



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

January 30, 1940

Re: Case No. 308

Applicant pleaded guilty on February 7, 1935 to the crime of grand larceny before the Cumberland County Court of Special Sessions and received a suspended sentence and placed on probation for two years.

At a hearing to determine his eligibility, applicant denied that he had participated in the theft of the stolen goods. His conviction, however, cannot be collaterally attacked in this proceeding. Re Case No. 289, Bulletin 346, Item 11.

The crime of larceny ordinarily involves moral turpitude. Re Case No. 297, Bulletin 354, Item 7. No facts were disclosed to cleanse applicant's crime of that element. Indeed, he admitted that he and two others made an unsuccessful attempt to sell the stolen goods.

It is recommended that applicant be advised that he is not eligible to hold a solicitor's permit in this State.

Samuel B. Helfand,  
Attorney.

APPROVED:

D. FREDERICK BURNETT,  
Commissioner.

3. TRANSPORTATION INSIGNIA - ON TRACTOR AND TRAILER UNITS, THE INSIGNIA IS TO BE AFFIXED TO THE TRACTOR, NOT TO THE TRAILER.

January 30, 1940

The Motor Haulage Company, Inc.,  
Brooklyn, N. Y.

Gentlemen:

Our records show that you are the holder of transportation license T-22.

A trailer would not be construed to be a vehicle within the meaning of the term as used in State Regulations No. 16, which require a transportation insignia to be attached to vehicle transporting alcoholic beverages. When a trailer is attached to one of your tractors, the trailer and tractor will be construed as a single unit and it will be sufficient if your tractor bears a proper transportation insignia.

There appears to be no reason why your duly licensed tractors may not pick up trailers containing alcoholic beverages in New York City and transport the alcoholic beverages to points within this State.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

## 4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - INADEQUATE PENALTIES.

February 5, 1940.

W.H. Jamouneau,  
Town Clerk,  
Irvington, N. J.

My dear Mr. Jamouneau:

I have before me staff report and your letter of January 31st re disciplinary proceedings conducted by the Board of Commissioners against Mrs. Albert Splan, 1201 Springfield Avenue, charged with sale of an alcoholic beverage to a minor, and note that upon a finding of guilt her license was suspended for one day.

Sales to minors is one of the gravest problems of liquor control. It isn't solved by handling licensees with kid gloves. Inadequate penalties do not teach licensees that it is only because of public sufferance that they are allowed to conduct a privileged business for private profit; that the permission is granted on strict condition that the law is observed; and that their duties are not discharged by wilfully blinding their eyes to what anyone may see.

In the instant case, my men were making a routine inspection. In came a 17 year old boy for a bottle of beer which the bartender sold him without any question. His appearance was so youthful, however, that it caused my men to question him as to his age, whereupon the violation was at once apparent. If my men could so readily find out, why not the bartender?

The one day suspension is naught but a gesture. For selling alcoholic beverages to a 17 year old boy, a ten day suspension was the least that should have been inflicted.

In the last minor case before your Board - Olympic Tavern, Inc., - a one day suspension was also given.

Does this mean that the Irvington authorities wish me to take over their duties and handle all disciplinary matters directly?

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

5. REFERENDUM - SUNDAY SALES - AN AFFIRMATIVE VOTE DOES NOT MEAN THAT THE LID IS OFF SO THAT SALES MAY BE MADE FOR 24 HOURS ON SUNDAYS - REASONABLE REGULATION AS DISTINGUISHED FROM TOTAL PROHIBITION MAY STILL BE MADE.

SPECIAL RULING - REASONABLE HOURS FIXED FOR SUNDAY SALES IN BOROUGH OF NORTH CAPE MAY.

See 598-6

February 5, 1940.

Eleanor Oliver, Clerk,  
Borough of North Cape May,  
Cape May, N. J.

My dear Miss Oliver:

I have before me yours of January 30th certifying that at the general election held in the Borough of North Cape May on November 7, 1939, there was submitted the question "Shall the sale of alcoholic beverages be permitted on Sundays in this municipality?" and that the vote on the question was 'Yes' 19, 'No' 0.

