

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

BULLETIN 319.

JUNE 5, 1939.

1. CLOSING HOURS -- DETERMINATION PROPOSED TO BE DELEGATED TO CHIEF OF POLICE -- PROPOSAL DISAPPROVED.

Dear Mr. Burnett:

The Town of West New York proposed to pass a resolution repealing the curfew and placing full and complete charge in the hands of the Chief of Police.

Of course, he will have to treat everyone alike, the idea being that, depending on the character and conduct of a place, he will fix a time as he thinks best for the benefit of the community.

Would such a resolution be contrary to any of your own?

Yours very truly,

IRWIN RUBENSTEIN

May 26, 1939.

Irwin Rubenstein, Esq.,  
Attorney, Town of West New York,  
West New York, N. J.

My dear Mr. Rubenstein:

I cannot approve the proposed resolution.

If it means that the Chief of Police is to fix a closing time for each different place, depending on its character and how conducted, it is impossible to treat everyone alike. No standard is set, except what he happens to think is best. The measure of discretion would be as long as the Chief's foot.

If it means that the Chief is to fix a uniform time for all places in Town, then it attempts the delegation of an official function which can lawfully be exercised only by the governing body. That would be an abdication of power and wholly illegal.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner

2. TRANSIT LICENSES - SCOPE - ARRANGEMENTS FOR THE BRITISH ROYAL FAMILY.

Dear Sir:

We are in receipt of the following communication from the General Attorney of The Pennsylvania Railroad Company:

"The British Royal Party, including the King and Queen of England, the Lord Chamberlain, the Prime Minister of Canada, our own Secretary of State, Mr. Hull, the British Ambassador to the United States, the Canadian Minister to the United States, and other important British and Canadian officials, will enter the United States by railroad at Suspension Bridge, N. Y., at 9:35 P.M., June 7th, and will leave the United States in the early morning of June 12th, at Rouses Point, N. Y.

"The movement will be by two trains, one train, known as the Royal Train, will carry the persons referred to above, and the other train, known as the Royal Pilot Train, will be occupied by other British and Canadian officials, representatives of the English and Canadian Press, representatives of the United States, and representatives of the United States Press.

"The Royal Train will include a Canadian National Railway dining car in which all meal service including the liquor supplies, will be furnished the members of the party without charge.

"The Royal Pilot Train will include Canadian Pacific dining car Ardencaple and all meal service and liquor supplies will be charged for.

"These trains in passing from Suspension Bridge to Washington will pass over the New York Central and the Pennsylvania railroads. In returning from Washington to Rouses Point, N. Y., they will pass over the Pennsylvania, New York, New Haven & Hartford, New York Central and Delaware & Hudson railroads. The Pennsylvania Railroad Company has been placed in charge of the movement of these trains over all railroad lines.

"There has arisen the question, how the transportation and sale of liquor in these dining cars can be handled in the States through which the trains will pass.

\* \* \*

Very truly yours,  
Robert S. Gawthrop,  
General Attorney."

In view of the situation disclosed by the above, will you be good enough to advise us at your very earliest convenience what legal requirements are applicable. If the sale of liquor on the Pilot Train requires a special permit, will you issue the same and advise us of any fees in connection therewith. If it is deemed

possible to waive the requirements of the Statute in this instance, we would likewise appreciate having some written statement to this effect.

Very truly yours,

Wall, Haight, Carey & Hartpence.

May 29, 1939.

Wall, Haight, Carey & Hartpence,  
Jersey City, N. J.

Gentlemen:

I have yours of the 27th.

The transit license covering the Pennsylvania Railroad will be honored to include the Royal Train and the Pilot Train passing over its lines.

Therefore no special permit will be necessary.

We in New Jersey are glad to cooperate in toasting the health of the King and the Queen.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner.

