

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

BULLETIN 689

JANUARY 14, 1946

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Camden) - CHARGE OF SALE OF ALCOHOLIC BEVERAGES CONTRARY TO PRIVILEGES OF LICENSE, IN VIOLATION OF R. S. 33:1-2, DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.
2. DISCIPLINARY PROCEEDINGS (Lopatcong Township) - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - PERMITTING FEMALE EMPLOYEE TO ACCEPT BEVERAGES AT THE EXPENSE OF A PATRON, IN VIOLATION OF RULE 22 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR A PERIOD OF 25 DAYS, LESS 5 FOR PLEA.
3. DISCIPLINARY PROCEEDINGS (Bound Brook) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.
4. AUTOMATIC SUSPENSION - R. S. 33:1-31.1 - SALE OF ALCOHOLIC BEVERAGES TO MINORS - LICENSEE PAID FINE OF \$200.00 - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS (LESS 5 FOR GUILTY PLEA) BY LOCAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED.
5. DISCIPLINARY PROCEEDINGS (Atlantic City) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.
6. RECAPITULATION OF ACTIVITY FOR PERIOD FROM JULY 1, 1945 THROUGH DECEMBER 31, 1945.
7. DISCIPLINARY PROCEEDINGS (West Milford Township) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 20 DAYS.
8. APPELLATE DECISIONS - STALKER v. VOORHEES TOWNSHIP.
9. DISCIPLINARY PROCEEDINGS (Marlboro Township) - CHARGE OF POSSESSION OF ILLICIT LIQUOR NOLLE PROSSED.
10. DISCIPLINARY PROCEEDINGS (Northvale) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 20 DAYS.  
  
DISCIPLINARY PROCEEDINGS (Northvale) - PERMITTEE BOTTLED ALCOHOLIC BEVERAGES IN VIOLATION OF R. S. 33:1-78 - EMPLOYMENT PERMIT SUSPENDED FOR A PERIOD OF 30 DAYS.
11. DISCIPLINARY PROCEEDINGS (Camden) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.
12. DISCIPLINARY PROCEEDINGS (West Deptford Township) - APPLICATION FOR RECONSIDERATION OF SUSPENSION PERIOD BY BONA FIDE TRANSFEREE OF LICENSE DENIED - SUSPENSION REIMPOSED.



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

BULLETIN 689

JANUARY 14, 1946.

1. DISCIPLINARY PROCEEDINGS - CHARGE OF SALE OF ALCOHOLIC BEVERAGES CONTRARY TO PRIVILEGES OF LICENSE, IN VIOLATION OF R. S. 33:1-2, DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.

In the Matter of Disciplinary  
Proceedings against )

DOMENIC GUGLIELMI )  
T/a UNEEDA CAFE )  
2224 Federal Street )  
Camden, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-5, issued by the )  
Municipal Board of Alcoholic )  
Beverage Control of the City of )  
Camden. )  
----- )

Harold Simandl, Esq., Attorney for Defendant-licensee.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded not guilty to the following charge:

"On eight or more occasions during the period between January 15, 1944 and December 19, 1944, you sold alcoholic beverages contrary to the privileges of your license as defined by R. S. 33:1-12(1) in that you sold alcoholic beverages to other retailers, Arthur Pipher & Fred DiMarco, t/a Rustic Tavern, Delaware Township, New Jersey, for resale in those retailers' business, one occasion being on or about December 19, 1944; all such sales by you being in violation of R. S. 33:1-2."

The case involves the alleged sale of liquor by defendant to Fred DiMarco, one of the proprietors of the Rustic Tavern. At the time of the sales, DiMarco was the treasurer and a stockholder of the Riverton Country Club. Statements of DiMarco and Guglielmi taken by inspectors of the Department were offered in evidence, and both appeared and testified in person. There are only minor variations between the oral testimony of the witnesses and their written statements.

A careful study of the record, including the testimony, convinces me that the Department has failed to carry the burden of proof. Accordingly, the charge against the licensee must be dismissed.

The licensee should consider these proceedings, however, as a stern warning that he must at all times scrupulously obey the Alcoholic Beverage Law and the Rules and Regulations. The licensee's previous record, including a suspension in 1944 on a similar charge, considered in conjunction with these charges, indicates that, unless he doubles his vigilance, he may expect to lose his license.