The sale of alcoholic beverages on Sundays pursuant to the provisions of the Act is therefore permissible in your municipality.

It is not essential, however, to allow Sunday sales for the full twenty-four hours. Regulation, as distinguished from prohibition, of Sunday sales may, notwithstanding the referendum, be made provided the rules are reasonable in the light of the referendum and the restrictions in effect prior thereto. See Re Johnson, Bulletin 224, Item 6; Re Alpaugh, Bulletin 214, Item 1; Re Numbers, Bulletin 108, Item 12; Re Scudder, Bulletin 108, Item 1; Re Howell, Bulletin 95, Item 11.

Prior to May 28, 1938, all Sunday sales were prohibited in the Borough of North Cape May by Section III of the Cape May County alcoholic beverage regulations promulgated by Judge Way on March 29, 1937. On May 28, 1938, it was ordered by Judge Way that Sunday sales should be allowed in the Borough, subject, however, to the restrictions in Section IV of the County regulations aforesaid (viz.: no sales between 3:00 A. M. and 12:00 noon during June, July, August and September, or between 2:00 A. M. and noon during the rest of the year), for the reason that all of the voters of the Borough and the Mayor and Council had petitioned him that he allow Sunday sales pending the referendum to be held in the Borough for which a petition had already been presented to the Council.

Judge Way's order of May 28, 1938 did not change the general scheme of regulation. It merely anticipated the referendum. The question which faced the voters when the referendum was held was, in effect, whether Sunday sales should be permitted subject to Section IV of the County regulations or whether Sunday sales should be barred entirely.

In view of the unanimous affirmative vote and in order to effect reasonable regulation of Sunday sales in this municipality, I now rule that until further order or an appropriate municipal regulation of the Borough of North Cape May shall be duly enacted, whichever event may first occur, Sunday sales in the Borough shall be governed by Section IV of the former County regulations aforesaid. Hence no such sales are allowed between the hours of 3:00 A.M. and 12:00 noon during the months of June, July, August and September, or between the hours of 2:00 A.M. and 12:00 noon during the balance of the year.

Kindly notify the one licensee in your Borough accordingly.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

6. DISCIPLINARY PROCEEDINGS - SALE ON SUNDAY - 15 DAYS ON CONFESSION OF GUILT.

February 5, 1940

Francis S. Grogan,  
Township Clerk,  
Riverside, N. J.

My dear Mr. Grogan:

I have before me staff report and your letter re disciplinary proceedings conducted by the Township Committee against Albert J. Wille, 33 Lafayette St., charged with sale of alcoholic beverages on Sunday, and note that on confession of guilt his license was suspended for fifteen days.

Please express to the members of the Township Committee my appreciation for their conduct of these proceedings and the penalty imposed.

I further note that the licensee was warned that a second violation would result in the revocation of his license and that Chairman Klevan announced that the warning was meant to apply equally to all other licensees of Riverside.

My thanks to Chairman Klevan, the Township Committee and Solicitor Lichtenthal for their continuing splendid cooperation.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

7. DISCIPLINARY PROCEEDINGS - UNLAWFUL TRANSPORTATION -  
DECLARATION OF POLICY.

February 5, 1940

Union Township Committee  
c/o William W. Friberger, Clerk  
Union, N. J.

Gentlemen:

Kindly refer to letter of January 23d from Attorney Tschupp recommending institution of disciplinary proceedings against Union Wine & Liquor Store, Inc., which at the time it was written was wholly correct.

As indicated in the synopsis of case enclosed with that letter, disciplinary proceedings were recommended because of the unlawful transportation of alcoholic beverages by the licensee in a private automobile driven by Paul Wolfson and owned by his mother, Fannie Wolfson, which automobile bore no transit insignia.

As a result of the unlawful transportation, the automobile was seized and in seizure proceedings conducted at this Department it was, on January 10, 1940 ordered returned to Fannie Wolfson provided she paid the costs of the seizure and obtained a special permit to validate retroactively the unlawful transportation. Re Seizure Hearing 5612, Bulletin 376, item 8.

