended in good faith to be used solely for personal consumption may be transported in any vehicle from a point within this state to the extent of, not exceeding one-half barrel, or two cases containing not in excess of twenty-four quarts in all, of beer, ale or porter, and five gallons of wine and twelve quarts of other alcoholic beverages within any consecutive period of twenty-four hours, and from a point outside this state to the extent of, not exceeding one-fourth barrel or one case containing not in excess of twelve quarts in all, of beer, ale or porter, and one gallon of wine and one gallon of other alcoholic beverages within any consecutive period of twenty-four hours."

It is to be noted that transportation of alcoholic beverages is permissible, within the above quotas, and without a license, but solely for personal consumption. That means only by individuals transporting for their own personal use. You, as a mover of household effects, do not transport for personal consumption but as a carrier for hire and that requires a transportation license. Re Holman, Bulletin 8, Item 6; Re Spanarkel, Bulletin 332, Item 12.

The warehousing of alcoholic beverages without a license is also unlawful. Alcoholic beverages may be stored or warehoused only pursuant to or within the terms of a public warehouse license. True, in Re Holman, supra, I ruled, on December 19, 1933, that no license was required by a warehouse to store alcoholic beverages in conjunction with or separate from household goods, but that was before the provision was made for a warehouse license by the Laws of 1934, Chapter 44, now R. S. 33:1-14.

The law, as now amended, makes both the transportation and the warehousing of the alcoholic beverages without proper license a misdemeanor, punishable by fine of not less than $100.00 nor more than $1,000.00, or imprisonment for not less than thirty days nor more than three years, or both, in the discretion of the court. R. S. 33:1-50.

The clause in your moving and storage contract that "intoxicating liquors will not be handled unless fully covered by proper Government permits", while evidence of your good faith, is of no real protection. Under the law, it is not necessary, to constitute a violation, that you have knowledge that you are warehousing or transporting alcoholic beverages.

You must, therefore, take every precaution and make every inquiry and, if there are alcoholic beverages in the inventory, refuse to transport and warehouse them unless you have both a transportation and a warehouse license.

Acquisition of such licenses by you is your only real protection. The cost is not high - $200.00 and $100.00 respectively. If interested, I shall be glad to send you application forms and detail.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

4. SEIZURES - CONFISCATION PROCEEDINGS - PADLOCKING DEFERRED.

In the Matter of the Seizure, on May 26, 1939, of a still on a farm occupied by Matthew Smith, located on the Evesham Road, near Hollywood Tabernacle Road, in the Township of Delaware, County of Camden and State of New Jersey.	ORDER

BY THE COMMISSIONER:

By Conclusions and Order entered July 5, 1939, all buildings on premises occupied by Matthew Smith on Evesham Road, near Hollywood Tabernacle Road, in the Township of Delaware, were to be padlocked on August 5, 1939.

On July 10, 1939, investigators of this Department notified the occupants that they would return on August 5, 1939 to padlock the premises and Matthew Smith's wife then advised them that the premises would be vacated before the time fixed. The investigators now report that they returned on August 5, 1939, padlocked an outbuilding, but did not padlock the dwelling because Mrs. Smith informed them that her family is on relief and that the Relief authorities, although notified, had not as yet secured other quarters for them.

Sufficient cause appearing, padlocking of the dwelling will be deferred from August 5, 1939 until September 5, 1939. No further extension will be granted.

Dated: August 9, 1939.

D. FREDERICK BURNETT,
Commissioner.

5. DISCIPLINARY PROCEEDINGS - NEWARK LICENSEES - DEFENDANTS FOUND NOT GUILTY.

In the Matter of Disciplinary Proceedings against

SAMPSON LIBRIZZI and FANNIE LIBRIZZI,
421 High Street,
Newark, New Jersey,

Holders of Plenary Retail Consumption License No. C-981, heretofore issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS AND ORDER

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Charles S. Gansler, Esq., Attorney for Licensee.
Samuel B. Helfand, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Charges were served on the licensees alleging that (1) on or about January 6, 1939 and on divers days prior thereto, they employed a female, Johanna _____, to tend bar and to sell and serve alcoholic beverages to patrons, contrary to a resolution of the Municipal Board of Alcoholic Beverage Control of the City of Newark, and (2) on said dates they knowingly employed said Johanna _____, who had not resided in New Jersey for five years preceding such employment, contrary to R. S. 33:1-26 and Rule 1 of State Regulations No. 11.