Accordingly, it is, on this 2nd day of January, 1946,

ORDERED, that the charge herein be and the same is hereby dismissed.

ALFRED E. DRISCOLL  
Commissioner.

2. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - PERMITTING FEMALE EMPLOYEE TO ACCEPT BEVERAGES AT THE EXPENSE OF A PATRON, IN VIOLATION OF RULE 22 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR A PERIOD OF 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

OLIVE G. WEEKS  
T/a AIRPORT INN  
Route 24, Morris Highway  
Lopatcong Township  
P. O. Phillipsburg RD 1, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-3, issued by the  
Township Committee of the Township  
of Lopatcong.

Olive G. Weeks, Defendant-licensee, Pro se.  
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult to charges alleging that she sold and served alcoholic beverages to minors, in violation of R.S.33:1-77 and Rule 1 of State Regulations No. 20, and to the further charge of permitting a female employee to accept beverages at the expense of a patron, in violation of Rule 22 of State Regulations No. 20.

Agents of the Department of Alcoholic Beverage Control were advised by the State Police that Herbert ---, a minor, age 16 years, who had been arrested on another charge, informed them that he and a companion, one Michael ---, age 20 years, had been served beer on at least two occasions of their visits to the licensed premises. Upon being questioned by agents of this Department, the said minors admitted that such was the case and Herbert --- also stated that on the occasion of one of their visits he had also purchased a drink of whiskey for Irene Bowman, one of the waitresses. The licensee, upon being questioned, admitted making the sales to the two minors in question. She stated that the boys appeared to her to be older than they were, and because of that she made no attempt to ascertain their ages. Irene Bowman was further questioned and she admitted that on one of their visits she had served the minors beer and had accepted the invitation of Herbert to have a drink of Carstairs and "coke", which she drank after Herbert had left the premises. She stated, however, which is undoubtedly the fact, that she did not solicit the drink. The facts disclose a violation of Rule 22 of State Regulations No. 20, but the case differs from one involving employment of a hostess to solicit drinks.

It is apparent even from the licensee's statement that she made little, if any, effort to ascertain the ages of the minors involved. It is hardly probable that a boy sixteen years of age could take on the appearance of one over twenty-one years of age. Certainly not if the licensee had exercised the degree of caution that is incumbent upon her to exercise in matters of this kind.

Licensee has no previous record. Since this is her first offense I shall, without attempting to fix a period of suspension on each of the charges involved, suspend the license for a period of twenty-five days, less five days for the plea, making a net suspension of twenty days.

Accordingly, it is, on this 2nd day of January, 1946,

ORDERED, that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Lopatcong to Olive G. Weeks, t/a Airport Inn, for premises on Route 24, Morris Highway, Lopatcong Township, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. January 8, 1946, and terminating at 2:00 a.m. January 28, 1946.

ALFRED E. DRISCOLL  
Commissioner.

### 3. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary  
Proceedings against )

ANGELO DeCASTRO )  
T/a HOTEL TALMAGE )  
102 Talmage Avenue )  
Bound Brook, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-6, issued by the )  
Borough Council of the Borough )  
of Bound Brook. )  
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Angelo DeCastro, Defendant-licensee, Pro se.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded guilty to a charge alleging that he possessed two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky", the contents of which were not genuine as labeled, in violation of R. S. 33:1-50.

The minimum suspension imposed in violations involving two bottles is fifteen days. Re Nurse, Bulletin 680, Item 7. Defendant has no previous adjudicated record. I shall suspend defendant's license for a period of fifteen days.

Accordingly, it is, on this 4th day of January, 1946,

ORDERED, that Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of Bound Brook to Angelo DeCastro, t/a Hotel Talmage, for premises 102 Talmage Avenue, Bound Brook, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. January 10, 1946, and terminating at 2:00 a.m. January 25, 1946.

ALFRED E. DRISCOLL  
Commissioner.