The disciplinary proceedings against Union Wine & Liquor Store, Inc., were transmitted by Mr. Tschupp for the reason that in the Conclusions and Order in the seizure case I said:

" . . . disciplinary proceedings against the licensee for permitting the unlawful transportation will be recommended."

However, I have today reconsidered the problem. It appears in Bulletin 376, item 8, that Paul Wolfson was the manager of Union Wine & Liquor Store. To serve a customer, he transported beer in his mother's car. That transportation was unlawful because the car bore no transit insignia. For her son's impulsive act, the mother had to take out a Special Permit at a fee of \$25. and pay besides the seizure costs and storage. So far, so good. Now it is true that the subsequent retroactive validation of the use of Fannie Wolfson's private car to transport beer did not technically purge the action of the corporate licensee, done by its employee, Paul, in placing the beer in his mother's car. The permit was issued to her and not to the corporation. But to punish the licensee in this new proceeding is, in substance, the imposition of a double penalty for a single offense.

If the beer had not been tax paid, or if there had been any offense, fault or dereliction by the licensee independent of its action in placing the beer for transportation in an unlicensed car, that would be a horse of a different color and appropriate proceedings in such event might well be prosecuted against the licensee. But on the facts in the instant case I have, upon reflection and on my own initiative without request or suggestion from Union Wine & Liquor Store or anyone in its behalf, concluded that as a matter of general fairness no disciplinary proceedings should be instituted against this licensee for unlawful trans-

portation of tax paid alcoholic beverages because the unlawful transportation itself was subsequently validated by the issuance of a special permit.

Accordingly, the recommendation that disciplinary proceedings be instituted against Union Wine & Liquor Store, Inc. is withdrawn.

I regret very much any inconvenience that the Township Committee or you may have been put to by reason of the transmission of the case which is now to be discontinued but deem it important that justice should be done whatever the cost and that the Department policies be changed and declared whenever experience or reflection shows them to be erroneous.

Sincerely yours,  
D. FREDERICK BURNETT,  
Commissioner.

8. SEIZURES - CONFISCATION PROCEEDINGS - AUTOMOBILE RELEASED UPON ISSUANCE OF RETROACTIVE VALIDATING PERMIT.

In the Matter of the Seizure on )	Case 5613
November 2, 1939 of William )	
Reinhardt's Chevrolet Coupe and )	ON HEARING
three 1/8 barrels of beer con- )	CONCLUSIONS AND ORDER
tained therein, in the vicinity )	
of 312 North Day Street, in the )	
City of Orange, County of Essex )	
and State of New Jersey. )	
----- )	

Glickenhau & Glickenhau, Esqs., by Jacob S. Glickenhau, Esq.,  
Attorneys for Joseph F. Reinhardt, Inc.  
Harry Castelbaum, Esq., Attorney for the Department of  
Alcoholic Beverage Control.

BY THE COMMISSIONER:

On November 2, 1939, Joseph F. Reinhardt was apprehended by investigators of this Department while transporting three one-eighth barrels of tax-paid beer in a Chevrolet coupe which bore no transit insignia. The motor vehicle is owned by William Reinhardt. The delivery was being made on behalf of Joseph F. Reinhardt, Inc., a State beverage distributor licensee of which Joseph F. Reinhardt is the president, and his father, William Reinhardt, is the secretary. The investigators seized the beer and the automobile, both of which constitute unlawful property. R. S. 33:1-66(c).

The beer will be disposed of in a separate proceeding.

The licensee obtained the return of the motor vehicle upon payment to the Commissioner, under protest, of its appraised retail value, to wit, the sum of \$435.00. It stipulated that the Commissioner should hold a hearing and determine whether said sum should be forfeited or returned to it, and agreed that an adverse determination should be dispositive of any and all rights it may have acquired in making payment of said sum to the Commissioner.

In support of the contention that the moneys paid should be returned because all of the parties involved herein had acted in good faith, Joseph F. Reinhardt testified that on the day in question he had received, after closing hours, an urgent call from a retail licensee for an immediate delivery of the beer; that the drivers of the three duly licensed trucks owned by the licensee had already gone home; that in his overzealous desire to service the customer, he used the Chevrolet coupe and "just didn't think"; that the unlicensed vehicle had never theretofore been used for making deliveries.