3. APPELLATE DECISIONS -- KULLER vs. MANASQUAN.

MINNIE KULLER, INC.,	)	
	)	
Appellant,	)	
	)	ON APPEAL
-vs-	)	CONCLUSIONS
	)	
MAYOR AND BOROUGH COUNCIL OF	)	
THE BOROUGH OF MANASQUAN,	)	
	)	
Respondent.	)	

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Anshelewitz & Barr, Esqs.,	}	Attorneys for Appellant.
By Leon Anshelewitz, Esq.		
Minturn & Weinberger, Esqs.,	}	Attorneys for Respondent.
By Joseph J. Weinberger, Esq.		
and Hyman Halpern, Esq.		
Forman T. Bailey, Esq.,	}	Attorneys for Respondent.
and James D. Carton, Jr., Esq.		

BY THE COMMISSIONER:

This is an appeal from denial of a plenary retail consumption license for premises located at the corner of Main Street and First Avenue, Borough of Manasquan.

The answer sets up numerous reasons why the action of respondent should be upheld. It will be necessary to consider only the following allegations, viz.:- (1) that the license is not necessary for the convenience of the public; (2) that it is the policy of the present Borough Council to grant no more plenary retail consumption licenses at Manasquan Beach in order that said beach front may be maintained as a safe and desirable playground and place of resort for women and children; (3) that numerous persons objected to the issuance of said license.

Appellant was incorporated February 16, 1939 and has leased the premises in question where it intends to conduct a restaurant, located about two hundred feet from the boardwalk in the easterly section of the Borough. This section is known locally as Manasquan Beach and is separated from the westerly section by a small creek. Main Street is the principal artery connecting Manasquan Beach with the westerly section of the Borough.

There is no ordinance or resolution limiting the number of consumption licenses which may be issued. At present there are five outstanding consumption licenses: two in Manasquan Beach and three in the westerly section. At Manasquan Beach, one has been issued for premises known as Leggett's, located on First Avenue approximately two hundred twenty feet south of the premises in question. The other has been issued to Manasquan Marlin and Tuna Club, for premises located about two thousand feet from the premises in question.

Appellant contends that the real reason for denial was to protect the business of Leggett's, and refers to the action of the Borough Council in granting a license to Leggett after a previous denial had been affirmed on appeal. The records of this Department show that, on June 17, 1935, Conclusions were entered in Leggett v. Manasquan, Bulletin 79, Item 13, wherein an appeal from denial of a consumption license for premises located at 217 First Avenue was affirmed because of respondent's policy prohibiting the issuance of licenses for premises located close to the boardwalk. If the issue herein concerned that alleged policy, the action of respondent herein would be reversed because it appears that the policy on which the Leggett appeal was sustained was abandoned by the subsequent issuance of the Leggett license. Certainly that was kind to Mr. Leggett but that is not the issue here. The only evidence of protecting Leggett's business by denying a license to one who seeks to compete with him is a mere intimation that Leggett, or his agent, circulated a petition opposing the granting of the license herein which, of course, is not sufficient.

The decision in this case depends upon whether the action of respondent in denying the license was reasonable.

The permanent population of the Borough is about 2,300. Five consumption licenses appear ample to take care of its needs. The evidence shows that there are more than six hundred bungalows at Manasquan Beach, and that the summer population of the Borough increases to a number, variously estimated at 7,000 to 10,000. Mayor Voorhees testified that the summer population consists mostly of women and children during the week, - "the men folks come down weekends." The sole evidence of necessity produced by appellant consists of testimony given by a druggist, who has conducted a drug store at the premises in question for the past seven years, and who testified that approximately eight or ten people daily would inquire at his premises whether he sold beer or liquor. On the other hand, it appears from the minutes of the Borough Council that, at the hearing held on said application, six persons appeared who testified that they were opposed to the issuance of any more licenses, and a petition was filed with respondent containing the names of 603 people who objected to the issuance of any further licenses.

