

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

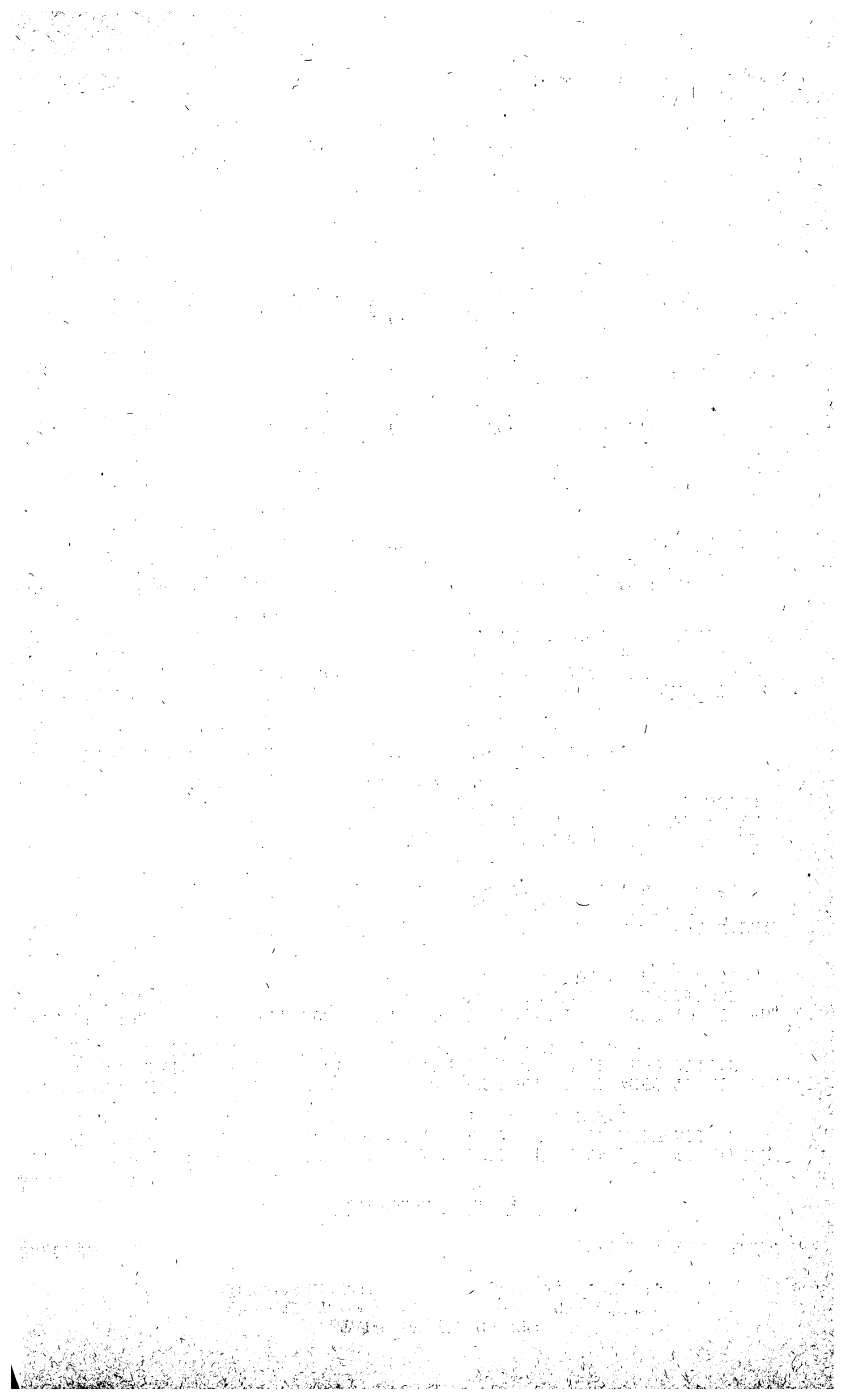
BULLETIN 649

FEBRUARY 1, 1945.

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

BULLETIN 649

FEBRUARY 1, 1945

I. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS,
IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS
NO. 20 - LICENSE SUSPENDED FOR A PERIOD OF 30 DAYS.