William Reinhardt, who is 82 years of age and has been in the beer business since 1895, testified that he has never been arrested nor has he ever been found guilty of any infraction of the liquor laws. Departmental records disclose no previous violations against the licensee, Joseph or William Reinhardt.

In view of all the circumstances, forfeiture of the moneys deposited with me in place of the motor vehicle is not warranted. However, a special permit to validate the unauthorized transportation will be required, the fee for which will be Twenty-five (\$25.00) Dollars. Application for such special permit should be filed forthwith by the licensee.

Accordingly, it is hereby ORDERED that there shall be deducted from the sum of \$435.00 paid by the licensee (1) the sum of \$25.00 as and for the fee for the validating permit, and (2) the costs involved in the seizure and storage of the motor vehicle. The balance of the money is to be returned to the licensee when the permit is issued.

D. FREDERICK BURNETT,  
Commissioner.

Dated: February 4, 1940.

9. DISCIPLINARY PROCEEDINGS - GAMBLING - HEAVY-FISTED PENALTY BY HOBOKEN FOR PERMITTING BOOKMAKING ON LICENSED PREMISES.

February 6, 1940

Arthur C. Malone,  
City Clerk,  
Hoboken, N. J.

My dear Mr. Malone:

I have before me staff report and your letter of January 30th re disciplinary proceedings conducted by the Board of Commissioners against Alphonse Andre, 201 Hudson St., charged with permitting bookmaking on his licensed premises, and note that he was found guilty and his license suspended for twenty-nine days.

According to the staff report, my men found twenty men in the licensed premises studying racing forms and making bets with two bookmakers who seemed to have the run of the place, which the licensee apparently permitted them to use as their headquarters.

Commercialized bookmaking on a large scale warrants the imposition of heavy-fisted penalties such as the Board of Commissioners has imposed in this case.

Although I can express no opinion as to the guilt or innocence of the licensee, because the case may come before me on appeal, I wish nevertheless that you would express to the Mayor and Board of Commissioners my appreciation for their conduct of these proceedings and the penalty imposed.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

10. DISCIPLINARY PROCEEDINGS - LICENSEE CONVICTED OF OBTAINING MONEY UNDER FALSE AND FRAUDULENT PRETENSES - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against )

WILLIAM ELLENBERG,  
1309 White Horse Pike,  
Galloway Township,  
P.O. Absecon, R.D., N. J., )

ON HEARING  
CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-7 issued by the Township Committee of Galloway Township. )  
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Charles Basile, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Charges were served upon the licensee alleging, among other things, that on October 19, 1939 he was convicted in the Atlantic County Court of Quarter Sessions of the crime of obtaining money under false and fraudulent pretenses.

On December 22, 1939, prior to the hearing herein, the license certificate was delivered to the Clerk of the Township of Galloway, accompanied by a written notice signed by the licensee that he thereby surrendered all rights in said license.

The sole question, therefore, is whether the surrender should be accepted or the license revoked.

It appears that on October 19, 1939 William Ellenberg was convicted, after trial by jury, in the Atlantic Quarter Sessions Court on an indictment charging that he had obtained the sum of One Thousand Twenty-five Dollars (\$1025.00) from two individuals by false and fraudulent pretenses, as a result of which he was sentenced to State's Prison for a period of not less than one and one-half years and not more than three years; that the licensee was confined to State's Prison at the time he surrendered his license.

R. S. 33:1-31 provides, in effect, that any license may be suspended or revoked because of any act or happening occurring after the time of making of an application for license, which, if it had occurred before said time, would have prevented the issuance of said license. The conviction referred to herein would have prevented the issuance of a license to William Ellenberg, and hence I shall revoke the license.

Under the circumstances, there is no need to consider the additional charge that he violated the provisions of R. S. 33:1-25 in failing to disclose in his application for the license a previous conviction for the crime of keeping slot machines.

Accordingly, it is, on this 6th day of February, 1940,

ORDERED that plenary retail consumption license C-7, heretofore issued to William Ellenberg by the Township Committee of Galloway Township, be and the same is hereby revoked, effective immediately.

