

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

BULLETIN 318

MAY 29, 1939.

1. LICENSING MATTERS -- PRINCIPLES ON WHICH DECISIONS ARE RENDERED --  
HEREIN OF THE JOYS OF BEING SOLD SHORT.

Dear Sir:

At a township meeting last evening in Vineland, N. J., considerable protest was voiced by such organizations as the Board of Education, Women's Club, Vineland Ministerium, Parent-Teachers Associations etc. together with several hundred names on petition against the transfer of a license for a tap room to a location not many hundred feet from the local High School.

In the course of discussion the statement was made by one in favor of the transfer to the effect that the action of these organizations together with the Commissioners of the Township meant nothing that you would see to it that this transfer was made.

Is it not a fact that as a rule you abide by the action of local governing bodies in such matters.

It was brought out in the course of discussion that the owner of the taproom made application for the erection of a store and it was only recently that the community learned the real purpose of the building.

I \*\*\* question the truth of the above statement. I would appreciate a word from you regarding this matter.

Very truly yours,

E. W. COOPER

May 20, 1939.

Rev. Edward W. Cooper,  
Vineland, N. J.

My dear Mr. Cooper:

I have before me your valued letter by which I learn with astonishment that I am supposed to have no use for civic-minded organizations or your respected Township Commissioners thrown in for good measure!

The statement is so absolutely false and ridiculous that I dislike to dignify it even by a denial.

I am sorry indeed that anybody had the effrontery to say it. Those who know me at all have long since learned that, when there is any decision to make or comment to render, my invariable practice is to put it down in black and white and sign my name. Every such decision is my own and for it I am solely responsible. Anything outside of that is wholly unauthorized.

New Jersey State Library

I hope that whoever made the statement did not mean to sell me short. Perhaps in the heat of debate he became exuberant in prediction, and, as will sometimes happen, having said something aloud, began to believe it. If that is all, let us, in charity, forgive him. He certainly is entitled to his opinion even though it be an idle guess or speculation. Brag is a good dog but Holdfast is better!

My position in these licensing matters is that of a judge. I do not entertain, let alone express, any opinion whatsoever on the merits of any case until it has been fully tried out before me on sworn testimony subject to cross-examination and both sides have had full and fair opportunity to be heard. Thereupon it becomes my duty, without fear or favor, to decide the matter according to the facts presented and the law applicable. Of course, I attach great weight to the action of the local governing body and therefore put the burden of proof upon the appellant who claims that their action was erroneous. Hence in countless cases where the appellant has not been able to sustain that burden, the decision of the local board has been affirmed. In other words, their decisions stand until it affirmatively appears that they were mistaken. Then and only in that event is it my duty to reverse.

A fair umpire calls the strikes just as he sees them, whoever is at bat.

Cordially yours,

D. FREDERICK BURNETT  
Commissioner

2. DISCIPLINARY PROCEEDINGS - POSSESSION OF ILLICIT LIQUOR - 30 DAYS.

In the Matter of Disciplinary	)	
Proceedings against	)	
	)	
STANLEY MILWID	)	
363 Boulevard,	)	
Bayonne, New Jersey,	)	CONCLUSIONS
	)	AND
Holder of Plenary Retail Consumption	)	ORDER
License No. C-43, issued by the Board)	)	
of Commissioners of the City of	)	
Bayonne.	)	

.....

Michael V. Donovan, Esq., Attorney for the Licensee.  
Richard E. Silberman, Esq., Attorney for the Department of  
Alcoholic Beverage Control.  
Bart Boyle, Esq., Attorney for the City of Bayonne.

BY THE COMMISSIONER:

Charges were served upon the licensee alleging that, on October 25, 1938, he possessed four bottles of illicit alcoholic beverages, contrary to R.S. 33:1-50.

These proceedings were instituted against licensee after a report of the results of a Federal investigation was forwarded to this Department.

