

Commissioner Burnett  
Sent to Regular Mailing List

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

BULLETIN NUMBER 107

February 27, 1936

1. APPELLATE DECISIONS - LYNCH v. PATERSON

CYRIL J. LYNCH, )  
Appellant, )  
-vs- )  
BOARD OF ALDERMEN OF ) ON APPEAL  
THE CITY OF PATERSON, )  
Respondent ) CONCLUSIONS  
----- )

Robert J. McDermott, Esq., by Peter Calcia, Esq.,  
Attorney for Appellant.

Alderman Joseph W. King, for Respondent, Pro se.

BY THE COMMISSIONER:

Appellant appeals from the denial of his application for a plenary retail consumption license at #259 Park Avenue, Paterson.

Respondent has filed no answer herein, but it appears from the testimony given at the hearing of the appeal by two of the Aldermen of the City of Paterson that the application was denied because the premises sought to be licensed are located in a residential section of the City and because many of the residents residing in that neighborhood protested against the granting of the license.

At the hearing of this appeal, a new point developed viz: (1) that appellant in his application for the license had answered "no" to Question 8 which read: "Have you \*\*\* ever been convicted of any crime?"; (2) that about three (3) years ago he had been convicted of assault in one of the criminal courts of Bergen County, and had been placed on probation; (3) that in the original proceedings before the Aldermen the applicant had been interrogated as to whether he had ever been in difficulties with the police in Bergen County (where he had previously resided) and had answered, after hesitation, "no".

It may well be that a conviction for assault might not, under certain circumstances, involve moral turpitude at all, as witness the decision in Gale vs. Newark, Bulletin #95, item 6. So, in Federko vs. Piscataway, Bulletin #85, item 4, the licensee had been convicted of assault for wielding a baseball bat with telling effect on the head of a disorderly patron, necessitating eight stitches in his scalp, in order to convince the customer that closing time had arrived, but it was held that this offense, while a crime, did not involve moral turpitude.

In the instant case, it is unnecessary and unavailing to analyze the facts of the crime of which appellant was convicted to see if or not it involves moral turpitude because an untruthful answer to a material question made to an issuing authority on

which they had a right to rely, is sufficient reason for sustaining the action of respondent in denying the license.

Applicants who don't tell the truth won't get licenses. Re Vandervalk, Bulletin #39, item 12; Rayfield vs. Conover, Bulletin #65, item 2; Marsteller vs. Hagenbucher, Bulletin #95, item 11; Application for Solicitor's Permit, Case No. 20, Bulletin #101, item 9.

If legal justification is needed to support this elementary proposition, it is found in the Control Act, Section 22 of which provides:

"Applicants for licenses shall answer such questions and make such declarations as shall be prescribed by rules and regulations.\*\*\* All applications shall be duly sworn to \*\*\*. All statements in said application required to be made by law or by rules and regulations shall be deemed material, and any person who shall knowingly misstate any material fact, under oath, in said application shall be guilty of a misdemeanor and punished accordingly. Fraud, misrepresentation, false statements, misleading statements, evasions or suppression of material facts in the securing of a license are grounds for revocation."

Question 8 is prescribed by rules and regulations. Bulletin #72, item 3. Hence, by statute, it was material. The answer made thereto was not true. That answer was sworn to. Since a false statement is ground for revocation of a license although it has been issued, it follows that it is a good reason for refusing to issue it in the first place.

It is unnecessary, therefore, to consider the other issues involved in this appeal.

The action of respondent is affirmed.

D. FREDERICK BURNETT  
Commissioner

Dated: February 17, 1936.

2. APPELLATE DECISIONS - SCHAUCHULIS v. HARRISON

WILLIAM SCHAUCHULIS, )  
Appellant,)

-vs- )

TOWN COUNCIL OF THE TOWN OF )  
HARRISON, )  
Respondent.)

ON APPEAL  
CONCLUSIONS

Hymen M. Goldstein, Esq., Attorney for Appellant,  
Michael J. Bruder, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the revocation on December 7, 1935 of plenary retail consumption license No. C-10, issued to appellant by respondent.

A Notice of charges preferred against the licensee had been duly served upon him in accordance with the provisions of Section 28 of the Alcoholic Beverage Control Act, and a hearing had been duly held upon said charges prior to the order of revocation. The first charge read:

"That on or about June 20, 1935, in your application for a plenary retail consumption license to sell alcoholic beverages at premises known as #764 Harrison Ave., Harrison, N. J., you did knowingly misstate a material fact under oath, in that you swore you were of legal age when in fact, you were a minor and under age at that time, in violation of section 22 of said Act."