4. AUTOMATIC SUSPENSION - R. S. 33:1-31.1 - SALE OF ALCOHOLIC BEVERAGES TO MINORS - LICENSEE PAID FINE OF \$200.00 - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS (LESS 5 FOR GUILTY PLEA) BY LOCAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by )

THOMAS M. KEARNS )

T/a MAYFLOWER INN )

N/S Route 28, about 1½ miles )

West of North Branch )

Branchburg Township )

P.O. Somerville, R.D. 3, N.J., )

ON PETITION  
CONCLUSIONS AND ORDER

To Lift the Automatic Suspension  
of License C-2 issued by the  
Township Committee of the  
Township of Branchburg.

Thomas M. Kearns, Petitioner, Pro se.

BY THE COMMISSIONER:

From the petition filed herein it appears that, on December 11, 1945, petitioner pleaded guilty in the Court of Special Sessions, Somerset County, to a charge of selling alcoholic beverages to minors, and that he was thereupon sentenced to pay a fine of \$200.00, which fine has been paid.

It further appears from the petition and from the records of the Department of Alcoholic Beverage Control that the Township Committee of Branchburg Township, in disciplinary proceedings, had previously suspended petitioner's license for fifteen days, less five days for the plea, making a net suspension of ten days, effective from December 19, 1945 to December 29, 1945, after petitioner had pleaded guilty to charges alleging sale of alcoholic beverages to minors.

Because of the criminal conviction, petitioner's license has been automatically suspended for the balance of its term. R. S. 33:1-31.1. His license certificate was picked up by investigators of the Department of Alcoholic Beverage Control on January 2, 1946. The petitioner requests that the automatic suspension may be lifted.

The criminal proceedings and the charges in the disciplinary proceedings were based upon the same facts. The case involves the sale of alcoholic beverages to a girl seventeen years of age and a boy nineteen years of age.

It has been the policy of this Department to lift an automatic suspension when, and only when, a license has been suspended for what appears, in view of all the facts, to be a sufficiently penalizing length of time. Since the girl was under eighteen years of age, the suspension imposed in the disciplinary proceedings might have been greater, but the members of the Township Committee heard all the testimony and apparently concluded that a net suspension for a period of ten days would be adequate. Moreover, the license has been effectively suspended for an additional period of two days because of the automatic suspension of the license. Under all the circumstances, I conclude that petitioner has been sufficiently punished, and shall grant the relief sought in the petition.

Accordingly, it is, on this 4th day of January, 1946,

ORDERED, that the automatic suspension of License C-2, held by Thomas M. Kearns, t/a Mayflower Inn, issued by the Township Committee of the Township of Branchburg for premises on N/S Route 28, about 1 1/2 miles west of North Branch, Branchburg Township, be lifted, and said license is hereby restored to full force and operation, effective immediately.

ALFRED E. DRISCOLL  
Commissioner.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against )

GILBERT WARD )  
T/a PRINCE'S BAR )  
35-37 N. Michigan Avenue )  
Atlantic City, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-133, issued by the )  
Board of Commissioners of the )  
City of Atlantic City. )  
----- )

Gilbert Ward, Defendant-licensee, Pro se.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that, on October 30, 1945, he possessed a 4/5 quart bottle of "Four Roses Fine American Whiskey A Blend of Straight Whiskies", and a 4/5 quart bottle of "I. W. Harper Kentucky Straight Bourbon Whiskey Bottled-in-Bond", which bottles contained alcoholic beverages not genuine as labeled, in violation of R. S. 33:1-50.

The license will be suspended for a period of fifteen days.  
Cf. Re Rudolph, Bulletin 680, Item 1.

Accordingly, it is, on this 4th day of January, 1946,

ORDERED, that Plenary Retail Consumption License C-133, issued by the Board of Commissioners of the City of Atlantic City to Gilbert Ward, t/a Prince's Bar, for premises 35-37 N. Michigan Avenue, Atlantic City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 12:01 a.m. January 9, 1946, and terminating at 12:01 a.m. January 24, 1946.

ALFRED E. DRISCOLL  
Commissioner.