The evidence shows that there may fairly be a question as to whether an additional consumption license is needed at Manasquan Beach. Appellant has not sustained the burden of proof in showing that respondent's determination on that question was unreasonable under all the circumstances of the case. Bunball v. Burnett, 115 N. J. L. 254, Bulletin 79, Item 9; Agnellino v. Union Beach, Bulletin 88, Item 7; Henry v. Way, Bulletin 90, Item 9; Lysaght v. Denville, Bulletin 163, Item 13; Levitt v. Liberty, Bulletin 169, Item 4; Mascolo v. Camp, Bulletin 268, Item 2; Guarante v. Ho-Ho-Kus, Bulletin 305, Item 4.

Since the decision must be affirmed because of the first reason, it is unnecessary to consider reasons 2 and 3 except to state that the action of the Borough Council in unanimously denying the application herein would appear to confirm the contention that it is the policy of the present Borough Council to grant no more plenary retail consumption licenses at Manasquan Beach, and that the protests received by respondent would seem to indicate that that policy is supported by a majority sentiment of those residing in the Borough.

The action of respondent is affirmed.

D. FREDERICK BURNETT,  
Commissioner.

Dated: May 29, 1939.

4. LICENSE APPLICATIONS - CORPORATE - MUST BE SIGNED BY THE PRESIDENT OR VICE-PRESIDENT, BUT ANY VICE-PRESIDENT WILL DO.

Dear Mr. Burnett:

At this time each year it is necessary for us to prepare our applications for renewal of Retail Distribution Licenses, Limited Retail Distribution Licenses and Transportation Licenses.

It is now necessary for us to send application forms to our Executive Offices in New York for signatures by officers of our Company and I should like to know if it would be possible for such applications to be signed by an authorized official appointed by a resolution of our Board of Directors, to whom power would be delegated to sign these applications.

Yours sincerely,  
E. L. Reynolds,  
Vice-President.

May 29, 1939

The Great Atlantic & Pacific Tea Company,  
Newark, N. J.

Gentlemen:

R. S. 33:1-25 (Control Act, Sec. 22) provides:

"All applications shall be duly sworn to by each of the applicants, except in cases of applications by corporations, which shall be duly sworn to by the president or vice-president."

If it were not for the express requirement that corporate applications shall be verified under the oath of the president or vice-president, I should have no hesitancy in ruling that your board of directors could, by formal resolution, delegate some other official to sign these applications, which, if signed pursuant to such authority, would be the act of the company itself. The statute, however, requires that the application be signed by the president and the only alternative provided is that it may be signed by the vice-president. That leaves no latitude for construction except to rule that any vice-president will do, i.e., it need not necessarily be "The" vice-president or the first vice-president.

It follows that if the resolution of the Board of Directors not only delegates power to some official to sign such applications but also makes him a vice-president — say in charge of license applications, the requirement of the statute will have been fully met.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

5. DISCIPLINARY PROCEEDINGS - WRITTEN COMPLAINT NOT NECESSARY TO CONFER JURISDICTION UPON LICENSE ISSUING AUTHORITIES IN CASES INSTITUTED UNDER THEIR OWN INITIATIVE OR TRANSMITTED BY STATE COMMISSIONER - SUCH COMPLAINT IS NECESSARY ONLY WHEN DISCIPLINARY PROCEEDINGS ARE REQUESTED BY CITIZENS IN PRIVATE CAPACITY.

May 29, 1939

John M. Summerill, Jr., Esq.,  
Broadway at New Market Street,  
Salem, N. J.

My dear Mr. Summerill:

I have before me your letter of May 18th addressed to Investigator Norman Myers, requesting him to call on you and sign charges in disciplinary proceedings against Beatrice Helke, a licensee of Upper Penns Neck Township.

It is not necessary that a complaint be first signed and filed with the issuing authority in order to confer jurisdiction upon it. It is true that R. S. 33:1-31 provides that when anyone files a written complaint with another issuing authority and requests the institution of proceedings, he may appeal from its refusal to revoke or suspend the license. This provision was not part of the original act but was inserted on my suggestion to the Legislature and adopted by P. L. 1935, Chapter 257, in order to provide a proper procedure where someone other than those charged with the enforcement of the liquor law desired to prod the license issuing authorities into action. The requirement of a written complaint was made in order to have something tangible to review in the event of an appeal. It has no application to a case like the present.