In the Matter of Disciplinary)
Proceedings against)

WALTER A. PAWELLA)
T/a ESSEX GRILL)
238 Essex Street)
Gloucester City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-19, issued by the)
Mayor and Common Council of the)
City of Gloucester City.)
-----)

Frank F. Neutze, Esq., Attorney for Defendant-Licensee.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded not guilty to charges alleging that, on September 15, 1944, and prior thereto, he sold, served and delivered alcoholic beverages to a minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

The minor testified that on September 15, 1944, when she was not quite sixteen years of age, she visited the tavern with her husband, a sailor in the U. S. Navy. They were each served several drinks of whiskey with beer chasers by the bartender. They then left and returned after being gone about an hour and a half, and the same bartender again served each of them several more whiskies with beer chasers. She further testified that she had been at the premises on numerous occasions ever since July, 1944 and was frequently served with alcoholic beverages. At no time was any inquiry made as to her age, although her appearance would not justify any higher estimate than that she was seventeen years old.

The minor's husband corroborated her testimony concerning the September 15th incident.

The only pertinent testimony offered on behalf of the defendant came from the bartender, who stated that he did not know whether the minor and her husband were at the tavern on September 15, 1944.

I find the defendant guilty as charged.

While these proceedings were pending, the defendant was served with further charges alleging that, on September 6, 1944, and prior thereto, he sold, served and delivered alcoholic beverages to another minor. At the hearing on the latter charges, the defendant appeared without a lawyer and pleaded not guilty. The minor here concerned, who is twenty years old, testified that on each of three consecutive Sundays in August 1944 she had been served a number of glasses of beer at the tavern by a waitress. On September 6, 1944, accompanied by a female companion, she again consumed about four

glasses of beer there. As to the latter occasion, and one prior time, her testimony was substantiated by that of her female companion.

The only defense to this charge was that the female companion, when subsequently taken to the premises by the ABC agents, failed to identify the waitress who had served them. This constitutes no defense since, irrespective of who made the service, the mere consumption of alcoholic beverages on the premises constitutes a violation of the Regulations. Further, there is considerable doubt whether the particular waitress who had made the service on September 6, 1944 actually confronted the witness on the occasion of her subsequent visit to the tavern.

In addition to the two separate charges here involved, an aggravating factor is the immaturity of the minor concerned in the original charge. A consideration of all of the circumstances warrants the imposition of a thirty-day penalty.

Accordingly, it is, on this 23rd day of January, 1945,

ORDERED, that Plenary Retail Consumption License C-19, issued by the Mayor and Common Council of the City of Gloucester City to Walter A. Pawella, t/a Essex Grill, for premises 238 Essex Street, Gloucester City, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 a.m. January 29, 1945, and terminating at 2:00 a.m. February 28, 1945.

ALFRED E. DRISCOLL
Commissioner.

2. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR A PERIOD OF 30 DAYS.

In the Matter of Disciplinary Proceedings against
JOHN GREEN
T/a GREEN'S CAFE
115 North Burlington Street
Gloucester City, N. J.,
Holder of Plenary Retail Consumption License C-12, issued by the Common Council of the City of Gloucester City.

CONCLUSIONS
AND ORDER

Rocco Palese, Esq., Attorney for Defendant-Licensee.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded not guilty to charges alleging that, on September 15, 1944 and prior thereto, he sold, served and delivered alcoholic beverages to a minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

The minor and her sailor husband, referred to in the preceding case (Re Pawella, Bulletin 649, Item 1), visited the premises on September 15, 1944. During the hour and one-half that they spent there, they were each served about six glasses of whiskey with beer chasers by one of the defendant's bartenders. No inquiry was made concerning the age of the minor. In addition, she testified that on several prior occasions she had been served beer either by a bartender or a waitress.

There is some question concerning the particular bartender who had made the service on September 15th. The minor indicated one bartender and her husband indicated another. The defense further confused the situation by presenting hopelessly contradictory testimony as to which of his bartenders were on duty on the occasion in question.

In any event, I am satisfied from the record that the minor actually consumed alcoholic beverages at the defendant's tavern on September 15, 1944. This constitutes a violation of the Regulations irrespective of which of the defendant's bartenders waited on her.

The defendant is guilty as charged.

Supplemental charges, alleging the sale, service and delivery of alcoholic beverages to another minor on July 26, 1944 and prior thereto, were served upon the defendant shortly after the hearing held on the original charges. The defendant again pleaded not guilty. In the latter proceedings, the minor is nineteen years of age. She testified that she had visited the premises on frequent occasions between May 31 and July 26, 1944, and often consumed alcoholic beverages there. Service was made to her by various persons, including the licensee and his wife, a waitress, and a bartender.

In conversation with an ABC agent some time subsequent to the violation, the defendant admitted that the minor had been served with beer on numerous occasions at his tavern but that, after he had learned her true age, he directed his employees to discontinue such service to her.

Even if it be assumed that the minor had orally misrepresented her age to the defendant or his employees, as to which the testimony is in conflict, that fact would not operate to excuse the violation. A complete defense is established only when, in addition to other things, a written statement of age is obtained. See R. S. 33:1-77.