In said notice two additional charges were preferred against the licensee for violation of an ordinance of the Town of Harrison, which charges are as follows:

- "1. That on or about September 1, 1935, you did knowingly permit and allow a female, to wit, one Helen Schauchulis, to serve alcoholic beverages upon the licensed premises known as #764 Harrison Ave., Harrison, N. J., in violation of Section 5, subsection E of said Ordinance.
- "2. That on or about September 1, 1935, you did keep the said licensed premises located at #764 Harrison Ave., Harrison, N. J. open and did business therein on Sunday, between the hours of 3 o'clock A.M. and 12 o'clock noon, Eastern Daylight Saving Time, to wit, 9:15 A. M. in violation of sec. 8 of said Ordinance."

In the resolution and order revoking the license, the Council of the Town of Harrison found as a fact that the said William Schauchulis had knowingly misstated a material fact under oath in his application in that he swore he was of legal age when in fact he was a minor, and accordingly revoked his license. If this is the fact, the license was properly revoked. Lynch vs. Paterson, Bulletin #107, item 1.

In said resolution and order no mention is made of the other two charges set forth in the notice served upon the licensee. Thus it appears that the Council has made no adjudication of these additional charges. At the hearing of this appeal, respondent argued that evidence as to these two additional charges should be received, but the attorney for appellant pleaded surprise and stated that his client was prepared to meet only the charge upon which he had been found guilty. It was thereupon agreed that the only matter to be considered on this appeal would be the stated ground on which the license was revoked. That is but fair.

Appellant testifies that on June 20, 1935 when he signed the application on which his license was granted, he was in fact twenty-one (21) years old. Appellant's mother testified that he was born October 12, 1913. She ought to know. His God-mother testified that she came to this country in May, 1913 and that, immediately after her arrival, she boarded with appellant's mother in Jersey City; that two or three months later appellant's mother moved to New York and that appellant was born in New York four or five months after the God-mother arrived in this country. There was introduced in evidence a Certificate of Baptism which sets forth that appellant was born on the 12th day of October, 1913 and baptized according to the Rite of the Roman Catholic Church on the 14th of November, 1915, as appears from the Baptismal Register of the Church of Our Lady of Vilna, New York. Both the mother and God-mother testified that the child was walking and starting to talk at the time of the baptism. It also appears that appellant cast his first vote in Hudson County at the November 1934 election.

The evidence upon which respondent reached the conclusion that appellant had wilfully misstated his age consisted of the testimony of Officer Ford of the Police Department of the Town of Harrison, and the records of the Harrison High School.

Officer Ford testified that on February 16, 1935 he arrested the appellant on a charge of assault and battery, and that, at that time, appellant told the officer he was twenty (20) years of age. The description sheet and record of arrest made under the direction of Officer Ford was introduced in evidence. This paper shows the figure "20" after the word "age" and the following information which probably was elicited from appellant at the time of his arrest, because presumably it would not be information within the knowledge of the arresting officer:

"Nativity...U.S.  
Education...2 year High School  
Date of Birth...10/12/1915  
Place of Birth...New York City".

Appellant claims that he told the officer he was twenty one (21) years of age, and that the officer "mistyped" it "20". He denies that he gave the officer the date of his birth. I think, however, he did. The officer didn't invent that date out of whole cloth! It was the very same date which appellant himself gave to the teacher in the Harrison High School.

The register of the Harrison High School, which was introduced into evidence, records the date of birth of William Schauchulis as October 12, 1915. Appellant testified that at the time he entered the Harrison High School in September 1931, he told the teacher in charge of the records that he was born on October 12, 1915, and that he wilfully misstated the year of his birth because, being so much older than the other children in the class, he wished to appear to be two years younger than he really was. While most boys of this age are anxious to be thought older than they really are, I believe he now at least or at last is telling the truth in this respect, because the usual age of entering high school is 13, 14 or 15, and a boy of nearly 18 would naturally be exposed to rigging and teasing by his younger associates if his age were known to them.

These two admissions of the date of his birth, made before any controversy as to his age arose, weigh heavily against

appellant. On the other hand, the mother and God-mother gave positive and direct evidence that appellant was born on October 12, 1913. Their evidence is supported by the Certificate of Baptism which is evidential as to appellant's age. Dillon vs. Heller, 99 N. J. Law, p. 68. The Priest certified to an entry made on the Baptismal Register of his Church long before any controversy arose. I regard it as dispositive. It appears also that appellant voted for the first time in November 1934. Under these circumstances it seems that the weight of the evidence does not support the finding of fact by respondent that the licensee was a minor at the time he made his application for a license.