It has been the uniform practice of municipal issuing authorities, upon receipt of recommendation from the Department that disciplinary proceedings be instituted, to adopt a resolution directing the institution of proceedings, and the preparation and service of charges by the municipal attorney, at the same time fixing the hearing date. The adoption of such a resolution would be ample to start the ball rolling.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

6. DISCIPLINARY PROCEEDINGS - HORSE RACE GAMBLING - 28 DAYS'  
SUSPENSION IN ATLANTIC CITY.

May 31, 1939.

Samuel Backer,  
City Solicitor,  
Atlantic City, N. J.

My dear Mr. Backer:

I have before me staff report and your letter of May 25th re disciplinary proceedings conducted by the Board of Commissioners against LeRoy Barrett Williams, t/a Club Harlem, 32 N. Kentucky Avenue and 37 Surf Place, charged with possession of devices designed for gambling purposes, and note that his license was suspended for twenty-eight days.

According to the staff report, Williams was running a horse room in the rear of his licensed premises, complete with seventy foot blackboard, cashier's cage, tip sheets, chairs for the customers, and a regulation crap table for those desiring a whirl with Lady Luck while awaiting the results of the races.

Please express to the members of the Board of Commissioners my appreciation for their conduct of these proceedings and the substantial penalty imposed. The size of the plant, coupled with the licensee's previous record, amply justified the four week suspension.

Thank you for your cooperation.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

7. ENFORCEMENT DIVISION ACTIVITY REPORT FOR MAY, 1939.

To: D. Frederick Burnett, Commissioner.

ARRESTS: Total number of persons - - - - - 74  
 Licensees - 1 Non-Licensees - 73

SEIZURES: Still - total number seized- - - - - 11  
 Capacity 1 to 50 Gallons - - - - - 5  
 Capacity 50 Gallons and over - - - - - 6

Motor Vehicles - total number seized- - - - 9  
 Trucks - 0 Passenger Cars - 9

Alcohol  
 Beverage Alcohol - - - - - 537 Gal.

Mash - Total number of gallons- - - - - 32,478

Alcoholic Beverages  
 Beer, Ale, etc.- - - - - 31 Gallons  
 Wine - - - - - 993 "  
 Whiskies and other hard liquor - - - - 80 "

RETAIL INSPECTIONS:  
 Licensed premises inspected - - - - - 1,688  
 Illicit (bootleg) liquor - - - - - 7  
 Gambling violations- - - - - 18  
 Sign violations- - - - - 36  
 Unqualified employees- - - - - 108  
 Other mercantile business- - - - - 28  
 Disposal permits necessary - - - - - 2  
 "Front" violations - - - - - 5  
 Improper beer markers- - - - - 2  
 Other violations found - - - - - 27

Total violations found - - - - - 233  
 Total number of bottles gauged- - - - - 11,975

STATE LICENSEES:  
 Plant Control Inspections completed - - - - 83  
 License applications investigated - - - - - 89

COMPLAINTS:  
 Investigated and closed - - - - - 321  
 Investigated, pending completion- - - - - 227

LABORATORY:  
 Analyses made - - - - - 171  
 Alcohol and water and artificial  
 coloring cases - - - - - 29  
 Poison and denaturant cases - - - - - 2

Respectfully submitted,  
 E. W. Garrett,  
 Deputy Commissioner.

## 8. FAIR TRADE - VIOLATIONS - PRINCIPLES INVOLVED IN THE ENFORCEMENT OF THE RULES.

May 24, 1939

Dear Sir:

On May 19th, about 10:00 P.M., a deputy officer from your department purchased in our liquor department a bottle of Hildick Apple Jack, Black Label, four cents below the Fair Trade price.

This particular item moves very slowly with us; in fact, this is the first, to our definite knowledge, to be sold in about six months. Because of this very limited demand we did overlook changing the price from \$1.25 to \$1.29 which it should have been marked.