As to Charge (1): Johanna _____ testified that, on January 6, 1939, and for eight months prior thereto, she had been employed on the licensees' premises as a cook and waitress. She denied that she had served alcoholic beverages to patrons on January 6, 1939, although she admitted that, on two occasions during the eight months of her employment, she had served drinks to her own friends. She was unable to recall whether these services were made long ago or recently. She testified that she had received definite instructions at the time of her employment not to serve alcoholic beverages.

Licensee, Sampson Librizzi, testified that, at the time he engaged Johanna, he instructed her not to sell or serve any liquor; that, to the best of his knowledge, she had never served liquor; that, when a patron ordered liquor, he or his bartender would take the liquor to the table.

As to Charge (2): Johanna testified that she first came to Newark from Rochester in 1933; that she remained here six months and then returned to Rochester; that thereafter she lived in Newark for three or four months in 1935 and continuously since 1936. Whether she came to Newark in 1933, animo manendi, and thus established her domicil here at that time, is a question of intent on her part as to which the record is not clear. In any event, Sampson Librizzi testified that, at the time he employed Johanna, she told him she had lived in New Jersey all her life and had worked in three or four taverns. She admits that, at that time, she told Mr. Librizzi that she had lived here all her life. The evidence is insufficient to show that the licensees knowingly employed an unqualified person.

I find the defendants not guilty on each charge.

D. FREDERICK BURNETT,
Commissioner.

Dated: August 9, 1939.

6. ALCOHOL - SPECIAL PERMITS - WHEN NOT NECESSARY.

Dear Sir:

We are engaged in a rectifying and blending business and as such we have been selling alcohol in various sized containers to registered pharmacists for pharmaceutical purposes, and to extract manufacturers. In view of your new regulations, kindly inform us whether it will be necessary for us to obtain a special permit to sell alcohol that will be used for non-beverage purposes to registered pharmacists, extract manufacturers, doctors, dentists and to holders of permits for the sale of alcohol for non-beverage purposes.

Your prompt reply will be greatly appreciated as we are in a quandary as to proceeding in the sale of alcohol to our customers.

Very truly yours,
Federal Products Co.

August 10, 1939

Federal Products Co.,
Newark, N. J.

Gentlemen:

Enclosed is copy of Re New Legislation, Bulletin 333, Item 4, which sets forth the provisions of Chapter 173, P. L. 1939, prohibiting the possession or sale of alcohol at retail to consumers, except pursuant to special permit.

You will note that Section 3 expressly exempts alcohol to be used by registered pharmacists for the manufacture of United States Pharmacopoeia and National Formulary preparations and for the compounding of physicians' original prescriptions.

In addition, R. S. 33:1-30 (Control Act, Sec. 27) sets forth that no provision of this chapter shall apply to alcohol intended for and actually used in the manufacture of flavoring extracts, patent, proprietary, medicinal, pharmaceutical and antiseptic preparations, when such products are unfit in fact for beverage purposes.

Hence, no permit is required for you to sell alcohol to pharmacists within the exemptions provided in Chapter 173 or to manufacturers of flavoring extracts and to physicians and dentists when the alcohol is intended for and actually used in the manufacture of products unfit for beverage purposes.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

7. DISCIPLINARY PROCEEDINGS - GAMBLING - SLOT MACHINES

In the Matter of Disciplinary Proceedings against)

MORRISTOWN AERIE 1311, FRATERNAL ORDER OF EAGLES, INC., 14 High Street, Morristown, New Jersey,) CONCLUSIONS AND ORDER

Holder of Club License CB-113, issued by the State Commissioner of Alcoholic Beverage Control.)

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Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.
F. Herbert Cole, Chairman of Board of Trustees, for Licensee.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of possession of slot machines, contrary to Rule 8 of State Regulations No. 20.

The usual penalty for this violation is five days.