I find the defendant guilty of the violation alleged in the supplemental charges.

As in the Pawella case, supra, I shall suspend the license herein for a period of thirty days.

Accordingly, it is, on this 23rd day of January, 1945,

ORDERED, that Plenary Retail Consumption License C-12, issued by the Common Council of the City of Gloucester City to John Green, t/a Green's Cafe, for premises 115 North Burlington Street, Gloucester City, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 a.m. January 29, 1945, and terminating at 2:00 a.m. February 28, 1945.

ALFRED E. DRISCOLL
Commissioner.

3. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR A PERIOD OF 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ANTHONY E. SOULES &
 VASILIOS A. TSONIS
 T/a BROADWAY BEER GARDENS
 1226 Broadway
 Camden, N. J.,

CONCLUSIONS
 AND ORDER

 Holders of Plenary Retail Consumption License C-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

Frank F. Neutze, Esq., Attorney for Defendant-Licensees.
 Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

This is a companion case to those of Pawella and Green, decided simultaneously herewith. See Bulletin 649, Items 1 and 2.

The defendants pleaded non vult to charges alleging that they had sold, served and delivered alcoholic beverages to a minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

It appears that the minor, not quite sixteen years of age, was served with alcoholic beverages at the defendants' tavern on September 21, 1944, and on several occasions during the preceding months of July and August. The fact that the service was made by an employee, and not the licensees personally, does not relieve the licensees of their responsibility for the offense.

A guilty plea was also entered to supplemental charges alleging that the defendants sold, served and delivered alcoholic beverages to three other minors on various dates during August and September, 1944. One of these minors, the same nineteen-year-old female involved in the supplemental charges in the Green case, supra, received several glasses of beer at these premises on September 29, 1944. Two other twenty-year-old girls, one of whom is referred to in the supplemental charges in the Pawella case, supra, were each served with liquor by employees of the defendants on numerous occasions during August and September, 1944.

The license will be suspended for thirty days. Five days will be remitted because of the pleas, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 23rd day of January, 1945,

ORDERED, that Plenary Retail Consumption License C-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Anthony E. Soules and Vasilios A. Tsonis, t/a Broadway Beer Gardens, for premises 1226 Broadway, Camden, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. January 29, 1945, and terminating at 2:00 a.m. February 23, 1945.

ALFRED E. DRISCOLL
 Commissioner.

4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM, IN VIOLATION OF RULE 6 OF STATE REGULATIONS NO. 30 - LICENSE SUSPENDED FOR A PERIOD OF 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

SILVER ROD STORES, INC.)
12 Journal Square,)
Jersey City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-122, issued by the Board of Commissioners of the City of Jersey City.)
-----)

William E. Sewell, Esq., Attorney for Defendant-Licensee.
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleads non vult to the charge of selling alcoholic beverages below the established Fair Trade price, in violation of Rule 6 of State Regulations No. 30.

The file discloses that, on December 28, 1944, Benjamin Haberman, manager of the defendant's licensed premises, sold a quart bottle of Dubonnet Vermouth to an investigator of the Department of Alcoholic Beverage Control for \$1.49, whereas the Fair Trade price for such item was then \$1.60. The Fair Trade price of a 30-ounce bottle of Dubonnet Vermouth was then \$1.49. See Bulletin 614.

Defendant contends that the porter, in replacing stock on the shelves, put quart bottles where 30-ounce bottles belonged and that the window dresser took one of the quart bottles and put it on display with a price tag of \$1.49 thereon. The sale was made by the manager at the price shown on the price tag.

Inasmuch as there was apparently no intent to violate the Rules and Regulations of the Department of Alcoholic Beverage Control and since defendant has no previous adjudicated record, I shall suspend defendant's license for a period of ten days. Five days will be remitted for the non vult plea, leaving a net suspension of five days. Re Grant Lunch Corporation, Bulletin 517, Item 3.

Accordingly, it is, on this 23rd day of January, 1945,

ORDERED, that Plenary Retail Distribution License D-122, issued by the Board of Commissioners of the City of Jersey City to Silver Rod Stores, Inc., for premises 12 Journal Square, Jersey City, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. January 29, 1945, and terminating at 2:00 a.m. February 3, 1945.

ALFRED E. DRISCOLL
Commissioner.

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

5.

NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1944 TO DECEMBER 31, 1944
AS REPORTED TO THE COMMISSIONER OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R. S. 33:1-19

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Surrendered Revoked Expired	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	436	\$ 164,287.39	59	\$ 20,225.34	9	\$ 350.00						504	\$ 185,362.73
Bergen	781	259,360.08	244	58,480.98	42	4,024.45	24	\$ 1,076.40	5	\$ 944.22	5	1091	324,386.13
Burlington	176	57,559.45	16	3,950.00	30	3,675.00	1	25.00				223	65,209.45
Camden	442	186,919.05	59	20,490.94	55	5,003.41	1	40.00	2	257.26	4 - 2	555	212,710.68
Cape May	123	55,163.82	11	2,986.99	11	1,134.52					2	143	59,285.33
Cumberland	78	25,274.21	8	1,937.74	26	2,908.36					1	111	30,120.31
Essex	1365	686,254.21	340	160,050.31	77	10,074.11	17	838.77			1	1798	857,217.40
Gloucester	107	30,250.00	10	1,800.00	5	300.00						122	32,150.00
Hudson	1523	661,469.88	268	106,353.15	45	5,915.62	41	1,600.00			1	1876	775,938.65
Hunterdon	70	18,030.27	1	300.00	1	150.00						72	18,480.27
Mercer	422	176,854.73	44	11,174.25	36	4,589.59			1	92.91	1	502	192,711.48
Middlesex	592	230,687.73	45	12,551.22	34	2,984.39					1	670	246,223.34
Monmouth	476	193,645.40	79	21,243.59	22	2,775.00	5	175.00	22	7,468.29	24 - 2	580	225,307.28
Morris	315	93,525.89	69	16,631.10	27	2,250.00			7	1,144.31	8 - 1	410	113,551.30
Ocean	163	74,564.68	25	9,408.00	7	699.45						195	84,672.13
Passaic	863	332,048.84	120	33,643.13	26	3,220.00	9	400.00			1	1017	369,311.97
Salem	49	15,550.00	4	550.00	3	725.00						61	16,825.00
Somerset	181	59,898.05	24	5,675.00	9	856.98						214	66,430.03
Sussex	134	28,867.33	11	1,550.00	3	160.00			3	409.50	3	148	30,986.83
Union	536	265,066.75	130	43,204.37	54	6,276.59	12	550.00			1	731	315,097.71
Warren	131	35,255.00	12	2,207.50	20	2,065.82			2	261.93	3 - 1	162	39,790.25
TOTALS	3963	\$3,651,032.76	1579	\$534,813.61	547	\$60,638.29	110	\$4,705.17	42	\$10,578.44	56	11185	\$4,261,768.27

ALFRED E. DRISCOLL, Commissioner

Respectfully submitted,
 Erwin B. Hock
 Deputy Commissioner

DISCIPLINARY PROCEEDINGS - MODIFICATION OF PENALTY.

In the Matter of Disciplinary Proceedings against

STAR CAFE, INC. 266-8 Madison Avenue Perth Amboy, N. J.,

ON PETITION CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-78 for the fiscal year 1942-43, and now holder of Plenary Retail Consumption License C-78 for the current (1943-44) fiscal year, both issued by the Board of Commissioners of the City of Perth Amboy.

David T. Wilentz, Esq., Attorney for Petitioners, Star Cafe, Inc. and Joseph Cuccinello.

BY THE COMMISSIONER:

On October 7, 1943, the above license was revoked because of various violations committed while defendant corporation was controlled by one Philip Pollen. Re Star Cafe, Inc., Bulletin 588, Item 6.

Joseph Cuccinello, individually and as majority stockholder of the above corporation, has filed a petition praying for modification of the penalty heretofore imposed. I have heard the oral argument and have given careful consideration to the facts set forth in the petition and the argument made in support thereof. It is alleged that Cuccinello has been unable to enforce the indemnifying agreement referred to in the Conclusions heretofore filed in this case. It is further alleged that local regulations limiting the number of licenses and providing for minimum distances between licensed premises now prevent Joseph Cuccinello from obtaining a liquor license in the City of Perth Amboy and that, unless some relief is afforded herein, his total investment, representing his life savings, will be lost.

The members of the local issuing authority have supported, in writing, Cuccinello's plea for reconsideration of the penalty heretofore imposed.

The penalty imposed was fully warranted by the facts. The violations committed by the corporate licensee were serious. Those who choose to deal with the stock of a corporate licensee do so at their peril. On the other hand, after having carefully reviewed the entire record, I am not unmindful of the fact that the penalty imposed inflicted a severe punishment on Cuccinello as the principal stockholder of the defendant.

I am satisfied that, at the time Cuccinello offered to buy the stock of defendant corporation from Pollen, he was not aware of the violations for which charges were subsequently preferred. Cuccinello was represented by an attorney, and apparently acted in good faith in the purchase of the stock of the defendant corporation. Under the circumstances, I am of the opinion that the penalty imposed may have been unduly severe. The licensed premises have been closed

since October 8, 1943. The penalty of revocation will, therefore, be rescinded and, in lieu thereof, a suspension for a period of one hundred forty-one (141) days will be imposed. Re Burke, Bulletin 415 Item 11; Re Smallwood, Bulletin 470, Item 2.