At the hearing an Inspector employed by the Alcohol Tax Unit, Internal Revenue Service, testified that, on October 25, 1938, he seized four open bottles of alcoholic beverages on the back bar of the licensed premises. It was stipulated at the hearing that these bottles were transmitted in a sealed condition to the chemical laboratory of the Alcohol Tax Unit for the purpose of analysis.

A chemist employed by the Alcohol Tax Unit, who examined the contents of the seized bottles, testified that the acid content and solid content of each sample was substantially lower than that of genuine samples; that the four bottles varied in proof from genuine samples to the following extent respectively: 4.9 proof, 5.3 proof, 2.7 proof, 6.6 proof; that the liquor in three of the seized bottles contained artificial coloring, whereas the genuine samples contained natural coloring, and that the fourth bottle contained natural coloring, whereas the genuine sample contained artificial coloring.

The licensee testified that he did not tamper with the contents of the seized bottles. He appears to place the blame upon a substitute bartender who was discharged immediately after the seizure was made. The licensee, however, is responsible for the acts of his agents. I, therefore, find him guilty as charged.

For the reasons set forth in Re Jacobs, Bulletin 315, Item 8, the license will be suspended for the term of thirty days.

Accordingly, it is on this 19th day of May, 1939

ORDERED that Plenary Retail Consumption License No. C-43, heretofore issued to Stanley Milwid by the Board of Commissioners of the City of Bayonne, be and the same is hereby suspended for a period of thirty (30) days, effective May 23, 1939 at 3:00 A. M. (Daylight Saving Time).

D. FREDERICK BURNETT  
Commissioner

### 3. DISCIPLINARY PROCEEDINGS -- FAIR TRADE -- SALES AT CUT RATES.

In the Matter of Disciplinary )  
Proceedings against )

FELIX ALEXANDER,  
t/a Dragon Inn,  
7829 River Road,  
Pennsauken, N. J. )

CONCLUSIONS  
AND  
ORDER

Holder of Plenary Retail Con- )  
sumption Licensee C-29, issued )  
by the Township Committee of )  
the Township of Pennsauken. )

. . . . .

Ellamarye H. Failor, Esq., Attorney for the Department of  
Alcoholic Beverage Control

Felix Alexander, Pro Se

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of  
selling liquor at his licensed premises on March 31, 1939 in

violation of Rule 6 of State Regulations No. 30.

In conformity with the practice established in Re Polonsky and Kiewe, Bulletin 308, Item 9, the license will be suspended for five (5) days instead of the usual ten (10).

Accordingly, it is on this 20th day of May, 1939, ORDERED, that Plenary Retail Consumption License C-29, heretofore issued to Felix Alexander, by the Township Committee of the Township of Pennsauken, be and the same is hereby suspended for a period of five (5) days. Pursuant to notice of December 17, 1938, Bulletin 269, Item 1, the effective date of such suspension is reserved for future determination.

D. FREDERICK BURNETT  
Commissioner

4. ALIENS -- EMPLOYMENT BY RETAIL LICENSEES -- THE STATUTORY QUALIFICATIONS AND RESTRICTIONS.

Dear Sir:

Will you kindly advise me whether or not it is necessary for an alien to have a special permit from you, in order to be a bartender.

I represent the person who is an alien and who has not, as yet, obtained his first papers and he has a job to go to as a bartender.

Very truly yours,

THOMAS F. SHEBELL

May 20, 1939.

Thomas F. Shebell, Esq.,  
Asbury Park, New Jersey.

My dear Mr. Shebell:

A person who is not a citizen of the United States may be barred from employment as bartender or waiter, or otherwise to sell or serve alcoholic beverages, or he may not. It all depends on the country of which he is a citizen.

The statute provides that no license of any class shall be issued to any individual who is an alien. R. S. 33:1-25. It further provides that persons so disqualified shall not be employed by or connected in any business capacity whatsoever with a licensee, unless the approval of the Commissioner has been obtained, but even then not to sell or solicit the sale of alcoholic beverages. R.S. 33:1-26, as amended by P.L. 1938, c.297.