The present issue is not the credibility of the appellant or whether he lied to the police officer or the teacher or whether he is worthy of having a license but, rather, just how old he really was on June 20, 1935. The charge is that he was then under age. On that ground and that alone his license was revoked. I find as the fact, however, from the evidence produced that he was then over twenty-one (21) years of age. His license must, therefore, be restored.

The action of respondent in revoking the license of appellant is, therefore, reversed, and appellant's license ordered restored, effective immediately, and the case is remanded to respondent to take evidence on the two additional charges preferred against the licensee and to make a determination upon these charges after a hearing duly held thereon.

D. FREDERICK BURNETT  
Commissioner

Dated: February 18, 1936.

3. APPELLATE DECISIONS - SERAFIN v. BAYONNE

JOHN SERAFIN,	)	
	)	
Appellant,	)	
	)	
-vs-	)	ON APPEAL
	)	
BOARD OF COMMISSIONERS	)	CONCLUSIONS
OF THE CITY OF BAYONNE,	)	
	)	
Respondent.	)	
	)	

John F. Driscoll, Esq., Attorney for Appellant.  
Raymond C. Cuddy, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant appeals from the denial of his application for a plenary retail consumption license for premises located at #712 Avenue A, Bayonne.

Respondent contends, among other reasons, that the denial was proper because the premises for which a license is sought are within the immediate vicinity of a Junior High School

now existing, and a Senior High School now in the course of construction.

The premises for which a license is sought are located at the southeast corner of Avenue A and 31st Street. The Junior High School is located on the opposite side of Avenue A at 29th Street, which street is two blocks south of 31st Street. The distance between the entrance to the Junior High School and the entrance to the premises for which the license is sought is about 500 feet. Adjoining the plot of ground upon which the Junior High School is erected and to the south thereof, a new Senior High School is now being constructed.

Avenue A is a residential street, although there is a one-story laundry building on the northeast corner of Avenue A and 30th Street and a gasoline station on the northwest corner of Avenue A and 30th Street. There are few homes west of Avenue A but all the side streets east thereof in this neighborhood are strictly residential. The City of Bayonne is developing in this section of the City a school center of a very high type. The Junior High School has an attendance of about 2,200 pupils and when the Senior High School is completed, about 2,800 additional pupils will be transferred from other high schools in the City to the new building. It was testified that a large percentage of these children will have to pass the premises for which the license is sought on their way to and from school.

Section 76 of the Control Act prohibits the issuance of any license in respect to premises within two hundred (200) feet of a church or school. This minimum requirement did not, however, deprive issuing authorities of the right to decline to issue licenses for premises reasonably considered by them as being too near churches or schools, but, nevertheless, beyond two hundred (200) feet. Staciewicz vs. Trenton, Bulletin #35, item 10; Persi vs. Trenton, Bulletin #46, item 13.

I find that the determination by respondent that these premises are too near the school center is reasonable because of the large number of children attending or about to attend these schools; because of the residential character of the neighborhood and because of the plan of the municipal authorities to establish in this section a center devoted to educational purposes.

A similar situation arose recently in Pennsylvania. The Pennsylvania Liquor Control Act provides that if taxpayers residing within a certain distance of the location shall file a protest averring that the location is objectionable because of its proximity to a church, a school or to private residences, the Court shall hold a hearing affording an opportunity to the protestants and to the Board to present evidence. A protest was filed because the liquor store was to be located within one and one-half blocks of Camp Curtin Junior High School, a school which occupies an entire block and has approximately seventeen hundred (1700) students. It appeared also that the protest was based upon the fact that the liquor store was near certain churches, although the Junior High School was nearer to the Liquor store than any of the churches mentioned in the protest. Referring to the question as to whether or not the store was in the "proximity" of the school, the Court said:

"It might be that a school with fifty (50) or one hundred (100) pupils who live in a different direction from the property in question would not, under the

circumstances, be considered to be in proximity if located where the Camp Curtin School is; but we think this school, which has approximately seventeen hundred (1700) students, many of whom pass the property in question going to and from school and during the recess period, is in proximity to the proposed liquor store, being one block and what amounts to half of an ordinary block away.

"The Legislature has recognized that liquor traffic should be regulated and controlled, and that an evil may exist if a liquor store be located near a school. We must assume that a store managed by the liquor Control Board would be properly operated. Therefore, the only evil conceivable which may come from proximity to a school would be the impressions that may be made upon the youthful minds of the children passing such a store where its merchandise is constantly displayed, because children would not be presumed to enter, and the only impressions made would be those which they would get from the outside. That having been the legislative determination, we think the Courts should recognize it and so administer the statute. The school in question in this case is a Junior High School where the students are of an impressionable age.