Joseph Cuccinello has represented that, if the suspension is lifted, he intends to apply for a transfer of the license from Star Cafe, Inc. to himself. In view of the bad reputation of Star Cafe, Inc., I recommend that this application be filed promptly. If Amelia Cuccinello is to have any interest in the licensed business, the application for transfer should, of course, be filed in the names of the husband and wife.

Accordingly, it is, on this 25th day of February, 1944,

ORDERED, that the order heretofore entered on October 7, 1943, revoking Plenary Retail Consumption License C-78, issued to Star Cafe, Inc., be and the same is hereby rescinded; and it is further

ORDERED, that Plenary Retail Consumption License C-78, heretofore issued to Star Cafe, Inc. by the Board of Commissioners of the City of Perth Amboy for premises 266-8 Madison Avenue, Perth Amboy, be and the same is hereby suspended for a period of one hundred forty-one (141) days, commencing at 2:00 a.m. October 8, 1943, and terminating at 2:00 a.m. February 26, 1944.

ALFRED E. DRISCOLL
Commissioner.

7. FAIR TRADE - NOTICE OF SUPPLEMENTAL PUBLICATION.

January 24, 1945

It is apparent that as a result of recent OPA rulings affecting permitted maximum prices on certain items of alcoholic beverages, particularly domestic wines, there exists a conflict between price listings appearing in the January 1, 1945 Complete Minimum Resale Price Pamphlet and permitted OPA maximums. In some instances, prices listed in the current Minimum Resale Price Publication are either higher or lower than the levels determined by the proper application of the formula for mark-ups prescribed in OPA regulations.

In order that adjustments may be made by listers to correct the conflict between listed minimums and OPA permitted maximums, it is my decision that a Supplemental Minimum Resale Price Pamphlet shall become effective on Monday, February 12, 1945.

New items and changes in old items must be filed at the offices of this Department not later than Wednesday, January 31, 1945.

In submitting price listings to the Department for this supplemental publication, it is earnestly suggested that listers closely check their prices now appearing in the complete pamphlet which was effective January 1, 1945 and strictly and accurately apply the formula of mark-ups prescribed in OPA regulations. In the event that any item is found at variance and in conflict with OPA maximums, submit a corrected listing for the item involved.

Notification of the proportionate share of the aggregate expense involved will be made to participating companies as soon as the supplemental price list is mailed to all retail licensees.

ALFRED E. DRISCOLL
Commissioner.

DISCIPLINARY PROCEEDINGS - EMPLOYMENT OF FIFTEEN-YEAR-OLD MINOR, IN VIOLATION OF R. S. 33:1-26 AND RULE 1 OF STATE REGULATIONS NO. 11 - EMPLOYING MINORS IN VIOLATION OF R. S. 33:1-26 AND RULES 1 AND 2 OF STATE REGULATIONS NO. 11 - LICENSE SUSPENDED FOR A PERIOD OF 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
MAX KNEBLE)
Olden Avenue and White Horse Pike)
Somerdale, N. J.,)
Holder of Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Somerdale;)
and Special Permit "P No. 1261", issued by the State Commissioner of Alcoholic Beverage Control.)
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CONCLUSIONS AND ORDER

Harry M. Mendell, Esq., Attorney for Defendant-Licensee.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleads non vult to charges alleging (1) that he knowingly employed a fifteen-year-old minor as a pin boy on his licensed premises for a period of one year, in violation of R. S. 33:1-26 and Rule 1 of State Regulations No. 11, and (2) that he knowingly employed three minors, aged fourteen years, thirteen years and thirteen years, respectively, as pin boys on his licensed premises for periods ranging from two months to one year, in violation of R. S. 33:1-26 and Rule 1 of State Regulations No. 11, and also in violation of Rule 2 of State Regulations No. 11, which provides that no person under the age of fifteen years may be employed on licensed premises in any manner whatsoever.

Licensee is the holder of a special permit (P No. 1261), issued July 18, 1944, permitting him to employ minors sixteen years or over as pin boys on the licensed premises, subject to the provisions of the State Labor Law concerning such employment.

The purpose of the regulations above cited is to keep minors under sixteen years of age off premises where intoxicating liquors are sold and, further, to restrict the employment of minors sixteen years of age or older in such places and in such positions.