But notwithstanding the statute, all aliens are not disqualified merely because they are aliens. This country has reciprocal treaties with certain other countries, under which citizens of the other countries may not be excluded from the privileges afforded to citizens of the United States solely because they are not citizens of the United States. There is a list of these countries in Re Guskind, Bulletin 130, Item 5. See also Re McGuigan, Bulletin 228, Item 2. Italy has since been removed

from the list because the treaty with Italy has been abrogated. See Re Woertendyke, Bulletin 304, Item 8. But the only disqualification which the treaties remove is that of alienage. Citizens of these countries are subject to and must fully comply with all the other provisions of the statute. Again see R.S. 33:1-25.

Application for citizenship is not sufficient to remove disqualification because of alienage. The person is an alien and disqualified under the statute, until he is actually admitted as a citizen of the United States. Re Giordano, Bulletin 311, Item 7.

In brief, if the proposed employee is a citizen of one of the countries listed in the Guskind ruling, and lack of United States citizenship is his only disqualification, then he may be employed as bartender or waiter to sell and serve alcoholic beverages in licensed retail places without permit of any kind. But if, on the other hand, he is a citizen of some country other than listed in the Guskind ruling, he may not be employed on licensed premises at all, unless he first obtains from the Commissioner an employment permit, but even then, because of the statute, not to sell or solicit the sale of any alcoholic beverages.

There are, you understand, other qualifications which licensees and employees of licensees must possess. They are, briefly, that the person must be over twenty-one years of age, a resident of New Jersey for five years, and must not have been convicted of a crime involving moral turpitude, nor have committed two or more violations of the Alcoholic Beverage Laws. You will find all this in R.S. 33:1-25 and 26, as amended by P.L. 1938, c. 297. If the employee in question fails to meet any one or more of these other requirements, I shall expect you to write me further.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner

5. TWO HUNDRED FEET RULE -- CEMETERIES -- A CEMETERY IS NOT A CHURCH AND HENCE NO OBJECTION TO CLUB LOCATING SEVENTY-FIVE FEET AWAY IF IT CHOOSES SUCH A PLACE.

Dear Mr. Burnett:

I represent an organization not for pecuniary profit, who intends to erect a club house on a lot of land owned by it for several years, which will be located approximately seventy-five feet from a cemetery.

Under the Alcoholic Beverage Law (33:1-76) it provides that no license shall be issued for the sale of alcoholic beverages within two hundred feet of any church &c.

Have you made any ruling in any cases of this nature as to whether the Act would prevent the erection of the club house within two hundred feet of a cemetery?

Very truly yours,

NELSON C. DOLAND

May 20, 1939.

Nelson C. Doland, Esq.,  
Boonton, N. J.

Dear Mr. Doland:

The statutory restriction under which liquor licenses are forbidden in the 200 feet zone around churches and schools is expressly declared to be "for the benefit not of property but of persons attendant therein."

By "church" is meant the edifice permanently devoted and used by its living communicants for the worship of God as distinguished from a place for the burial of the dead. However hallowed such ground may be, it is not a church within the meaning of the Act.

Hence, there is no statutory objection to a club locating within 200 feet of a cemetery if it chooses.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner

6. DISCIPLINARY PROCEEDINGS - SALES ON SUNDAY -- SECOND OFFENSE  
FOLLOWED BY SURRENDER.

May 16, 1939.

Fred U. Drake,  
Washington Township Clerk  
(Mercer County)  
Windsor, New Jersey.

Dear Mr. Drake:

I have before me staff report, copy of notice of suspension, and resolution and order adopted by the Township Committee on March 22nd in disciplinary proceedings against Thaddeus A. Delozier, Popular House, Robbinsville, charged with sale of alcoholic beverages on Sunday, and note that his license was suspended for five 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 following the imposition of the penalty, disciplinary proceedings were again recommended against Delozier because of his having violated the Sunday sale regulation for the second time, but that before the proceedings were instituted, he surrendered his license. And well he did! A licensee who just can't bring himself around to obeying the regulations is better off out of the liquor business, and the community is better off for not having him in it.