"Moreover, in addition to the school there is the church referred to, which is only another block farther away, and also a number of residences. \*\*\* The protest against the establishment of a Pennsylvania Liquor Store \*\*\* is sustained and it is hereby determined that the proposed location is undesirable for the reasons set forth in the protest filed and in the foregoing opinion."

See "Protest to location of liquor store, Court of Quarter Session Dauphin County No. 525", decided November 13, 1935; 41 Dauphin Co. Rep. 386. Opinion by Hargest, P. J.

Appellant contends that the policy of prohibiting licensed places within close proximity to schools has not been uniformly applied and hence is discriminatory. McConnell vs. Trenton, Bulletin #35, item 12. In support of his contention appellant has shown by his evidence that three schools, on side streets are within 208 feet, 240 feet and 251 feet respectively of licensed premises facing on Broadway. Appellant argues that since licenses have been granted for these premises, it is discriminatory to deny him a license because his premises are approximately 500 feet from the entrance to the Junior High School. It appears, however, that Broadway is the principal business street of the City, and that these licensed premises have been used for the sale of liquor for many years. The mere fact that licenses have been granted to the saloons on Broadway, which are more than the statutory distance of 200 feet but less than 500 feet from a school, would not show that the policy of the respondent in refusing to grant the license to the appellant because his premises are too close to a school, was unreasonable or discriminatory.

Appellant further contends that licensed premises are now in existence on Avenue A, which licensed premises will be only 593 feet from the entrance to the Senior High School now in the course of construction. It appears, however, that when this

license was granted, the only school in the vicinity was the Junior High School and that these licensed premises are about 1130 feet from the entrance to this Junior High School. Whether, in view of the provisions of Section 76, the respondent would be justified in refusing to renew the license for these premises after the Senior High School is completed is a question which need not be decided at this time. It is sufficient to say that I find nothing unreasonable in respondent's determination that the license applied for by appellant should be denied because of the fact that the premises sought to be licensed are too close to the school center.

The action of respondent is affirmed.

D. FREDERICK BURNETT  
Commissioner

Dated: February 19, 1936.

4. LICENSE APPLICATION HEARING - LOYAL ORDER OF MOOSE.

In the Matter of the Application )  
of Woodstown Lodge #932, Loyal )  
Order of Moose, for Club License )  
at 17 North Main Street, )  
Woodstown, New Jersey. )

CONCLUSIONS

-----)

Maurice S. Fayman, Esq., Attorney for Applicant.  
S. Rusling Leap, Esq., Attorney for Borough of Woodstown.

BY THE COMMISSIONER:

Application for a club license was filed with the Commissioner by Woodstown Lodge #932, Loyal Order of Moose, because two of its members are members of the local issuing authority. P. L. 1934, Chapter 44.

It appears from the evidence that the Lodge rents as its club rooms the entire second floor of a three story building located on the business street of the Borough of Woodstown. The room in which it intends to sell alcoholic beverages is partitioned off from the rest of its meeting-rooms and is not open to public view.

On May 20, 1935 the governing body of the Borough adopted an ordinance entitled "An ordinance to fix license fees, to regulate the sale and distribution of alcoholic beverages and to provide penalties for violation thereof". Section 7 of said ordinance provides as follows:

"Section 7: No alcoholic beverages shall be sold in any room other than such as is open to public view, and no screens or other articles shall be so placed as to obstruct persons outside from looking into the place. "

This ordinance has been approved by the State Commission and is now in effect.

In order to comply with the rules set forth in Bulletin #75, item 13, applicant wrote to the Borough Clerk requesting a resolution of the local issuing authority setting forth that it has no objection to the issuance of the license and consents thereto. In answer to this letter the Borough Clerk advised applicant that the Council had not passed any such resolution because "the designated place for which you ask a license does not meet the requirements of the Borough Ordinance passed May 20th, 1935".

Failure to present a copy of the resolution described above would be sufficient cause for denying the license if the refusal of the local authorities to approve the issuance of the license was based on reasonable grounds. In re Cranford, Bulletin #83, item 3. In re Passaic Lodge of Elks, Bulletin #95, item 4. See also Bulletin #86, item 9.