The statute and regulations serve meritorious purposes. Licensee has seen fit to flout both. The difficulty of securing employees of proper age is no excuse. In view of the fact, however, that licensee has no previously adjudicated record, I shall suspend his license and permit for a period of ten days, less five days for the plea, making a net suspension of five days.

Accordingly, it is, on this 25th day of January, 1945,

ORDERED, that Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Somerdale to Max Kneble for premises on Olden Avenue and White Horse Pike, Somerdale, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. February 5, 1945, and terminating at 2:00 a.m. February 10, 1945; and it is further

ORDERED, that Special Permit "P No. 1261" issued by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. February 5, 1945, and terminating at 2:00 a.m. February 10, 1945.

ALFRED E. DRISCOLL
Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY CLUB LICENSEE DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE HINDERING INVESTIGATION, IN VIOLATION OF R. S. 33:1-35 - PREVIOUS RECORD - LICENSE SUSPENDED FOR A PERIOD OF 60 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

LASKOWSKI-WOJTKOWIAK POST #74,)
AMERICAN LEGION)
1261 Kaighn Avenue)
Camden, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-28, issued)
by the Municipal Board of Alcoholic)
Beverage Control of the City of)
Camden.)
-----)

Frank F. Neutze, Esq., Attorney for Defendant-Licensee.
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant club licensee pleads guilty to the following charges:

"1. On Sunday, December 17, 1944, at about 2:00 p.m., you, on your licensed premises, sold, served and delivered and suffered and permitted the sale, service and delivery of alcoholic beverages, in violation of Section 5 of an Ordinance adopted by the Board of Commissioners of the City of Camden on December 27, 1934, which prohibits any such activity after 2:00 a.m. on Sunday.

"2. On the occasion aforesaid, while investigators of the Department of Alcoholic Beverage Control were on your licensed premises investigating the above alleged violation occurring on that date, you hindered and failed to facilitate such investigation, in violation of R. S. 33:1-35."

On the afternoon in question two agents of the Department of Alcoholic Beverage Control, observing the premises, saw several men enter and leave within a short space of time. At about 2:00 p.m. one of the agents entered the premises and observed several people at the bar drinking. He also observed the bartender serve two people with what appeared to be whiskey and beer. Before he could order a drink, however, the bartender inquired from the person at the door as to the agent's identity, whereupon the latter immediately showed

his credentials. By that time the other agent had also entered and, upon being apprised of the seizure, took two glasses each of whiskey and beer and placed them against the wall. The agents then proceeded to check up on the patrons. All but one claimed to be a member or the guest of a member. After this investigation, the agents discovered that the glasses of confiscated beer and whiskey had been emptied by someone unknown to them. The person in charge of the club refused to give any information to the agents and, in addition, refused to open the cash register and generally failed to give any cooperation whatever.

This is the second similar violation of the licensee. On October 6, 1942 I suspended the club license for fifteen days in Re Laskowski-Wojtkowiak Post #74 American Legion, Bulletin 532, Item 3, and remarked at that time:

"Club licensees must confine their activities within the limits imposed in their licenses."

American Legion Posts holding club licenses today should be especially careful. They should, in fact, set an example. One cannot preach patriotism effectively without completely respecting the law.

Under all the circumstances, I shall suspend the license for sixty days, less five days for the plea, making a net suspension of fifty-five days. Cf. First Ward Republican Club of Camden, Bulletin 648, Item 11. Any future violations of any kind may well result in a revocation of the license.

Accordingly, it is, on this 26th day of January, 1945,

ORDERED, that Club License CB-28, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Laskowski-Wojtkowiak Post #74, American Legion, for premises 1261 Kaighn Avenue, Camden, be and the same is hereby suspended for a period of fifty-five (55) days, commencing at 2:00 a.m. February 2, 1945, and terminating at 2:00 a.m. March 29, 1945.

ALFRED E. DRISCOLL
Commissioner.

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 30 DAYS.

In the Matter of Disciplinary Proceedings against)
)
 MARINE HOTEL BAR & GRILL, INC.)
 430 New Brunswick Avenue)
 Perth Amboy, N. J.,)
)
 Holder of Plenary Retail Consumption License C-58, issued by the)
 Board of Commissioners of the)
 City of Perth Amboy.)