Thank you for your cooperation.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner

## 7. SUSPENSION - APPLICATION TO LIFT - DENIED.

In the Matter of Disciplinary  
Proceedings against

JULIA MAZZIOTTI,  
22-24 Seventh Avenue,  
Newark, New Jersey,

Holder of Plenary Retail Consump-  
tion License No. C-113, issued by  
the Municipal Board of Alcoholic  
Beverage Control of the City of  
Newark.

CONCLUSIONS  
AND  
ORDER

Charles A. Stanziale, Esq., by David P. Wiener, Esq.,  
Attorney for the Petitioner.

BY THE COMMISSIONER:

This matter comes before me on petition of George Galanti for an order lifting the suspension of ninety-five days heretofore imposed in this proceeding and effective March 9, 1939. In Re Mazziotti, Bulletin #301, Item 9.

Verified petition sets forth that, on November 23, 1938, petitioner filed an application with the City of Newark to transfer the license of Julia Mazziotti to petitioner herein; that he has paid the full purchase price of the business to Julia Mazziotti; that said money represents his total savings; that, if said premises are closed for the full length of the suspension, petitioner's investment will be a total loss.

In the disciplinary proceedings the licensee testified that neither she nor her husband were on the premises when the violation occurred, but that Galanti was then in charge of the licensed premises. Investigators King and DiPietro testified that Galanti told them that "they were going to have a time there that evening on that Saturday night and invited us to attend and he said that it wasn't necessary to bring a girl as there would be plenty of girls there."

Because petitioner herein did not testify at the disciplinary proceedings, a hearing was held so that he might have an opportunity to deny or explain the testimony set forth above.

At this hearing, George Galanti testified that he first met Julia Mazziotti about November 10, 1938; that, while investigating the premises for the purpose of determining whether he would purchase the business, he was told by the husband of the licensee that the basement was used for entertainment consisting of a three piece band, a couple of girls, singing and dancing; that, on November 15, 1938, Galanti signed an agreement to purchase Julia Mazziotti's business; that, thereafter, he was present every evening at the licensed premises tending bar without pay for the purpose of getting acquainted with the customers. Galanti admits that, on November 19, 1938, the date of the violation, he was tending bar on

the main floor, but contends that he was not in charge of the licensed premises. Galanti further admits that, on said date, he told the Investigators that there was to be an entertainment in the basement and that there would be a special charge of twenty-five cents for admission to that portion of the premises. He says, however, that he received this information from another bartender who is related to Julia Mazziotti and who was in actual charge of the premises. Galanti further testified that he did not hire the band or the dancer; that he was not in the basement at any time on November 19, 1938 and that he had no knowledge that an indecent performance was to take place.

In Re Rubin, Bulletin #317, Item 4, I ruled that a licensee may not avoid a penalty by selling the business to somebody else after the penalty has been imposed. Hence, if Galanti had entered into his contract to purchase the business after the Conclusions had been rendered herein, he would not be entitled to any relief in these proceedings. The fact that Galanti had agreed to purchase the tavern before the violation occurred might entitle him to some relief if in fact he were entirely without blame for the violation which occurred after he entered into his contract. I shall now consider that point.

Ninety of the ninety-five days' suspension in this case were imposed for permitting lewdness and immoral activities in the cellar or basement of the licensed premises - the place to which there was a special charge of twenty-five cents for admission. Galanti knew that some show was going to take place. He had signed an agreement to purchase the business. For several nights previously he had been present each night to get acquainted. He claims he was not in charge on the night in question, although the licensee declares that he was. Adopting his story that he was not in charge leaves him just so much freer to gratify a reasonable curiosity as to how the premises into which he was to pour his life's savings were being conducted. It is remarkable that one so vitally interested should be so conveniently blind. Additional charges of twenty-five cents are not usually paid for the privilege of visiting the cellar of a saloon unless it is bruited that something extraordinary is going to take place down the hatch. Everybody else except observer Galanti seems to have known that a "hot" show was scheduled. As the prospective purchaser, he should have made it his business to ascertain the type of entertainment which drew the crowd.