Before deciding the question as to whether or not such refusal was reasonable, I note that the testimony produced at the hearing was that the majority of the members of this Lodge are not in favor of the issuance of the license. The testimony shows that out of a membership of approximately ninety (90), only fifteen (15) members attended the meeting at which the Lodge passed a resolution to apply for this license. At the hearing no one appeared on behalf of the Lodge except the Dictator and the Secretary. On the other hand, sixty (60) residents appeared and opposed the granting of the license. It is but natural to draw the conclusion that the membership is not particularly interested. Certainly, the members of the Lodge have made no effort to show that the provisions of Section 7 of the ordinance dated May 20, 1935 are so unreasonable as to work a hardship on them.

Considering now the reasonableness of said Section 7, all of the above facts should be considered. It may be that under other circumstances, or in another municipality, the provisions of this section would be held to impose an unreasonable restraint on club licensees. I express no general opinion. Sales or service of beverages on the second, third, or twentieth floor may be conducive to control in some communities. Cf. Re Marritz, Bulletin #97, item 8. The thing depends mainly on local conditions and viewpoint. It is peculiarly appropriate to sane principles of home rule. All I now decide is whether it is reasonable or not in Woodstown and on the facts as they appear in this transcript. I find that local sentiment is strongly in favor of a policy in Woodstown that sales of alcoholic beverages should be made only in rooms open to public view so that such sales may be properly controlled. Policing and the problem of enforcement vary according to the particular community. The Borough Council has adopted this as a general policy applying to all licensees. This regulation is now being enforced as to the holders of the two plenary retail consumption licenses issued by the Borough. Applicant has failed to prove that it is unreasonable.

Under the circumstances of this case, I find that the action of the Borough Council in refusing to approve the issuance of the license because the room in which alcoholic beverages are sold is not open to public view, is reasonable.

The application is denied.

D. FREDERICK BURNETT  
Commissioner

Dated: February 19, 1936.

5. SPECIAL PERMITS - REPORT OF SPECIAL PERMITS ISSUED DURING THE MONTH OF JANUARY, 1936, SHOWING COMPARATIVE TOTALS FOR THE FISCAL YEARS 1934-35 and 1935-36, AND INCOME RECEIVED FROM THIS SOURCE; ALSO REPORT OF APPLICATIONS FOR SPECIAL PERMITS DENIED.

SPECIAL PERMITS	Total Issued this Month	Total Issued this Year to Date	Total Issued last Year to Date
Athletic Clubs	24	98	60
Charitable Organizations	6	36	19
Churches and affiliated Organizations	36	360	306
Civic Clubs	3	25	3
Clubs Fostering Citizenship	3	7	16
Country Clubs	1	15	-
County Fair Associations	-	2	1
Dramatic and Singing Societies	7	57	45
Educational Societies	2	12	1
Employees Organizations	-	26	27
Forresters' Clubs	-	-	1
Fraternal Orders	22	138	54
Granges & Farmers Protective Ass'ns.	-	3	1
Hunt, Racing & Kennel Associations	-	8	14
Labor Unions	4	30	23
Licensed Beverage Dealers Associations	-	1	5
Magistrates Associations	-	-	1
Musical Organizations	2	13	-
Organizations rendering direct public service:			
Fire and Police Departments	-	7	-
Firemen's Benevolent Associations	2	7	2
Letter Carriers Associations	-	-	1
Police Benevolent Associations	1	11	12
Volunteer Fire Companies	6	119	64
Parent-Teachers Associations	2	8	2
Political Organizations	15	180	105
Retail Grocers Associations	-	-	1
Service Clubs	-	7	3
Sick and Death Benefit Societies	27	222	96
Social Clubs	29	285	98
Sports Clubs	9	32	-
Trade Associations	-	6	-
Veterans Organizations	10	77	41
Yacht Club & Motor Boat Clubs	-	3	1
All Others	2	16	91
	213	1811	1094

MISCELLANEOUS PERMITS

To bank for sample purposes	-	-	1
To consumer to import for personal consumption	18	106	160
To import to New Jersey retail licensee	1	1	1
To retail licensee to import for resale	-	4	11
To import to permittee's licensed premises for resale	-	5	-
To retail transit licensee to import for resale	-	-	1