D. FREDERICK BURNETT,  
Commissioner.

11. ADVERTISING - MECHANICAL DISPLAYS ON LICENSED PREMISES -  
MULTIVISION DEVICE APPROVED, SUBJECT TO ITS USE IN ACCORDANCE  
WITH THE REGULATIONS.

February 5, 1940

Multivision Corporation,  
New York, N. Y.

Gentlemen:

I have examined your device and compliment you upon the dignified and pleasing appearance of both the unit and the advertising.

I send you herewith the pamphlet of the New Jersey Alcoholic Beverage Regulations (Sept. 1939) and direct your attention to Regulations No. 21, pertaining to equipment, signs and other advertising matter, on pages 66 and 67.

It will be permissible for you to maintain your device on the premises of licensed New Jersey retailers, provided it does not cause the aggregate cost or reasonable value of all signs and advertising matter furnished the retailer by each manufacturer or wholesaler of alcoholic beverages to exceed the allowable \$50.00 per year. The value in the instant case will be the proportionate cost to each manufacturer or wholesaler of the maintenance of the device in the retail establishment.

No advertisement of the price of any alcoholic beverage or the relative size of the container thereof may be displayed by means of your device on the exterior of the licensed premises, or in the show window or door, or interior when visible from the street.

No advertisement of alcoholic beverages may be displayed unless such brand or type of alcoholic beverage is actually available for sale at the premises.

It is not necessary that you confine it to advertisements of alcoholic beverages. Advertisements of other products may be used, provided, of course, the copy is not objectionable.

I shall be glad to have you display such rulings and notices of the Commissioner as your office and your advertisers wish. I caution you, however, that there must be nothing in your advertising, prospectus, contracts, leases or otherwise, holding out that your scheme or product has been officially or unofficially designated as a medium of promulgation of the Commissioner's rulings or that licensees are compelled to use or install it.

The specific licensees you select and the contracts and leases you enter into are matters of your own private concern, and no affair of mine, except to the extent that they may indicate the proportionate cost for the purpose of the \$50.00 yearly limit aforesaid.

The foregoing is not in any sense a blanket approval of the advertising. Whether or not specific advertisements will be approved depends entirely upon what they say. I cordially suggest that you submit each advertisement to me, before installation, for formal ruling.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

12. SEIZURES - CONFISCATION PROCEEDINGS - STILL ON CITY PROPERTY - PROPERTY FORFEITED BUT PADLOCK DENIED.

In the Matter of the Seizure, ) Case 5629  
on November 22, 1939, of a )  
still, etc. at 427 Senate ) ON HEARING  
Street, in the City of Camden, ) CONCLUSIONS AND ORDER  
County of Camden and State of )  
New Jersey. )  
- - - - - )

Edward V. Martino, Esq., Assistant City Counsel for the City of Camden.

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

BY THE COMMISSIONER:

On November 22, 1939, investigators of this Department, accompanied by Camden police officers, seized a complete unregistered still and a quantity of mash at 427 Senate Street, Camden. The seized property (set forth in Schedule "A" annexed hereto) is unlawful property. R. S. 33:2-2.

No one appeared to contest the forfeiture of the seized articles.

As to padlocking: On August 12, 1936, the City of Camden acquired the premises at a tax sale for arrearage of taxes and water rents, now amounting to \$359.52. The City's agent testified that he has managed the property (located in a "low class" neighborhood in Camden) since October 1, 1937; that he cannot account for the presence of the still on the premises; that the property was rented to various tenants, the last one being Elmer Tribett; that the monthly rent of \$12.00 was paid at his office and that, therefore, he had no occasion to visit the premises; that, because Tribett was behind in his rent, he was served with a notice to move; that Tribett has since disappeared, and the premises are now vacant; and that if the premises are padlocked, the consequent loss of rent would impair the City's ability to recover the money due to it.

I shall not padlock the City's property!

Accordingly, it is ORDERED that the seized property 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.

D. FREDERICK BURNETT,  
Commissioner.

Dated: February 4, 1940.