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

Accordingly, it is, on this 11th day of August, 1939,

ORDERED, that Club License CB-113, heretofore issued to Morristown Aerie 1311, Fraternal Order of Eagles, Inc., by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for a period of three (3) days, commencing August 14, 1939, at 2:00 A.M. (Daylight Saving Time).

D. FREDERICK BURNETT,
Commissioner.

8. ALCOHOL - SALES TO CONSUMERS - PERMIT TO SELL DENIED.

August 10, 1939

Sinder's Cut Rate Stores,
419 Jackson Avenue,
Jersey City, N. J.

Gentlemen:

The Laws of 1939, Chapter 173, was approved by Governor Moore on July 11, 1939 and became effective immediately. In substance, it provides that retail licensees shall not sell or possess alcohol and that no person shall sell alcohol at retail to consumers except pursuant to special permit issued by the State Commissioner.

Despite this law, a purchase of alcohol was made at your store from one of your clerks by one of my men on July 25, 1939.

I have before me your statement, made and signed that day, reading:

> "Samuel Gold, investigator for the New Jersey State Department of Alcoholic Beverage Control, purchased a one pint bottle of Dobbs alcohol from my clerk Ingabord Nielson for ninety-seven cents because I had not instructed my clerks not to sell alcohol. The purchase was made this day, July 25, 1939. My explanation for this is that when I first heard about the bill prohibiting sales of alcohol I immediately took all alcohol off my shelves and put it in the storeroom in my basement. I then wrote a letter to Commissioner Burnett asking him for any information he could give me relative to the sale of alcohol. A day or so later I received his reply, and in reading it I misinterpreted it and was under the impression that I was permitted to sell alcohol until further notice was received. I knew that I could not make any additional purchases of alcohol. I then put the alcohol on hand back in stock. Since the time of receiving the letter from the Commissioner and this date I have sold about eighteen pints of alcohol. Now my stock consists of thirty pints of alcohol.
>
> "Since Senior Inspector Lurie explained the letter to me personally on this date I realize that I was wrong and did unknowingly violate the law."

I also have before me yours of July 25th, in which you said:

> "I wish to take this opportunity in advising you that when I received your letter on July 21st, in answer to my letter about the sale of alcohol, I was of the impression that we could continue selling alcohol until we were notified to stop."

Now it is true that you did write me on July 19th. This is what you said:

"Through numerous salesmen we have been informed about this new Alcohol rule, whereby no retailer will be permitted to handle same.

"Will you kindly let us know what we are to do with the alcohol we now have on hand?"

To this I replied, on July 21st:

"I have your inquiry.

"Herewith copy of Re Greenberg, Bulletin 334, Item 11, and of each of the enclosures mentioned therein. This applies to every licensee and pharmacist.

"Kindly be governed accordingly. You will be duly notified and given full information when the forms are ready."

Re Greenberg, supra, states, in plain language, that the alcohol bill had been signed and was then effective. It reads:

"As regards alcohol now on hand: Of course, you cannot sell it unless and until a special permit is issued to you. To do so would be a misdemeanor. Technically, it is against the strict wording of the statute for you, as a licensee, even to possess it upon licensed premises. You have shown your good faith, however, in promptly reporting to the State Commissioner such possession. The law was not intended to work a hardship and hence, providing that you do not sell or offer any alcohol for sale until you receive a special permit, no charges will be brought against you based solely on your present possession."

The two enclosures mentioned in Re Greenberg and which were sent to you were:

1. A copy of the complete text of the new alcohol law, and

2. A copy of the ruling in Re Gillbard, Bulletin 333, Item 5, which held that permits, when issued, would be available to pharmacists as well as to liquor licensees.

In view of this plain record, I see no reasonable way in which it could possibly be misinterpreted, or how you could get the impression that you were permitted to sell alcohol until further notice.

If you could glean such comforting, albeit wholly erroneous, impressions from such simple language, it is clear that you will not be able to understand the more complicated rules and regulations under which special permits for the sale and possession of alcohol are granted.