MISCELLANEOUS PERMITS - (Continued)	Total Issued		Total Issued
	Total Issued this Month	this Year to Date	last Year to Date
Disposal of stocks of Alcoholic Beverages where license is transferred	17	33	
Disposal of stocks of Alcoholic Beverages where license not renewed	3	44	39
Disposal of stocks of Alcoholic Beverages where license surrendered	8	16	8
Disposal of stocks of Alcoholic Beverages without surrender of license	-	1	1
Disposal of stocks of Alcoholic Beverages where license revoked	-	1	-
Having force and effect of license:			
To licensee pending appeal to State Commissioner upon revocation	-	-	1
To licensee pending issuance of State License	-	38	-
To applicant pending appeal to Court	-	3	6
To applicant pending action upon application for retail license and issued at request of Municipal issuing authority	3	22	29
To transport alcoholic beverages	-	15	13
To transport and warehouse Alcoholic beverages	-	1	3
To individual to dispose of Alcoholic beverages	-	1	-
To club licensee to sell wine manufactured by its members prior to repeal	-	1	3
To limited winery licensee to sell wine manufactured prior to repeal, or wine of illegal purchase or manufacture	-	1	1
To retail licensee to sell to retail licensee	-	5	-
To retail licensee to sell wine manufactured prior to repeal	-	1	3
To transport and bottle wine	-	-	1
To wholesale licensee to sell wine for sacramental purposes	-	4	2
To receivers and trustees to sell stocks of alcoholic beverages	-	10	6
To bailiff to sell for landlord distraint for rent	-	1	3
To sheriff or constable to sell under levy of execution upon judgment	-	1	1
To railroad to sell on dining & club cars	-	-	2
To legal representative to carry on business	-	-	1
To steamship Company to purchase alcoholic beverages to be consumed outside N. J.	-	1	1
To purchase for laboratory, testing and commercial purposes	-	5	7
To manufacture for experimental purposes	-	-	2
To retail distribution licensee to give away samples in open receptacles for on premises consumption	-	2	1

MISCELLANEOUS PERMITS (Continued)	Total Issued this Month	Total Issued this Year to Date	Total Issued last Year to Date
To limited distillery licensee, to sell small quantity manu- factured in excess of limita- tion of license	-	-	1
In lieu of Solicitors and A.R.C. permits	-	3	-
To transport between points out- side New Jersey and piers of import & export	-	29	2
To sell Warehouse Receipts, Certificates, Contracts, etc.	4	11	-
To operate during period of suspension	-	1	-
Pending application for transfer premises	-	3	-
Pending application for transfer, person to person	1	2	-
To retake for indebtedness	-	1	1
To retake, heretofore sold by permittee	-	1	-
To bank, assignment of alcoholic beverages as security for loan pending issuance of warehouse receipts	-	-	1
To dispose of flavoring extract	-	-	1
To out-of-state licensee to ex- change alcoholic beverages	-	-	1
	55	374	315
TOTAL PERMITS ISSUED-	268	2185	1409

INCOME FROM PERMITS

Total for month of January, 1936	\$2,540.00
Total this year to date	23,657.34
Total last year to date	14,724.00

APPLICATIONS FOR SPECIAL PERMITS DENIED	Total this Month	Total This Year to Date	Total last Year to Date
For social affair where applicant did not complete application	-	3	-
For social affair where application not received before period for which affair was to be held and approvals of Police & Clerk not furnished	-	1	-
For social affair where Municipal approval was not received	-	2	-
For social affair where Municipal authorities refused consent to sale of alcoholic beverages	-	-	6
For mercantile business when sought for purpose of giving to customers	-	1	-
Pending action upon application for retail license	-	1	-
For social affair where application was not properly executed	-	1	-
For permission to filter wine	-	1	-
For social affair where Board of Education approval for use of building not furnished	-	1	-
For social affair in N.J. National Guard Armories	-	-	3
For social affair where applicant composed mostly of minors	1	1	2
Having force and effect of license-violation of terms of former permit	-	-	1
By individual to import for resale	-	-	1
By retail licensee to import for resale	-	-	2
By individual to sell on one day for his own commercial profit	-	-	2
By applicant for retail license pending action upon his application	-	-	1
For social affair, for individual	1	1	-
<u>APPLICATIONS FOR SPECIAL PERMITS - FEES FORFEITED</u>			
For social affair where application and/or fee was not received before period for which affair was to be held	-	5	-
No record except receipt of payment	2	2	-
<u>SPECIAL PERMITS CANCELLED</u>			
For social affair - because of municipal ordinance barring Sunday sales	-	-	1
For social affair - voluntary surrender prior to date of affair	-	-	2

APPLICATIONS FOR SPECIAL PERMITS WITHDRAWN	Total this Month	Total This Year to Date	Total last Year to Date
Disposal by assignee	-	1	-
Distraint for rent-Beverages destroyed, unfit for consumption	-	1	-
Permit not necessary	1	2	-
Social affair	1	1	-
Sell Sacramental Wines	1	1	-
Sell Warehouse Receipts, etc.	1	1	-
	8	27	21

Respectfully submitted,

ERWIN B. HOCK  
Deputy Commissioner

February 17, 1936.