I conclude that Galanti has not shown himself to be entirely blameless in so far the violation is concerned and, hence, he is not entitled to relief in these proceedings.

The petition is, therefore, denied.

D. FREDERICK BURNETT

Commissioner.

Dated: May 22, 1939.



## 8. SOLICITORS' PERMITS - MORAL TURPITUDE - FACTS EXAMINED - CONCLUSIONS.

May 9th, 1939.

RE: Case No. 272

In his application and questionnaire, applicant denied that he had ever been convicted of any crime. Fingerprint records disclosed that in 1932, he had pleaded guilty to an indictment for uttering worthless checks and sentenced to ten days in jail.

At the hearing applicant admitted the conviction. He testified that, in 1932, he had been working on a commission basis, that business was on the down trend and his bank balance exhausted at the time he issued a number of small checks to merchants in order to pay his living expenses; that, later, all of these checks, amounting to about eighty dollars, were made good.

The crime of issuing worthless checks may or may not involve moral turpitude. Case No. 250, Bulletin 303, Item 9. Applicant otherwise has a clear record and, in view of that fact and the short sentence imposed, I do not believe that the crime herein considered involved moral turpitude.

As to his false affidavit, applicant testified that he "forgot about it" and that he thought it "was all cleared up." The affidavit, however, was false. I suggest that issuance of the solicitor's permit, pursuant to his amended application filed March 30, 1939, be further withheld for a period of ten (10) days from the date of approval of these recommendations.

Edward J. Dorton,  
Attorney-in-Chief

Approved except as to last paragraph. The glib explanation as to how he forgot the ten days spent in jail raises serious question as to his worthiness. I suppose he lied to get a job. False affidavits, however, of one who seeks to be trusted with privileges do not set very well. I will give him the benefit of the grave doubt, but the permit may not issue until June 9th.

D. FREDERICK BURNETT  
Commissioner

## 9. AGE, RESIDENCE OR CITIZENSHIP PERMIT - MORAL TURPITUDE - FACTS EXAMINED - CONCLUSIONS.

May 23rd, 1939.

RE: Case No. 273

In his application, applicant admitted that he had been convicted on a charge of selling alcoholic beverages to a minor.

Investigation disclosed that, on January 4th, 1939, he was arrested on said charge and, on April 19th, 1939, was found guilty and sentenced to thirty days in a County Jail, which sentence was later modified to ten days.

At a hearing duly held, applicant testified that, at the time of his arrest, he was working as a waiter on licensed premises and that he was arrested by agents of this Department after he had sold beer to a party of four, three of whom were minors. The records of the Department show that applicant herein testified in disciplinary proceedings brought against the licensee based upon the same violation. At said hearing, applicant herein testified that he had served two rounds of beer to a party of four, seated at a table, which party included two girls, aged 18 and 17 years respectively, and one young man, aged 20; that he was busy at the time the service was made.

I do not believe that sufficient aggravating circumstances appear from which it should be concluded that the element of moral turpitude is involved in the conviction described above. In the absence of aggravating circumstances, a single violation of the Alcoholic Beverage Control Act does not involve moral turpitude. Re Case No. 241, Bulletin 290, Item 8.

However, applicant now has one strike against him. Another violation of the Control Act will mandatorily disqualify him from holding a liquor license or being employed by a liquor licensee in New Jersey.

It is recommended that the Permit be issued.

Edward J. Dorton,  
Attorney-in-Chief.