This was an accident and not a deliberate attempt at price-cutting.

We present these facts with the hope that you will understand that while we admit our fault of carelessness in handling a very slow moving item, we assure you that we have never deliberately nor wilfully violated Fair Trade prices.

Very respectfully yours,  
Nathan Tublitz.

May 31, 1939

Mr. Nathan Tublitz,  
South Orange, N. J.

My dear Mr. Tublitz:

I have your letter of May 24th concerning a Fair Trade violation that occurred in your licensed premises.

The Department file discloses that on May 19th two investigators purchased a bottle of Hildick Apple Jack (Black Label) from your manager, Mr. J. Sorin, in your licensed premises four cents below the Fair Trade price.

Sale of alcoholic beverages below Fair Trade price is cause for suspension or revocation of your license, regardless of whether or not the sale is made by the licensee himself or one of his employees (Re Campbell, Bulletin 303, Item 3), whether it is deliberate or because of an innocent mistake (Re Jordan, Bulletin 302, Item 11), and no matter how little below the established price (Re Revallo, Bulletin 303, Item 2).

In other words, the law is being rigidly enforced. Excuses or alibis or "outs" are not recognized. No immunity is gained by pleading carelessness in a clerk. It is up to licensees to see to it at their peril that the prices at which liquor is sold correspond exactly with the Fair Trade listings.

If I had to prove deliberate or wilful violation or personal fault in a licensee the law might just as well be written off the books. It was the licensees themselves who asked for it. They asked for strict enforcement and they are getting it.

Unfortunately, therefore, there is no course for me to follow other than to institute disciplinary proceedings.

I have recently ruled, however, in Re Polonsjy and Kiewe, Bulletin 308, Item 9, that instead of the usual ten day penalty which is meted out for all violations of this kind, I will make the penalty but five days provided the licensee pleads guilty in advance of trial, so as to save the Department the time and expense of bringing our men in from the field to testify to the violation.

Hence, if you intend to plead guilty, it should be done as soon as the formal charges have been served upon you. There is no required formality about such a plea. All that is needed is a plain, unequivocal statement admitting the truth of the charge. Upon its acceptance by me, there will be no necessity for your appearance at the time fixed for trial.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

9. TRADE NAMES - RULES - "WORLD LIQUOR STORE" APPROVED DESPITE  
AMBITIOUS TITLE.

June 2, 1939

Harold Markowitz, Esq.,  
Millburn, N. J.

Dear Mr. Markowitz:

I have before me your letter of May 11th inquiring whether Hyman Rubin, a plenary retail distribution licensee who also conducts a confectionery store at his licensed premises, may, so far as this Department is concerned, register and conduct his business under the trade name of "World Liquor Store".

State Regulations No. 26 prohibit licensees from using trade names which convey the false impression that the licensed business is owned or operated by or enjoys official sanction from the Federal or State or any municipal government, or names which are misleading as to the actual type of liquor business being conducted. In addition to these specific regulations, no licensee may use an irreverent or offensive trade name such as Holy City Tavern. Re Heller, Bulletin 305, Item 5.

The name chosen is somewhat ambitious but new frontiers are being established almost daily and there is no objection, so far as this Department is concerned, to the use of the proposed name.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

10. MUNICIPAL REGULATIONS - EXCLUSION OF FEMALES FROM TENDING BAR OR SERVING PATRONS - EXCEPTION IN FAVOR OF WIFE OF LICENSEE DURING LIMITED HOURS - HEREIN OF THE ADVISABILITY OF STATING REPEALERS IN EXPLICIT RATHER THAN GENERAL TERMS AND OF CODIFYING REGULATIONS SO THAT LICENSEES MAY KNOW JUST WHAT IS EXPECTED OF THEM.

June 2, 1939

Harry S. Reichenstein,  
City Clerk,  
Newark, N. J.