6. CONSUMPTION LICENSES - "MULLIGAN" - HELD PERMISSIBLE.

February 19, 1936.

John J. Crowley, Secretary,  
Camden Suburban Liquor Dealers' Ass'n.,  
Lindenwold, N. J.

Dear Mr. Crowley:

"Mulligan" is permissible for the reasons stated in the replies of the New Jersey Brewers Association and of the National Association of Retail Beverage Dealers to my inquiry in Bulletin 106, item 7.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner

February 17, 1936

D. Frederick Burnett, Commissioner.

Dear Sir:

This will acknowledge with thanks your letter of February 10th concerning the subject of the "use of mulligan". Answer to your communication was delayed in order that I might gain the benefit of conference with a number of the members of the Association present at a meeting held the other day.

In response to the specific questions contained in your interesting communication; the opinion of the majority was that "mulligan" is most generally injected into a drink by the consumer and, if administered by the barkeeper, it is done so only at the request of the consumer.

Whether or not the consumer would recognize the presence of "mulligan" if it were put in without his knowledge, would depend on the amount injected. A liberal dose so administered would tend to change the flavor of the beer and would, in all probability, cause a demand for a different brand. Of the many present, no one knew of any such deliberate instance or endeavor to change the character of any brewer's product.

"Mulligan" is not a habit-forming concoction and we frankly see no abuse that might result thru the continued use of it, nor do we believe there is any intemperance involved in its continued use.

The brewers have never expressed themselves to their retail outlets as to how or when "mulligan" should be used and we believe the considered recommendation of this Association would be best expressed in your own words, viz: "We see no objection if somebody wants his beer a la Tabasco".

Please believe that we greatly appreciate your directing the matter to our attention and this opportunity to be of small service to you and express the hope that your good office will, at all times, feel entirely free to call upon us or confer with us in other matters in which you believe we can be helpful.

Again thanking you for your letter and with expressions of esteem, I am,

Very truly yours,

NEW JERSEY BREWERS' ASSOCIATION

THOMAS F. B. MacNAMARA  
Secretary

February 14, 1936.

D. Frederick Burnett, Commissioner.

Dear Sir:

Replying to your various questions regarding the use of "mulligan" in beer would submit our opinion as follows:

"Mulligan" is invariably administered by the customer.

The customer would certainly recognize it if put in without his knowledge.

If injected without his knowledge, the customer might demand another beer, not another brand.

Its only effect is heating the same as any other pepper.

It is generally used in the cold weather to heat up the body when the customer does not desire to drink whiskey.

Its only abuse we know of is to curtail the sale of whiskey.

It is conducive to temperance as the drinking of beer is more temperate than drinking whiskey. It is not a beverage, as only a few drops are used as a seasoning.

It does not stimulate or satisfy the thirst. The beer probably does.

Its use is approved by most retail alcoholic beverage dealers.

Some use it themselves if they have a Mexican palate.

Dealers' experience has been that it is seldom called for in high hat places, but in the Tavern where the largest business is the sale of beer.

This Association approves of it as it promotes temperance.

It is our opinion many auto drivers will take a glass of beer with a dash of "mulligan" on a cold day to warm them up and remain sober, when the same amount of whiskey to accomplish the same purpose would make them a menace to society.

Respectfully submitted,

NATIONAL ASSOCIATION OF RETAIL  
BEVERAGE DEALERS OF N.J., INC.

By: C. A. LEGG,  
Sec'y. & Treas.

7. MUNICIPAL ORDINANCES - PROHIBITIONS OF SALE OF ALCOHOLIC BEVERAGES TO WOMEN OVER BARS

February 19, 1936.

Edmond J. Dwyer, Esq.,  
City Counsel  
Orange, New Jersey.

Dear Sir:

The Commissioner has referred to me your request of the 15th for a list of municipalities that have provided a ban pertaining to females drinking at the bar. The list, so far as our records show, is as follows:

Absecon, Atlantic City, Bayonne, Belleville, Belmar, Bergenfield, Bloomfield, Bound Brook, Caldwell Borough, Camden, Cranbury, Cranford, Deptford, Edgewater, Elsinboro, Flemington, Garwood, Hackettstown, Haddon, Hanover, Highland Park, Hope, Jersey City, Kearny, Logan, Lower Penns Neck, Matawan Borough, Middletown, Milltown, Montclair, New Brunswick, Newfield, North Bergen, Palisades Park, Penns Grove, Phillipsburg, Piscataway, Plainfield, Raritan Township (Middlesex County), Readington, Roselle, Roselle Park, South Belmar, South Bound Brook, South Plainfield, Tenaflly, Union Township (Union County), Washington Township (Warren County), Woodbury Heights and Woodstown.