SCHEDULE "A"

1 - copper cooker  
2 - sets of copper coils  
2 - copper goosenecks  
1 - copper cooker  
6 - 50-gallon wooden barrels with mash  
1 - 30-gallon wooden barrel  
1 - coal stove base  
1 - 5-gallon stone crock  
2 - tin funnels  
1 - hydrometer  
Miscellaneous pipe and hose

13. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - 10 DAYS ON  
CONFESSION OF GUILT.

February 5, 1940

Samuel R. Morton,  
City Clerk,  
Rahway, N. J.

My dear Mr. Morton:

I have before me your letter of January 27th re disciplinary proceedings conducted by the Municipal Board of Alcoholic Beverage Control against Benjamin Dembling and David M. Dembling, t/a Dembling's Royal Market, 739 West Grand Avenue, charged with sale of alcoholic beverages to a minor, and note that on confession of guilt the license was suspended for ten days.

Please express to the members of the Board my appreciation for the institution of these proceedings on municipal initiative and the penalty imposed. Since I know nothing of the facts I can, of course, express no opinion on the merits.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

## 14. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - 30 DAYS ON CONFESSION OF GUILT.

February 5, 1940

Harvey G. Wismer,  
Town Clerk,  
Phillipsburg, N. J.

My dear Mr. Wismer:

I have before me staff report and your letter of January 25th re disciplinary proceedings conducted by the Board of Commissioners against John Wm. Cahill, 1083 So. Main St., charged with sale of alcoholic beverages to a minor, and note that on confession of guilt the license was suspended for thirty days.

Please express to the members of the Board of Commissioners my appreciation for their conduct of these proceedings and the substantial penalty imposed. I take it that the Board has determined to stamp out sales to minors by Phillipsburg licensees.

Thank you for your cooperation.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

## 15. DISCIPLINARY PROCEEDINGS - GAMBLING - PAY-OFF MACHINES - 10 DAYS ON CONFESSION OF GUILT.

February 5, 1940

Herbert L. Palmquist,  
Clark Township Clerk,  
Rahway, N. J.

My dear Mr. Palmquist:

I have before me staff report and Resolution and Order adopted by the Township Committee on January 31st in disciplinary proceedings conducted against Russel Yarnell & David R. Hollander, Palisades Ave., charged with possession of a Turf Champ machine that paid off in tickets which were redeemed for cash, sale of alcoholic beverages during prohibited hours and hindering and delaying an investigation, and note that on confession of guilt the license was suspended for ten days.

Please express to the members of the Township Committee my appreciation for their conduct of these proceedings and the penalty imposed.

I was glad to see that the Committee was not taken in by the licensee's fishy explanation that the reason he refused to give any information to my investigators was because he was excited and thought it was a hold-up. Hold-up men don't carry my credentials.

The cooperation of the Township Committee and Township Attorney Molson in backstopping the work of the Department is appreciated.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

16. MUNICIPAL REGULATIONS - LIMITATION OF THE NUMBER OF LICENSES -  
CONSIDERATIONS APPLICABLE - HEREIN OF THE WORTH OF PETITIONS.

February 5, 1940

Wm. E. Philpott, Councilman,  
Closter, N. J.

My dear Mr. Philpott:

I have yours of January 27th and note that the Council has before it an application for a new plenary retail distribution license, a proposed amendment to the present ordinance increasing the number of such licenses to three, and that you anticipate the filing of a petition now being circulated by one of your licensees requesting that the application be denied and that the amendment to the ordinance be defeated.

I don't put much stock in petitions. Anyone may circulate a petition and anyone may sign it. The person who starts it may be considering the best interests of the municipality but then again he may be serving merely some private personal interest of his own. They are often signed without any, let alone careful consideration of the subject matter, or just to be a good fellow, or even to get rid of the solicitor.

The Council's decision should not be a mere matter of counting noses. It should be based, rather, upon what the people, both for and against, really think and why they think it. The best way to find out the facts and the merits is to have them appear at the hearing on the ordinance where reasons are given in public and refutation is permissible by the other side.