APPROVED:

D. FREDERICK BURNETT  
Commissioner

10. SUSPENSION - APPLICATION TO LIFT - MODIFIED - HEREIN OF THE  
ASCENDANCY OF HAMBURGERS AND FRANKFURTERS.

In the Matter of Disciplinary	:	
Proceedings against	:	
JOHN JACOBS, t/a MRS. JAY'S,	:	ON PETITION FOR
909-911-913 Ocean Avenue,	:	CLEMENCY
Asbury Park, New Jersey,	:	
	:	CONCLUSIONS.
Holder of Plenary Retail Consump-	:	
tion License No. C-1, issued by the	:	
City Council of the City of Asbury	:	
Park.	:	

Louis N. Freeman, Esq., Attorney for Petitioner.

BY THE COMMISSIONER:

By order of May 8, 1939 (Bulletin #315, Item 8), petitioner's license was suspended for a period of forty days commencing May 11, 1939. Thirty days were for possession of illicit alcoholic beverages, and ten for service of alcoholic beverages to minors.

The present petition sets forth that the licensee's business is almost entirely a seasonal one of about fourteen weeks, commencing the week before Decoration Day and ending the week after Labor Day; that he pays a net annual rent of \$11,250. and conducts a high class establishment consisting of a bar and grill with a frankfurter and hamburger stand and a beer garden; that petitioner and his wife "have an investment in this business to the extent of \$60,000. Due to their resourcefulness and integrity and hard work in the past seventeen years, they have been able to establish this business starting from a small hot dog stand to the business which they now operate. The income which the petitioner derives during the month of May, and particularly over Decoration Day, pays the first installment of the rentals due;" that the sum of more than three thousand dollars in rentals is now either past due or will become due on June 1st; that petitioner is distressed with the fear that, with his business at a standstill due to the suspension, he will be unable to meet the rent installments and may be dispossessed and his investment irreparably ruined.

The petitioner states that it is his intention, if the penalty is mitigated, to employ a reputable assistant whose sole duty will be to constantly check the supply of alcoholic beverages coming upon the premises and to determine, or assist petitioner in determining, the apparent age of customers.

The petition refers to the fact that the suspension was inflicted on the licensee because he was the master of the premises and therefore responsible for the acts of his servants, and not because the refills of bottles with illicit liquor found on his premises were made by himself or with his knowledge. It also alludes to employees thrown out of work and the alleged "attitude that the Federal Government has taken to assist the small business

man", which is held up for the Commissioner to emulate by way of shortening the suspension period.

In Re Tumen, Bulletin #316, Item 8, I refused to change the penalty in this case or withhold its effect until after Labor Day. As regards the liability of the master, irrespective of personal fault for what goes on upon licensed premises, I there said that it was not a logical rule, but a necessary one of practical public policy; that "everybody knows that the boss is liable for what goes on. Everybody looks to him and not to his employees to see that the place is run right." As regards employees thrown out of work, I held that employers who were responsible cannot hide behind their skirts; that "once employees realize that they may be thrown out of work if sales are made of illicit liquor or sales made to minors, then all of them will be on their toes to prevent it." As regards business coming to a standstill, I declared that the place was primarily a restaurant; that the restaurant itself did not have to close; that the place was not padlocked; that all that was taken away was the privilege of selling liquor.

The instant petition attempts to meet the point last mentioned by presenting figures showing the drop in business this month since the liquor license was suspended, which petitioner claims is "due to the lack of the sale of hard liquors and beer which the people buy and consume in conjunction with the purchase of hot dogs and hamburgers and the like. Your petitioner does not operate and conduct a restaurant business. The purchase of frankfurters and hamburgers by the people is simultaneous with the purchase of hard liquors and beer. Very seldom does an individual purchase one without the other."

It is true that the comparative table of sales covering the period May 11th to May 21st inclusive shows a heavy dropping off in receipts in 1939 as compared with 1938. But this may be due to the unprecedented cold weather this Spring, or to adverse public reaction natural to any place under fire. Certainly I do not attribute it to any Damon and Pythias relationship between hamburgers and frankfurters on the one side with liquor and beer on the other. The growing ascendancy in gustatory favor of these edible delicacies to the point where they are about to be served at Hyde Park to royalty, and the shortage of supply is so marked that we have to go to the Argentine for beef, has not heretofore been ascribed as one of the benefits of Repeal. The association in popular mind of frankfurters and hamburgers is rather with mustard and onions. I gravely doubt whether it was due to alcoholic beverages that the business of petitioner was built up from pushcart to plutocratic proportions.