My dear Mr. Reichenstein:

I have before me yours of May 31st and Resolution No. 4889, adopted by the Board of Commissioners on May 24, 1939, reading:

"BE IT RESOLVED, by the Board of Commissioners of The City of Newark, that under and by virtue of the authority of the provisions of the Alcoholic Beverage Law of the State of New Jersey, (Title 33, Intoxicating Liquors, Revised Statutes of New Jersey, 1937) the following regulations be and the same are hereby adopted:

"(a) It shall not be permissible for the holder of a plenary Retail Consumption License to allow or employ any female, except the wife of any such license holder, to tend bar, sell or serve alcoholic beverages to patrons, where the principal business is the sale of alcoholic beverages, provided, however, that the wife of such license holder shall be permitted to tend bar, sell or serve alcoholic beverages only during the hours from seven o'clock A.M. to six o'clock P.M. on week days, and from twelve o'clock noon to six o'clock P.M. on Sundays.

"(b) It shall not be permissible for the holder of a Plenary Retail Consumption License to allow or employ any female, except the wife of the holder of such license to tend bar, sell or serve alcoholic beverages to patrons directly over such bar, where the principal business is other than the sale of alcoholic beverages, provided, however, that the wife of such license holder shall be permitted to tend bar, sell or serve alcoholic beverages to patrons, directly over such bar, only during the hours from seven o'clock A.M. to six o'clock P.M. on week days, and from twelve o'clock noon to six o'clock P.M. on Sundays."

"Any resolution inconsistent with the provisions of this resolution, be and the same is hereby repealed."

Expressing no opinion as to policy, the resolution appears to be in proper form and is, therefore, approved.

The inconsistent earlier resolution thus repealed is that of the Municipal Board of Alcoholic Beverage Control adopted August 29, 1934, Sections (a) and (b) of which cover the same subject matter as Sections (a) and (b) of the resolution of May 24, 1939.

There is even a question as to whether Section (c), which makes it unlawful for the holder of any on-premises consumption license to employ any female as hostess, is not also repealed. I take it that the Board of Commissioners did not so intend. But the operative words of the repealer, viz.: "any resolution inconsistent with the provisions of this resolution", are broad enough and perhaps demand the construction that the whole of the resolution of August 29, 1934 has been repealed. Certainly it raises grave doubt as to whether any conviction may now be obtained under the old regulation for employing hostesses. This of itself is sufficient cause for immediate reconsideration of the general repealing clause and its re-enactment in express terms.

It would be well in enacting these repealers to state just what regulations are superseded rather than leave them in general form. This would save licensees hiring a Philadelphia lawyer to determine at their peril just what rules they have to obey and what are no longer in force.

In view of the large number of Newark regulations and the cancellations and changes which have been made from time to time during the past five years, I cordially suggest that it would simplify matters for everybody if the local Excise Board would codify, and submit to the Commissioners for enactment, the regulations presently in force so that a copy of the simplified rules could be issued to each licensee at the beginning of the new fiscal year which starts on July 1st.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

11. LICENSES - MERE NON-USER DOES NOT AFFECT VALIDITY OR EXISTENCE OF LICENSE.

June 2, 1939

Charles Stephans, President,  
N.J.L.B. Ass'n, Division #48,  
Cliffside Park, N. J.

Dear Mr. Stephans:

I have before me your letter of May 10th inquiring whether a transferee of a license, after having allowed the license to remain idle for a period of eight months, may thereafter engage in business under that license, or whether the non-user during that period automatically constituted "a cancellation or revocation of said license."

A liquor license, once validly issued, remains in effect for its term unless surrendered, revoked, or set aside in the interim. Mere non-user, for any length of time, does not affect the validity or existence of the license.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

12. BURLINGTON TOWNSHIP LIQUOR REGULATION OF APRIL 20, 1696 — HEREIN OF THE SURVIVORSHIP OF THE PINT AS THE MINIMUM STANDARD OF FILL.