The Council has the power to limit the number of licenses. It is conferred by R. S. 33:1-40. It also has the power to raise or reduce the quota or abolish it entirely as it sees fit, subject only to appeal to the Commissioner pursuant to R.S. 33:1-41. The purpose of the statutory authorization is to enable municipalities, at some point, to bring the issuance of licenses to a halt. It is not to create a monopoly for the benefit of the present licensees. It is to protect the municipality. See Ignatz v. Phillipsburg, Bulletin 167, Item 16. Of course, any limitation incidentally benefits those who hold licenses when it goes into effect. To be sure, it limits competition. But it also discourages the sale of bootleg liquor, adulteration and other unlawful practices to which licensees are inclined to resort when competition becomes ruinous. The trouble, as I pointed out in Re Petrie, Bulletin 108, Item 2, is that temptation to sell bootleg and otherwise cut corners in disobedience of the regulations and the law, comes with insidious force to those whose business is so small as not to afford a living wage. With customers going elsewhere, one licensee after another is drawn in. The eventual result is that none are making a living, the police have on their

hands an aggravated problem of law enforcement, and the conduct of the licensees becomes a disgrace to the municipality and the industry as a whole.

You now have in the Borough nine plenary retail consumption and two plenary retail distribution licenses presently outstanding. The population, according to the 1930 census, was 2,502. That is approximately one license for each 225 persons. What you must consider when you have the proposed amendment before you is the effect on the Borough now and in the immediate future, and whether the number actually issued or the quota sought to be fixed is reasonable and proper in the light of present circumstances, the population, the character of the municipality and public convenience and necessity. Cf. Re Renton, Bulletin 115, Item 8.

You may decide that there should be more - or that the present quota is right - or that there are too many. I have repeatedly urged, where it was apparent that there were too many licenses outstanding, that the number be reduced. See Re Scull, Bulletin 276, Item 14 and the items therein cited.

It is the duty of the Council to hear all sides and then to decide the matter on the merits. What the decision shall be rests in the first instance in the exclusive judgment and discretion of the Council.

You can obtain the rulings referred to from Mr. McDonald, the Borough Clerk. I commend them to the attention of the Borough Council.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

17. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED ON FAILURE TO PAY COSTS.

In the Matter of the Seizure of	)	Case 5120
a still and three motor vehicles	)	
on the Di Toro (De Toro) Farm,	)	ORDER
located on the Naughtright-Bartley	)	
Road, in the Township of Washington,	)	
County of Morris and State of New	)	
Jersey.	)	

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BY THE COMMISSIONER:

By order entered on December 15, 1939, a Chevrolet Sedan was ordered returned to Paul Carducci, and a Willys Truck and a Chevrolet Truck were ordered returned to Fred Di Toro (De Toro) if, on or before January 15, 1940, each paid their respective costs involved in connection with the seizure of the vehicles. Bulletin 369, Item 6.

It now appears that these costs have not been paid, and that neither Paul Carducci nor Fred Di Toro have responded to a letter sent them on January 18, 1940, requesting them to advise immediately whether they intended to comply with the conditions of the order.

I therefore rescind so much of the order as directed the return of said motor vehicles, and instead, it is ORDERED that they be retained for the use of hospitals and State, County and municipal institutions.

Dated: February 4, 1940. D. FREDERICK BURNETT, Commissioner.

18. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against MORRIS KAHNOWITZ, 228 - 7th Street, Jersey City, N. J., Holder of Plenary Retail Distribution License D-35, issued by the Board of Commissioners of the City of Jersey City.

CONCLUSIONS AND ORDER

Morris Kahnowitz, Pro Se. Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling liquor at less than the Fair Trade price at the licensed premises on January 17, 1940, in violation of Rule 6 of State Regulations No. 30.

The usual penalty for this violation is ten 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 five (5) days instead of ten (10) days.

Accordingly, it is, on this 6th day of February, 1940,

ORDERED, that Plenary Retail Distribution License D-35, heretofore issued to Morris Kahnowitz by the Board of Commissioners of the City of Jersey City, be and the same is hereby suspended for a period of five (5) days, effective February 10, 1940, at 2:00 A.M.

[Handwritten signature of D. Frederick Burnett]

Commissioner.