CONCLUSIONS AND ORDER

Louis F. Sellyci, Esq., Attorney for Defendant-Licensee.
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleads guilty to the following charge:

"On December 29, 1944 you possessed illicit alcoholic beverages at your licensed premises, viz., a 4/5th quart bottle labeled 'Seagrams Five Crown Blended Whiskey 86.8 Proof', a 4/5th quart bottle labeled 'Wilson "That's All" Blended Whiskey 86.8 Proof', two 4/5th quart bottles labeled 'Calvert Special Blended Whiskey 86.8 Proof', two 4/5th quart bottles labeled 'Schenley Reserve Blended Whiskey 86 Proof', two 4/5th quart bottles labeled 'Golden Wedding Blended Whiskey 86 Proof', two 4/5th quart bottles labeled 'Carstairs White Seal Blended Whiskey 86.8 Proof', and two 4/5th quart bottles labeled 'Three Feathers Reserve Blended Whiskey 86 Proof', all of which bottles contained alcoholic beverages not genuine as labeled; such possession being in violation of R. S. 33:1-50."

On December 29, 1944 an agent of the Department of Alcoholic Beverage Control, making a routine inspection, tested a number of open bottles of liquor and found twelve that appeared to be not genuine as labeled. Subsequent analyses established definitely that they had all been refilled. The manager of the licensed premises, who is also the secretary of the corporation, admitted that he had refilled one-quarter of each bottle with rum, giving as the reason that he had been compelled to buy so much rum in order to secure whiskey and he had no other means of disposing of it.

In Re Belza, Bulletin 548, Item 3, I pointed out that the customer was entitled to receive the liquor he ordered and that likewise the manufacturers were entitled to the protection of their products, trade names, and the good will built up by them over years of trading with the public. The licensee's reason presents no justification for the act committed, and by the statement of its own manager and secretary, the violations were deliberately committed.

Licensee has no prior adjudicated record. I will suspend its license for a period of thirty days. Cf. Re Brooks, Bulletin 633, Item 11.

Accordingly, it is, on this 26th day of January, 1945;

ORDERED, that Plenary Retail Consumption License C-58, issued by the Board of Commissioners of the City of Perth Amboy to Marine Hotel Bar & Grill, Inc., for premises 430 New Brunswick Avenue, Perth Amboy, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 a.m. February 5, 1945, and terminating at 2:00 a.m. March 7, 1945.

ALFRED E. DRISCOLL
Commissioner.

L. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS RECORD - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against

MICHAEL D. FINKELSTEIN
306 Orange Street
Newark, 4, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-215, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Michael D. Finkelstein, Defendant-Licensee, Pro Se.
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleads non vult to the following charge:

"On January 2, 1945, you possessed illicit alcoholic beverages at your licensed premises, viz., a 4/5 quart bottle labeled 'Old Overholt Straight Rye Whiskey 100 Proof' and a 4/5 quart bottle labeled 'Mount Vernon Brand Straight Rye Whiskey 100 Proof', which bottles contained alcoholic beverages not genuine as labeled; such possession being in violation of R. S. 33:1-50."

On January 2, 1945 two agents of the Department of Alcoholic Beverage Control visited the licensed premises for the purpose of checking the open liquor stock. They found the bartender in charge and requested him to contact the licensee and have him come to the tavern. While awaiting his arrival, they tested sixteen open bottles on the back bar and seized two of them that did not appear to be genuine as labeled.

The licensee was questioned by the agents on his arrival and admitted that he had filled both bottles with a cheaper grade of whiskey, stating that he was short on Old Overholt and Mount Vernon but had plenty of the other brand, which is slow-moving. While it may be beside the point, there is some doubt, as shown by the analysis, that the licensee even used the brand of whiskey he mentioned as a refill and may well have used even a more inferior brand.

Licensee has a prior record. In 1937 his license was suspended for three days by the Board of Alcoholic Beverage Control of Newark for having refilled three bottles of whiskey. At that time he placed the blame on his porter. This time he at least admits the violation is his own act. The prior offense occurred nearly eight years ago and since that time apparently the licensee has been law-abiding. Shortage of popular brands of whiskey offers no excuse for "refilling." Under all the circumstances, I shall suspend defendant's license for a period of fifteen days.

Accordingly, it is, on this 29th day of January, 1945,

ORDERED, that Plenary Retail Consumption License C-215, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Michael D. Finkelstein, for premises 306 Orange Street, Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. February 2, 1945 and terminating at 2:00 a.m. February 17, 1945.

ALFRED E. DRISCOLL
Commissioner.

12. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF TEN DAYS.

In the Matter of Disciplinary Proceedings against)

FRANK HENICK & JOHN PLENER)
96 Hudson Street)
Jersey City 2, N. J.,)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-104 issued by the Board of Commissioners of the City of Jersey City:)
-----)

Frank Henick & John Plener, Defendant-Licensees, Pro Se.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensees plead guilty to the following charge:

"On December 21, 1944, you possessed an illicit alcoholic beverage at your licensed premises, viz., a 4/5 quart bottle labeled 'Wilson "That's All" Blended Whiskey 86.8 Proof', which bottle contained an alcoholic beverage not genuine as labeled; such possession being in violation of R. S. 33:1-50."