Suspensions are imposed not to destroy a licensee but to teach him that the law is made to be obeyed and to deter others from violations. The period of suspension is not to be chosen by the licensee any more than its length. It is not to be imposed on any principle that the timing should be when the punishment would hurt him the least. That would be but an idle gesture. It is only when the shoe pinches that the homework becomes effective. No lesson is learned unless it impresses. Therefore, on general principles, the fact that the suspension happens to bear onerously is a mere rub of the green which licensees, penalized for violations, will have to take in stride.

There is, however, this to be said for the petitioner: The season at Asbury Park is but fourteen weeks. It is common knowledge that one of the three "big" days at the shore

is Memorial Day. It is true that the Decoration Day week end is worth multiples of other days in regular season.

In fixing the period of forty days to begin on May 11th, there was no intention on my part to rub the licensee's nose on the carpet so as to make the penalty particularly painful. The unpleasant duty was performed in course, and, now that it appears that the penalty falls out of regular course, I shall lift the suspension for a period of five days, effective May 27th, 1939 at 3:00 A. M. On June 1st, at 3:00 A. M., the suspension will again become effective and continue through the period fixed by the original order, viz.: until June 20th, 1939, at 3:00 A. M. The five days presently lifted are postponed to take effect September 5, 1939, at 3:00 A. M. and to remain in force for five days thereafter. No renewal of the present license or any new license in respect to the same premises shall be issued except on condition subjecting it to such five-day suspension.

This order is made without imposing condition pursuant to petitioner's voluntary offer to employ an assistant whose sole duty shall be to check constantly the supply of alcoholic beverages and determine the age of customers. Such employment is recommended as a far sighted measure for the protection of his large investment but no insistence is made thereon.

Accordingly, it is on this 25th day of May, 1939

ORDERED that the order heretofore made by me on May 8th, 1939 be and it is hereby amended to the extent expressly above set forth, but otherwise it is to remain in full force and effect.

D. FREDERICK BURNETT  
Commissioner

11. DISCIPLINARY PROCEEDINGS -- SALES ON SUNDAY CONTRARY TO REFERENDUM -- IT IS A MORE SERIOUS OFFENSE TO FLAUNT THE DECLARED WILL OF THE ELECTORATE.

May 22, 1939.

Thomas C. Magee,  
Township Clerk,  
Marlboro, N. J.

My dear Mr. Magee:

I have before me staff report and your letter re disciplinary proceedings conducted by the Township Committee against Benjamin Seigel, charged with sale of alcoholic beverages on Sunday contrary to referendum, and note that his license was suspended for five days.

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

I suggest that in future cases involving sale in violation of the referendum, a minimum suspension of ten days be imposed for the first offense and twice that for the second offense. Sale in violation of local regulation warrants a minimum suspension of five days for the first offense, ten days

for the second, and outright revocation for the third. Sale on Sunday in violation of the referendum is a much more serious offense. Such a sale is in violation of the provisions of the Act and constitutes a misdemeanor. It is bad enough for licensees to disregard the regulations concerning hours of sale when they have been adopted by the governing body, but to flaunt the solemnly declared will of the electorate is worse.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner

12. DISCIPLINARY PROCEEDINGS -- FUTILITY OF REPRIMANDS -- THERE IS NO ONE-FREE-BITE DOCTRINE IN THE LIQUOR INDUSTRY.

May 22, 1939.

Herbert T. Heisel, Jr., Esq.,  
Milford Borough Attorney,  
Frenchtown, New Jersey.