I shall accept your statement of inability to understand what the law and the notices concerning it meant, at full face value, notwithstanding that all the other licensees in the State read it aright, and shall therefore not institute proceedings under the law, which provides that any retail licensee who sells, offers for sale or possesses alcohol in violation of the Act shall be punished by a fine of not less than $100.00 and not more than $1,000.00, or by imprisonment of not less than thirty days and not more than three years, or by both fine and imprisonment in the

discretion of the court, but I am entering order herewith that, in view of your violation of the law and the foregoing record, no special permit for the sale and possession of alcohol be issued to you for a period of two years, expiring July 25,1941.

As to the alcohol you now have on hand, you may apply for a special disposal permit, as per form of application enclosed, which, if granted, will be on terms that the alcohol is to be disposed of in one lot to another retailer qualified to possess and sell, or to a manufacturer or wholesaler other than the one from whom the alcohol was purchased or to a wholesaler of pharmaceuticals, or to some other person qualified under the law to make the purchase.

In the alternative, you may return the alcohol to the manufacturer or wholesaler from whom you purchased it or remove it to your own home or anywhere else than premises licensed for the sale of liquor, and this without any disposal permit, and therefore without any expense so far as this Department is concerned, provided the return or the removal is effected prior to September 1, 1939.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

9. DISCIPLINARY PROCEEDINGS - PROCEDURE - JOINDER OF LANDLORD AS PARTY DEFENDANT WITH LICENSEE TENANT - WHEN INAPPROPRIATE.

August 12, 1939

Klemmer Kalteissen, Esq.,
North Brunswick Township Counsel,
New Brunswick, N. J.

My dear Mr. Kalteissen:

I have before me your letter of August 8th re disciplinary proceedings against William Green.

It is not imperative that notice of charges in disciplinary proceedings be served upon the owner of the licensed premises in all cases. The owner should be notified only in those cases where he prima facie appears culpable in order that, if he is found guilty after a trial, the issuing authority might, if they deemed it appropriate, disqualify the premises as well as suspend or revoke the license.

Hence, if there is nothing in the facts set forth in the transmitted synopsis which would indicate that the owner knew or ought to have known or was in any way responsible for what the licensee did, there is no good reason for making him a party to the disciplinary proceedings.

Of course, unless charges are brought against the owner and he is given an opportunity to defend himself, no disqualification of the premises may be entered even if the license is revoked, since a revocation operates only against the person and not against the place.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

10. PUBLIC NOTICE - THE NOISE NUISANCE

Each year, particularly during the heated term, I receive many letters complaining of excessive noise from nearby taverns.

They tell me of tenants who have been compelled to move; of sleepless nights, shattered nerves, and illness that will not mend from lack of quiet and sufficient rest.

Regulations 20, Rule 5, prohibits licensees from allowing upon licensed premises any disturbances, brawls or unnecessary noises, or permitting the place to be conducted in such manner as to become a nuisance. Violation is cause for suspension or revocation.

The practical question is: What can those who sit in the gloom and suffer do about it?

If it is a brawl, call the police and they'll quell it in zero flat, for there is plenty law in the end of a night stick.

All too often, however, the trouble is not a fight or anything ugly, but rather shrieks, shouts, impromptu vocalizations and the grumbles and groans of music machines in distress — quiet, perhaps, for a while, only to flare and blare louder than ever — a more or less continuous hubbub of the release and escape mechanism working on high, good-naturedly intended but irritating beyond compare and utterly devastating to the nerves and temper of involuntary auditors.

In such cases it is idle to call the police. There is no objective test by which they can determine the degree of noise. Their very presence has a quieting effect. Bated breath is not conducive to barroom ebullitions. Besides, the police have many other duties.

Difficult and delicate as the adjustment is and conscious that the noise issue is a headache for anyone who tackles it, I have no hesitancy in saying that I do not purpose to allow licensed places to be conducted in such manner as to become a nuisance.

I shall entertain your complaint provided you give me your name and address and indicate your willingness to stand up and testify if it becomes necessary. Thereupon an effort will be made to settle the matter amicably and informally and with reasonable satisfaction to both sides. I believe it can be done if I can bring the parties together and get them to talk over the situation calmly and fairly and make each realize that we must live and let live and give and take; that some noise is incident to the conduct of any business; that on the other hand there is a time and place for it and there is a reasonable hour at which good neighbors should be able to enjoy their sleep.