## 6. RECAPITULATION OF ACTIVITY FOR PERIOD FROM JULY 1, 1945 THROUGH DECEMBER 31, 1945

To: Alfred E. Driscoll, Commissioner

ARRESTS:	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.	TOTAL
Licenses and employees	2	3	4	0	5	2	16
Personating an ABC officer	0	0	0	0	1	1	2
Bootleggers	25	14	12	11	16	10	88
Total number of persons arrested	27	17	16	11	22	13	106
SEIZURES:							
Total number of stills seized	1	2	0	3	2	2	10
Mash - gallons	0	0	0	1,850	10,125	0	11,975
Total number of motor vehicles seized	4	4	3	0	1	0	12
Alcohol - gallons	0	40	0	.80	1	2.50	44.30
Brewed malt alcoholic beverages (beer, ale, etc.) - gallons	315	211	60.61	28.25	1,847	23	2,484.86
Wine - gallons	0.8	8	7.80	.25	2,196	1	2,213.85
Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons	9.5	63.50	15.27	1	2	4	95.27
RETAIL LICENSEES:							
Total number of premises inspected	963	1,125	980	1,031	1,095	1,015	6,209
Total number of premises where alcoholic beverages were gauged	--	--	--	1,016	743	575	2,334
Total number of bottles gauged	7,532	13,845	10,114	13,389	10,555	7,840	63,275
Total number of premises where violations were found	41	116	60	63	56	45	381
Total number of violations found	60	207	74	76	74	72	563
Type of violations found:							
"Fronts" (concealed ownership)	2	3	4	5	6	4	24
Gambling devices	1	45	0	0	7	0	53
Illicit liquor	12	49	20	17	20	18	136
Improper beer tap markers	0	8	1	1	0	0	10
No sign denoting legal sale hours - off-premises consumption	2	29	5	22	6	5	69
Prohibited signs	0	1	0	0	1	2	4
Stock disposal permits necessary	9	11	9	6	9	8	52
Unqualified employees	34	58	20	23	15	27	177
Other types of violations	0	3	15	2	10	8	38
MILITARY AREA PATROL INSPECTIONS:	575	220	--	--	--	--	795
STATE LICENSEES:							
Premises inspected	9	7	21	17	19	7	80
License applications investigated	24	22	14	23	22	15	120
COMPLAINTS:							
Investigated, reviewed and closed	275	254	275	338	255	229	1,626
Investigation assigned, not yet completed	204	195	214	232	222	246	1,313
LABORATORY:							
Analyses made	60	161	140	120	160	120	761
"Shake-up" cases (alcohol, water and artificial coloring)	4	14	12	7	10	12	59
Liquor found to be not genuine as labeled	3	37	38	22	17	26	143
IDENTIFICATION BUREAU:							
Criminal fingerprint identifications made	21	20	15	19	18	20	113
Persons fingerprinted for non-criminal purposes	329	242	215	248	218	146	1,398
Identification contacts with other enforcement agencies	410	268	197	247	308	143	1,573
Motor vehicle identifications via N. J. State Police Teletype	7	2	11	10	2	13	45
DISCIPLINARY PROCEEDINGS INSTITUTED:							
Cases transmitted to municipalities	12	19	17	18	17	10	93
Violations involved:							
Bookmaking	0	2	3	1	1	0	7
Brawls	0	1	1	1	1	0	4
Fraud in application	3	0	0	0	2	0	5
Gambling	1	0	0	0	1	0	2
Hostesses	0	0	1	0	0	0	1
Improper beer tap markers	1	0	5	2	1	0	9
Inadequate view into premises during closing hours	0	0	0	0	0	1	1
Lewdness	0	0	0	2	0	0	2



JULY      AUG.      SEPT.      OCT.      NOV.      DEC.      TOTAL

DISCIPLINARY PROCEEDINGS INSTITUTED (CONT'D):Cases transmitted to municipalities (cont'd)Violations involved:

Licensee working while drunk	0	0	0	0	1	0	1
Noise	0	1	0	0	0	0	1
Numbers writing	0	0	0	1	0	0	1
Prostitutes and immoral activity	0	0	0	1	0	0	1
Sale during prohibited hours	1	6	3	8	3	7	28
Sale outside scope of license	1	0	1	0	4	0	6
Sale to intoxicated persons	0	1	1	3	0	1	6
Sale to minors	7	5	3	4	2	3	24
Sale to non-members by clubs	0	2	1	1	0	0	4
Service to women at bar	0	2	0	0	0	0	2
Slot machines	0	1	0	0	1	0	2
Unqualified employee	1	3	0	2	1	0	7