On December 21, 1944 two agents of the Department of Alcoholic Beverage Control, while making an inspection of the licensees' tavern, tested a number of open bottles and seized one bottle labeled "Wilson" which did not appear to be genuine as labeled.

A subsequent analysis showed the seized bottle to be what was commonly designated as a "top-to-bottom refill."

One of the licensees was on the premises at the time of the examination and disclaimed all knowledge of the tampering but offered

no explanation. Despite personal innocence, however, the licensees must be held strictly responsible for any "refills" found in their stock of liquor. Re Kurian, Bulletin 517, Item 2.

Licensees have no prior adjudicated record. While only one bottle is involved, nevertheless the nature of the violation suggests a deliberate act. I shall suspend the license for a period of ten days.

Accordingly, it is, on this 29th day of January, 1945,

ORDERED, that Plenary Retail Consumption License C-104, issued to Frank Henick and John Plener for premises 96 Hudson Street, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. February 5, 1945 and terminating at 2:00 a.m. February 15, 1945.

ALFRED E. DRISCOLL
Commissioner.

13. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - PREVIOUS RECORD - LICENSE SUSPENDED FOR A PERIOD OF 45 DAYS.

In the Matter of Disciplinary Proceedings against
ROCCO PALESE
T/a PALESE'S CAFE
302 Spruce Street
Camden, N. J.,
Holder of Plenary Retail Consumption License C-128, issued by the
Municipal Board of Alcoholic Beverage Control of the City of
Camden.

CONCLUSIONS
AND ORDER

Frank M. Lario, Esq., Attorney for Defendant-Licensee.
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded not guilty to charges alleging that he sold, served and delivered alcoholic beverages to a minor on Sunday, October 8, 1944, and prior thereto, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

The minor in question testified that she began frequenting the defendant's tavern shortly after she became fifteen years of age in June, 1944. Commencing during the latter part of July, 1944 and continuing almost every week-end thereafter until October 8, 1944, this witness states that she visited the premises and was frequently served with beer there by a colored bartender.

Several weeks prior to the incident of October 8th, at which time the minor testified she was served a glass of beer by the bartender, the minor's mother found her daughter in the tavern early one Sunday morning. She testified that she then notified the bartender that her daughter was a minor and warned him against serving her any intoxicating beverages. Despite this warning, the bartender served the minor with beer on several occasions thereafter. Although the

bartender denies ever having any conversation with the mother, I find that the admonition was actually given as stated by her.

On October 17, 1944, when the minor accompanied several ABC agents to the premises, she identified the bartender, who admitted that he had served her beer at the defendant's premises "about once or twice."

The entire defense is based upon a written statement of age given by the minor to the bartender, in which the minor reported her date of birth as "June 14, 1923." The defense contends that the statement was made on the occasion of the minor's first visit to the tavern, although the bartender is unable to fix any date. The statement is written in longhand upon a portion of an envelope, the reverse side of which bears an August 14, 1944 postmark. While, in my opinion, this statement was not obtained until after the minor had visited the tavern on several occasions, this fact is relatively unimportant since the minor's appearance obviously stamps her as being under twenty-one years of age. Even the bartender admitted that he had obtained the statement of age because "she looked too young for me to serve her."

A complete defense is established under the statute (R.S. 33:1-7) only when a written statement of over age is obtained from one whom "an ordinary prudent person would believe.....to be twenty-one (21) years of age or over", and the sale is made in reliance upon the written representation and appearance "and in the reasonable belief that the minor was actually twenty-one (21) years of age or over." The latter two elements are lacking in this case. The mere written representation constitutes no defense, therefore, even if it be assumed that no service of alcoholic beverages was made to the minor prior to its procurement. Cf. Re Butera, Bulletin 606, Item 4.

I find the defendant guilty as charged.

This is the defendant's third violation. In April 1940 and again in March 1941, his license was suspended for five and ten days, respectively, for selling alcoholic beverages during prohibited hours on Sunday contrary to local regulation. The instant violation includes, as aggravating factors, the youthfulness of the minor and the service to her notwithstanding the warning given by the mother to the bartender.

A consideration of the foregoing requires the imposition of a forty-five-day penalty. I might add that had the mother's warning been made directly to the licensee, a more substantial penalty would have been in order.

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

ORDERED; that Plenary Retail Consumption License C-128, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Rocco Palese, t/a Palese's Cafe, for premises 302 Spruce Street, Camden, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 2:00 a.m. February 6, 1945, and terminating at 2:00 a.m. March 23, 1945.

Alfred E. Driscoll
Commissioner.