My dear Mr. Heisel:

I have before me your letter of May 9th re disciplinary proceedings against Richard M. Jones, trading as Brookside Inn, Water Street, Milford, charged with permitting his licensed premises to be open on Sunday in violation of local regulation, and employment of a person disqualified by lack of residence, and note that at an informal hearing the synopsis was read to the licensee, whereupon he was reprimanded and warned, and further disciplinary action was waived.

I am unable to concur with the thought of the Mayor and Council that their action in this case was sufficient "under the circumstances". Jones, according to the synopsis, had on his licensed premises eleven persons a full hour after the midnight closing time, and one of those persons had half a glass of beer before him. The regulation presently in force in Milford says unequivocally that "During the hours when sales of alcoholic beverages are prohibited, the entire licensed premises shall also be closed." "Closed" means all members of the public excluded. See Re Zenda, Bulletin 271, Item 5, and Richards vs. Bayonne, 61 N.J.L. 496.

Furthermore, it appears from the synopsis that the licensee had had in his employ for the past three months his brother-in-law, who lives in Pennsylvania. Again a clear violation of the provisions of the Alcoholic Beverage Law, which prohibits the employment of any person lacking five years' residence in New Jersey without a special permit first obtained from this Department.

The Common Council can warn and reprimand until kingdom come, but the only language that licensees respect is a suspension of the license. There is no one-free-bite doctrine in the liquor law. I cordially suggest that the Common Council impose an appropriate suspension of the license in the next disciplinary proceeding that is referred to it.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner

## 13. DISCIPLINARY PROCEEDINGS -- LEWDNESS -- 21 DAYS' SUSPENSION.

May 26, 1939

Daniel J. Lane  
City Clerk  
Gloucester City, N. J.

My dear Mr. Lane:

I have before me staff report and resolution and order adopted by the Common Council on June 23, 1938 (which has just been brought to my attention) re disciplinary proceedings against James R. McClyment, 520 South Broadway, charged with employing and permitting on the licensed premises his wife, a known criminal, and permitting a strip-tease performance, whereupon his license was suspended for twenty-one days.

The report states:

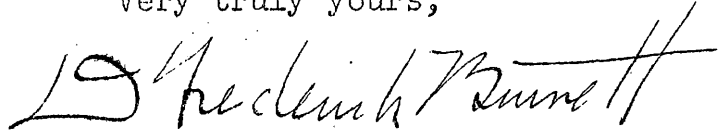
"On January 29, 1938, Investigators Brooks and Howe observed a floor show which commenced at 11:30 P.M. At 11:45 P.M., one Florence Miller was announced as a performer who would sing and dance. When she first entered, she announced that she would give the audience the type of show it wanted and 'if they wanted her to get dirty, it was O.K. with her,' adding, 'we are all here in one big group, so let's all have a hell of a good time.' She sang a song entitled, 'My Man', which the investigators report was very suggestive and smutty. Later she returned wearing a pair of black shoes and stockings of normal length, garters with a large pink bow attached to each, a 'G' string, a diminutive brassiere, and a black lace shawl. In this costume she danced making suggestive movements with her hips and breasts. Later, she reappeared after an announcement that she would perform the 'Dance of the Seven Veils.' Her only clothing aside from a pair of dancing shoes and a 'G' string were several vari-colored veils, which during the course of the dance she removed one at a time and draped around her arms and shoulders, leaving her breasts completely exposed. At the end of the dance, she stood for several seconds with her arms outstretched, the veils depending therefrom, and then covering her breasts with her arms, she made her exit."

Please express to the members of the Council my appreciation for their conduct of these proceedings and my regret for the long delay before the matter was presented to me.

Twenty-one days is substantial and certainly your Council thereby demonstrated that they would not stand for that kind of

thing. Apparently it has been an effective deterrent to other licensees, for no such cases have been reported in your municipality since. Outright revocation is none too severe in cases of this kind. The liquor business must not be permitted to become the handmaiden of harlotry. | x

Very truly yours,

A handwritten signature in cursive script, appearing to read "Frederick Munn", followed by a large, stylized flourish.

Commissioner.