Cases instituted by DepartmentViolations involved:

Bookmaking	0	1	0	0	2	0	3
Brawls	1	0	0	1	0	0	2
Business conducted as nuisance	0	0	0	1	1	1	3
Contraceptives	0	0	0	0	1	0	1
Fraud and front	5	6	1	3	2	3	20
Hindering investigation	0	0	1	1	1	0	3
Hostesses	1	0	0	0	0	1	2
Illicit liquor	5	4	22	9	9	7	56
Improper advertising	0	0	0	0	0	1	1
Improper bottling by retailer	0	1	0	1	0	1	3
Inadequate view into premises during closing hours	0	0	0	0	0	1	1
Lewdness	1	0	0	0	1	1	3
Numbers writing	1	0	0	0	1	0	2
Offering discount	0	0	0	0	0	1	1
Prostitutes	0	0	0	0	1	0	1
Purchase from improper source	0	1	1	0	0	0	2
Sale during prohibited hours	1	3	1	4	4	2	15
Sale outside scope of license	0	1	3	1	1	0	6
Sale to intoxicated persons	0	0	1	0	0	0	1
Sale to minors	1	4	1	3	4	4	17
Sale to non-members by clubs	0	0	0	1	0	0	1
Sale under Fair Trade price	2	1	1	1	0	5	10
Slot machines	0	2	0	1	0	0	3
Unlabeled beer taps	0	0	0	1	0	0	1
Unqualified employee	0	2	1	2	1	0	6

Cases brought by municipalities on own initiative and reported to DepartmentViolations involved:

Act occurring after issuance of license, which, if occurring before, would have prevented such issuance

such issuance	0	0	0	0	0	1	1
Brawls	0	2	2	1	3	1	9
Fraud in application	0	0	1	2	0	0	3
Gambling	0	1	1	1	0	1	4
Inadequate view into premises during closing hours	0	0	0	0	0	1	1
Known criminal on premises	0	0	0	0	0	1	1
Noise	0	2	0	0	0	0	2
Prostitutes	0	0	0	0	0	1	1
Sale during prohibited hours	0	0	2	2	1	1	6
Sale to intoxicated persons	0	0	0	1	1	1	3
Sale to minors	0	5	3	7	2	1	18
Sale to non-members by clubs	0	0	0	1	0	0	1
Serving women on premises	0	0	1	0	0	0	1
Unqualified employee	0	0	1	1	0	1	3

CANCELLATION PROCEEDINGS INSTITUTED:Violations involved:

Issuing of license to non-resident	0	1	0	0	0	0	1
Premises within 200 feet of church	0	0	0	1	0	0	1

HEARINGS HELD AT DEPARTMENT:

Total number of hearings held	43	34	35	63	48	54	277
Appeals	14	4	8	15	10	12	63
Disciplinary proceedings	17	16	13	35	16	22	119
Eligibility	10	12	8	6	14	11	61
Seizures	2	2	4	7	1	6	22
Application for license	0	0	2	0	6	3	11
Tax revocation	0	0	0	0	1	0	1

PERMITS ISSUED

Total number of permits issued	4,516	947	826	1,504	1,375	862	10,030
Unqualified employees	1,816	295	139	190	121	110	2,671
Solicitors	1,824	99	130	124	153	87	2,417
Social affairs	227	247	192	248	255	151	1,320
Home manufacture of wine	33	17	52	672	634	308	1,716
Disposal of alcoholic beverages	74	199	215	167	117	154	926
Miscellaneous permits	542	90	98	103	95	52	980

Respectfully submitted,  
Erwin B. Hock  
Deputy Commissioner.

7. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED  
FOR A PERIOD OF 20 DAYS.

In the Matter of Disciplinary  
Proceedings against

WILLIAM H. VOGEL  
Warwick Turnpike  
West Milford Township  
P.O. Hewitt, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-27 issued by the )  
Township Committee of the Township )  
of West Milford. )  
----- )

William H. Vogel, Defendant, Pro se.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded guilty to a charge alleging that, on November 21, 1945, he possessed on his licensed premises one 4/5 quart bottle labeled "Park & Tilford Reserve Whiskey" and two 4/5 quart bottles labeled "Schenley Reserve Blended Whiskey", the contents of which were not genuine as labeled, in violation of R. S. 33:1-50.