The general form of these regulations is to prohibit the sale or serving of any alcoholic beverages to women directly over bars.

Some, however, go farther. Section 4 of the Flemington resolution of December 7, 1933 says that plenary retail consumption licensees shall not permit or allow any women in the barroom or sell or serve any alcoholic beverages to women in the barroom. Section 4 of the Hope resolution of June 19, 1934 says that women are not to be served with alcoholic beverages in the barroom. Section 6 of the Phillipsburg ordinance of June 20, 1934 says that no women other than employees shall be allowed in any bar or tap room.

Others have deemed it necessary to include at the same time exceptions permitting sales of alcoholic beverages to women otherwise than over bars. For example, Jersey City says that no female shall be permitted to be served at a public bar nor shall any alcoholic beverage be sold over said bar to or for any female provided that that shall not prevent sales of alcoholic beverages to females over the age of twenty-one years at tables in duly licensed restaurants, hotels or clubs; Logan Township says that no female shall be permitted to stand at a bar where alcoholic beverages are sold but that women may, however, be served at tables; the North Bergen regulation is essentially the same as Jersey City's; Washington Township (Warren County) says that no liquors of any kind are to be served to females at the bar but must be served at their tables.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner

By: Maurice E. Ash  
Senior Inspector

8. MUNICIPAL ORDINANCES - POWER EXISTS TO REQUIRE THAT THE SALE OF ALCOHOLIC BEVERAGES BE SEPARATED FROM ALL OTHER MERCANTILE BUSINESS BUT NOT THAT THEY MUST BE COMMINGLED

LICENSED PREMISES - A LICENSEE MUST HAVE AN INTEREST IN THE LICENSED PREMISES.

MUNICIPAL ORDINANCES - LICENSED PREMISES - ORDINANCE REQUIRING THAT LICENSEE MUST HAVE NO INTEREST IN LICENSED PREMISES DISAPPROVED.

February 21, 1936.

John J. Fisher,  
City Clerk,  
Millville, New Jersey.

Dear Sir:

\* \* \*

Resolution #1230 as amended by resolution #1235 and #1240 and as supplemented by resolution #1275 are approved as submitted subject to the following comments and exceptions:

\* \* \*

Section 12 (a) prohibits "saloons or places where no other line of business is carried on except the selling of alcoholic beverages." This means, I take it, that neither consumption nor distribution licenses may be issued unless some other line of business is also carried on. The Control Act permits municipalities to require that such sales be divorced from all other lines of mercantile activity. Your resolution requires them to be married. There may be good reason for causing them to be separated, but I utterly fail to see any objective of sound control promoted by requiring them to be commingled. The section is, therefore, disapproved.

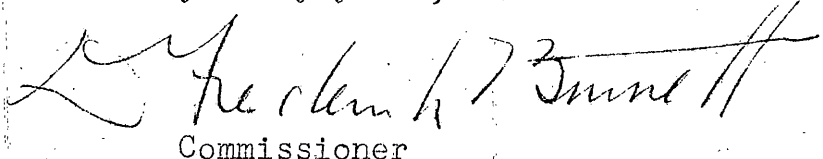
\* \* \*

Section 13 provides in part that no applicant for a license and no licensee after obtaining a license, shall be interested, directly or indirectly, in a public pool room on the premises, or in the building for which the license is granted.

So far as the regulation prohibits any interest in a pool room, it is approved. So far as it requires that the licensee shall have no interest, direct or indirect, in the building for which the license is granted, it is disapproved. The applicant for every license must have an interest in the licensed premises even though that interest be no greater than a lease. There is no such thing as a license to sell without a stipulated place. A licensee is not like a "roving center" on a football team. The license is granted in respect to a definite place. Hence, the licensee must have an interest in that place. Moreover, your regulation would exclude the owner of a building from ever obtaining a liquor license. Landlords suffer much these days but I see no reason for inflicting this additional disqualification upon them. Conversely, I see strong reasons why a license granted to a landlord would be more conducive to control than when granted to one who had no interest in the licensed premises because the landlord would have so much more at stake. If he didn't obey the liquor law and his license were revoked and his place padlocked, he would suffer far more for the violation than a financially irresponsible person who had no interest whatsoever in the padlocked premises. A landlord would be inclined to think over pretty carefully before he trifled with the law.

The remedy is to amend your resolution by eliminating that part of it which is thus disapproved.

Very truly yours,



Frederick B. Burnett

Commissioner