In all cases other than noise complaints, the name of the informant is never given out and all signed complaints are treated in strictest confidence. If verified, it is the men on the staff who gather the evidence and testify.

But this does not hold good in noise complaints. Noise is elusive. It differs from other types of violations. It is purely subjective, that is, offensive only to the people who actually hear it. If the neighbors are satisfied, so am I. Hence, if those who say they suffer from noise are unwilling to allow their names to be disclosed, there is no use in writing me. Anonymous complaints will, therefore, go into the waste basket. So will those with faked names and addresses if such proves the fact upon preliminary investigation.

The full cooperative forces of this Department will, however, be given without stint to sincere complainants upon compliance with the foregoing conditions. If the matter cannot be settled informally, I shall then institute disciplinary proceedings to determine whether the complainants are supersensitive or otherwise unreasonable in their demands, or whether it is the licensee who is at fault. If I find the latter, then I shall impose stringent conditions upon the license or else suspend or revoke it.

August 11, 1939.

D. FREDERICK BURNETT,
Commissioner.

11. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED.

In the Matter of the Seizure of a still in a section of woodland north of Corsons Branch Road, in Evesham Township, County of Burlington and State of New Jersey.

ON HEARING
CONCLUSIONS AND ORDER

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

BY THE COMMISSIONER:

On July 7, 1939, investigators of this Department discovered an unregistered still deep in the woodland north of Corsons Branch Road, Evesham Township, Burlington County. The still was not being operated at the time of the seizure, and hence no arrests were made. Investigators thereupon seized as unlawful property, pursuant to R. S. Title 33, Chapter 2, the property listed in Schedule "A" annexed hereto.

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

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

August 12, 1939.

D. FREDERICK BURNETT,
Commissioner.

SCHEDULE "A"

1 steel cooker	1 Gould pump
1 steel preheater	15 barrels of mash
1 copper dephlegmator	1 5-gallon can alcohol
1 set copper coils	19 empty 5-gallon cans

Miscellaneous personal property

12. ALCOHOL -- SALES TO CONSUMERS -- SPECIAL PERMITS -- WINDOW DISPLAYS, SIGNS AND ADVERTISING.

Dear Commissioner:

Inasmuch as we are now permitted under the rules and regulations set up by your department to sell alcohol for non-beverage purposes at our store at 77 Jones Street, Newark, we would appreciate your advising us whether it is permissible in that store to display alcohol in the windows. Also is it permissible to place a small sign in the window stating the fact that the store is licensed to make sales of alcohol for medicinal purposes? Also, would this same fact be permissible for insertion in connection with our advertising?

We will do nothing along any of these lines unless specifically permitted by you, and if permitted, in accordance with the rules and regulations prescribed by you.

Yours very truly,

ALFRED EISEN
WESTON & CO., INC.

August 12, 1939.

Mr. Alfred Eisen,
c/o Weston & Co.,
77 Jones Street,
Newark, N. J.

Dear Mr. Eisen:

I have yours of the 11th and appreciate your forebearance.

The objective of the legislation and the rules is to wipe out the home manufacture and rectification of alcoholic beverages.

Hence, do not make any window display of such alcohol. It is inappropriate with a display of beverages and only serves to keep alive the very temptation which it is the design to abolish.

By the same token, I do not wish any window or other signs declaring, however true the fact, that the store is licensed to sell alcohol for medicinal purposes. Such signs only beget a sardonic reaction and serve to emphasize the very thing I am trying to extinguish.

Anyone sincerely interested in learning where he can buy alcohol for non-beverage purposes will be given, promptly and without expense, a complete list of the names and addresses

of all places licensed in the particular municipality in which the inquirer resides. Such lists have already been made up and are now available and will be added to from time to time as additional permits for the sale of alcohol are issued.

I have no objection to newspaper or other appropriate advertising media declaring the fact that your store has been licensed to make sales of alcohol for medicinal or other non-beverage purposes, provided such advertising is not coupled with and is distinct from the advertising of alcoholic beverages.

Very truly yours,

Lewis J. McCorkle Burnett

Commissioner