In an effort to mitigate the violation, defendant alleges that he did not tamper with the contents of the seized bottle and states that he believes that a carpenter who was putting up shelves in his store may have poured the contents of various other bottles into the seized bottles in order to make room on the shelves. This explanation -- refreshingly novel -- of the naive and perhaps innocent carpenter deserting his hammer and saw for the more delicate tasks of the bottler, cannot save the defendant from punishment. The rule is now well established in this State that a licensee, despite personal innocence, is held strictly responsible for any "refills" found upon his licensed premises. Re Kurian, Bulletin 517, Item 2. It is to be hoped that the defendant's artificer was more familiar with the tools of his trade than he apparently was with the beverages aged in the wood.

Defendant has no previous adjudicated record. I shall suspend defendant's license for a period of twenty days. Re Zeidner & Cohen, Bulletin 680, Item 2.

Accordingly, it is, on this 7th day of January, 1946,

ORDERED, that Plenary Retail Consumption License C-27, issued by the Township Committee of the Township of West Milford to William H. Vogel, for premises on Warwick Turnpike, West Milford Township, be and the same is hereby suspended for twenty (20) days, effective at 2:00 a.m. January 15, 1946 and terminating at 2:00 a.m. February 4, 1946.

ALFRED E. DRISCOLL  
Commissioner.

## 8. APPELLATE DECISIONS - STALKER v. VOORHEES TOWNSHIP.

ELIZABETH STALKER, )

Appellant, )

-vs- )

TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF VOORHEES, )

Respondent )

ON APPEAL.  
CONCLUSIONS AND ORDER

Joseph Tomaselli, Esq., Attorney for Appellant.

Benjamin Asbell, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the denial by respondent of appellant's application for a plenary retail consumption license for premises located on Evesham Avenue, in the Ashland district of the Township of Voorhees.

Written objections having been filed with the respondent opposing the granting of the license, a public hearing on the application was held by the Township as required by law. Rule 6, State Regulations No. 2. See also R. S. 33:1-24.

It is to be regretted that the respondent failed to give any reason for its denial of the application, nor does any clear reason appear for the denial in the record on appeal.

The "resolution" adopted by the respondent denying the application includes a report of the proceedings before it. A reference to this resolution discloses that two written protests bearing in all the signatures of 93 persons were received by the Township. Twenty-four of these objectors appeared in person at the hearing before respondent. The resolution narrates that the objections were based solely on the question of "neighborhood", which the objectors described as "residential." The resolution asserts that the applicant produced and filed with the Township Committee a petition approving the granting of the license likewise bearing the signatures of 93 persons\* and that the applicant (one of three witnesses appearing in support of the granting of the application) testified there was "an actual need" for a tap room in the neighborhood.

Municipal issuing authorities should in every instance clearly and concisely state as a matter of public record their reasons for granting or denying an application for a license or a transfer of a license. This requirement is in the interest of fair play.

The appeal was heard de novo with a full opportunity for the appellant and the respondent municipality to offer testimony.

\*Appellant on appeal offered in evidence as Exhibit A-2 a petition signed by 68 persons approving the granting of a license. Respondent offered in evidence two petitions signed in all by 93 persons opposing the granting of the application. These petitions have limited evidential value and are admitted solely for the purpose of presenting the full picture of the proceedings before respondent.

Voorhees Township is a rural community covering a considerable area and having a population of approximately 1400 inhabitants. Three plenary retail consumption licenses have been issued in the Township and are presently in existence.\* The nearest plenary retail consumption license to the proposed premises is about "a mile and a half away." A homespun map offered in evidence as Exhibit A-1 discloses that the area in which the proposed premises are located is undoubtedly rural, perhaps best characterized as a typical country crossroads community with an intermingling of business and residential properties.

On the appeal, the appellant offered the testimony of herself, her husband, the municipal Clerk and the petitions previously mentioned. All of her witnesses testified that the proposed premises are located in a neighborhood devoted to business. The municipality offered the testimony of the Clerk and one objector. The latter expressed the opinion that Voorhees Township did not "need" another license. There was no objection to appellant's personal qualifications.