Dear Sir:

In looking through the old minute book of Burlington Township recently I came across a paragraph I thought you might be interested in, as I believe it is one of the oldest regulations of the liquor trade if not the oldest in the State. I have tried to copy this just as it is written in the book:

"By a Town meeting held April 20th 1696 it was then put to a vote whether any person not having a Lycense shall expose and sell any strong Liquors by the pot at Fair Times and it past in the negative. It was likewise put to vote, whether any merchant or other unlicensed person shall sell any quantity of rum or brandy less than a pint, and it past in the negative, and it was ordered that if any Mercht or other unlycensed person shall sell a less quantity than a Pint of the said Liquors that then such person so offending shall forfeit Tenshillings for every such lessor quantity so sold the one half to the Burgess and the other half to the informer."

Yours very truly,  
Thomas Coburn,  
Township Clerk.

June 3, 1939

Thomas Coburn,  
Township Clerk,  
Burlington, N. J.

My dear Mr. Coburn:

It was mighty good of you to obey the impulse and take the time and pains to copy and forward the liquor regulation, vintage of 1696.

It is interesting to note the similarity of our problems with those with which our forefathers struggled. Our present minimum standard of fill is one pint — the same as in Burlington, 1696. Rule 1 of the present regulations concerning size of containers provides, subject to certain exceptions:

"No sale of any alcoholic beverage for consumption off the licensed premises may be made by any retail licensee unless the bottle, receptacle or container shall contain one full pint of sixteen (16) fluid ounces."

Thus, without fully realizing the extent, we have drawn on the wisdom of past experience. Some may say that there is nothing new under the sun. Perhaps the world of tomorrow will draw a mite from the present just as we have plucked much from the past.

Thank you very much.

Sincerely yours,  
D. FREDERICK BURNETT,  
Commissioner.

## 13. DISCIPLINARY PROCEEDINGS - CONVICTION OF ABORTION AFTER LICENSE ISSUED WARRANTS REVOCATION.

June 3, 1939

William C. Armstrong, Jr.,  
 Frelinghuysen Township Clerk,  
 Blairstown, R. D. 1, N. J.

My dear Mr. Armstrong:

I have before me copy of resolution and order adopted by the Township Committee on May 29th in disciplinary proceedings against Ada Lillian Elia, t/a The Woodside, the holder of plenary retail consumption license C-5 for premises on Route 8.

I note that she was convicted in the Warren County Court of Special Sessions of performing abortions, a crime involving moral turpitude, whereupon her license was revoked notwithstanding its surrender prior to the hearing of the disciplinary proceedings.

Please express to the members of the Township Committee my appreciation for their institution of these proceedings on their own initiative and the penalty imposed, which under the circumstances is just right. Had the licensee been convicted of this crime before the license was issued, she would have been ineligible to hold a license and none could have been issued to her. The conviction having occurred while she held a license, outright revocation pursuant to R. S. 33:1-31, permitting revocation of the license for any act or happening occurring after application, which would have prevented issuance of the license had it occurred before, was indicated.

The Township Committee has done its duty promptly and well.

Very truly yours,  
 D. FREDERICK BURNETT,  
 Commissioner.

## 14. MUNICIPAL REGULATIONS - HOURS - DAYLIGHT SAVING TIME - A PROCLAMATION OF THE MAYOR, STANDING ALONE, DOES NOT CONVERT THE HOURS FROM EASTERN STANDARD TO DAYLIGHT SAVING TIME - TO EFFECT SUCH CONVERSION IT IS NECESSARY EITHER TO MAKE DAYLIGHT SAVING TIME THE OFFICIAL TIME FOR THE MUNICIPALITY OR TO PROVIDE FOR THE CHANGE IN TIME IN THE LIQUOR REGULATION - THE LATTER ALTERNATIVE RECOMMENDED.

June 2, 1939

Edward DuPree,  
 City Clerk,  
 Paterson, N. J.

My dear Mr. DuPree:

It has come to my attention that the regulation of the Board of Aldermen prescribing the hours during which sales of alcoholic beverages are prohibited, is being followed by Paterson licensees in accordance with Daylight Saving Time.

The pertinent restriction, according to my records, is in Section 2 of resolution adopted by the Board on June 28, 1935, which reads:

"The holders of licenses issued by virtue of this resolution shall not be permitted to sell, serve or give away any alcoholic beverage on week days between the hours of 3:00 A.M. and 7:00 A.M. and on Sundays between the hours of 3:00 A.M. and 1:00 P.M. except as hereinafter provided for."

I find nothing in the resolution indicating whether Eastern Standard Time or Daylight Saving Time is to govern during any particular period of the year.

It is my understanding that it is the thought of the licensees that Daylight Saving Time has been made effective by the Mayor's proclamation thereof.

I have heretofore ruled in Re Wagner, Bulletin 58, Item 4, and affirmed in Re Tanier, Bulletin 261, Item 1, that where no standard of time is specified, the hours are converted into Daylight Saving Time, for the usual appropriate period, by the adoption of an ordinance or resolution making Daylight Saving Time the official time for the municipality. I have also ruled that a mere proclamation by the Mayor, without authority conferred by some resolution or ordinance, or mere conformance on the part of the residents, is ineffective to effect such a conversion. Re Kane, Bulletin 186, Item 4; Re Lane, Bulletin 261, Item 2. I further understand that no such resolution or ordinance authorizing the proclamation has been adopted.

If it is the thought of the Board that the alcoholic beverage hours shall be in accordance with Daylight Saving Time, there are two alternatives: (1) You may adopt a resolution or ordinance making Daylight Saving Time the official time for the municipality from 2:00 A.M. on the last Sunday in April until 2:00 A.M. on the last Sunday in September, or (2) you may supplement Section 2 of the resolution of June 28, 1935 with an additional paragraph reading:

"The hours hereinabove referred to shall be Eastern Standard Time, except from 2:00 a.m. on the last Sunday in April until 2:00 a.m. on the last Sunday in September, each year, when they shall be Eastern Daylight Saving Time."

The adoption of either alternative will convert the time in the liquor regulations. The former, for the reason that the adoption of Daylight Saving Time as the official time, either by resolution or by ordinance, will formally establish the effective time for the municipality as a whole and thus be definitive of the time prescribed by the liquor regulations. See Re Wieser, Bulletin 287, Item 17; Re Tanier, and Re Wagner, supra. The latter, because for the indicated period each year the change will be automatic, being prescribed by the provisions of the regulations themselves. For the reason that it is fully automatic and obviates the necessity for the adoption of Daylight Saving resolutions from year to year, I recommend the latter as the better solution. It is also preferable because of questions which might arise from the absence of an express delegation of authority to municipalities to fix and determine an official time therein, and consequently as to the validity of such action. See Re Beisch, Bulletin 317, Item 7.

Unless, however, one or the other alternative is adopted and carried through, the hours in the resolution of June 28, 1935 will be deemed to be Eastern Standard Time throughout the entire year and licensees will conduct their businesses accordingly. But

that, however, should not be allowed because it would mean sales until 4:00 a.m., Daylight Saving Time, which for the reasons in Re Lane, supra, would be wholly out of order.

Kindly report to me the action of the Board.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner.

15. FAIR TRADE CONTRACTS -- NEW JERSEY PRICE LIST - ERRORS AND OMISSIONS IN BULLETIN 320.

June 5, 1939.

The following supplement and amendment to Bulletin 320 is hereby promulgated and published, viz.:

Sheet 13 of Bulletin 320, Item 15, under Continental Distilling Corporation is corrected to include:

"McCALLUM'S PERFECTION Scots Whisky	Fifths Tenths	\$3.25 1.75".
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The same item is also corrected to include:

"Discount of 10% permitted on case lot purchases".

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Sheet 32 of Bulletin 320, Item 41, under J. & J. Distributing Company is corrected to read:

"HARVEY'S Blended Scotch Whisky	Fifths 1/2 Fifths	\$2.85 1.50".
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The foregoing prices as thus corrected will be effective June 7, 1939 at 10:00 A. M.

*D. Frederick Burnett*  
Commissioner