Presumably the issuing authority, judged by its action, was more impressed by the objectors and their apparent desire to protect the "neighborhood" than by the appellant and her supporters.

The testimony discloses that after the appellant's application for a license was denied by the respondent, the latter granted a plenary retail consumption license to Virginia Priscilla Parson for premises located in a distant part of the Township. Prior to the granting of this license there were but two plenary retail consumption licenses in existence in the Township. This action by respondent, from which no appeal was taken, is not, however, controlling in the instant appeal. If (and on this point I express no opinion) the Township erred in granting the Parson application, it may not be compelled in these proceedings to repeat that error.

The record on the appeal is void of any evidence that an additional license is required in Voorhees Township to meet a public need or convenience. That is the crucial issue that both parties appear to have overlooked. A liquor license is a "special privilege", not a right. It is "granted to the few, denied to the many." Paul v. Gloucester, 50 N. J. L. 585, 596. A license is not properly issued merely to serve the private interests of the applicant. It is the public welfare that is paramount, and should govern the issuance of licenses to sell and serve alcoholic beverages. Accordingly, the burden of demonstrating the public need for an additional license rests with the applicant. Similarly, on appeal, the burden rests with the appellant to prove that public convenience and necessity require an additional license and that respondent's action was accordingly arbitrary or unreasonable. There is a presumption in favor of the validity of the action of the municipal issuing authority.

Despite the unsatisfactory state of the record with respect to the reasons for respondent's denial, it is none the less clear that the appellant has failed to carry the burden of proof.

\*Studies by the Department of Alcoholic Beverage Control disclose that, in the absence of unusual circumstances, one plenary retail consumption license per 1,000 of population is a fair ratio.

Accordingly, it is, on this 7th day of January, 1946,

ORDERED, that the action of the respondent be and the same is hereby affirmed and the appeal is hereby dismissed.

ALFRED E. DRISCOLL  
Commissioner.

9. DISCIPLINARY PROCEEDINGS - CHARGE OF POSSESSION OF ILLICIT LIQUOR  
NOLLE PROSSED.

In the Matter of Disciplinary  
Proceedings against

ELIZABETH WALAITIS  
T/a HILLSDALE CAFE  
N/W Cor. Bradevelt-Holmdel Road  
Marlboro Township  
P. O. Holmdel, N. J.,

O R D E R

Holder of Plenary Retail Consump-  
tion License C-3, issued by the  
Township Committee of the Township  
of Marlboro.

Elizabeth Walaitis, Defendant-licensee, Pro se.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The defendant is charged with the possession of an illicit alcoholic beverage, in violation of R. S. 33:1-50. The alleged illicit alcoholic beverage is reported to have been found by agents of the State Department of Alcoholic Beverage Control in a 4/5 quart bottle labeled "High Point Apple Jack Apple Brandy." On the date set for the hearing a Department representative frankly stated that there was insufficient evidence to prove the charge and he thereupon moved that the case be nolle prossed.

Accordingly, it is, on this 10th day of January, 1946,

ORDERED, that the charge in the above cause be and the same is hereby nolle prossed.

ALFRED E. DRISCOLL  
Commissioner.

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 20 DAYS.

DISCIPLINARY PROCEEDINGS - PERMITTEE BOTTLED ALCOHOLIC BEVERAGES IN VIOLATION OF R. S. 33:1-78 - EMPLOYMENT PERMIT SUSPENDED FOR A PERIOD OF 30 DAYS.

In the Matter of Disciplinary )  
 Proceedings against )

THERESA FEUERSTACK )  
 T/a FRIENDLY HOUSE )  
 Tappan Road )  
 Northvale, N. J., )

Holder of Plenary Retail Consump- )  
 tion License C-4, issued by the )  
 Borough Council of the Borough of )  
 Northvale. )

----- )  
 In the Matter of Disciplinary )  
 Proceedings against )

FRED FEUERSTACK )  
 Tappan Road )  
 Northvale, N. J., )

Holder of Employment Permit )  
 No. 2298, issued by the State )  
 Commissioner of Alcoholic )  
 Beverage Control. )  
 ----- )

CONCLUSIONS

AND

ORDERS

Leland F. Ferry, Esq., Attorney for Defendant-licensee and  
 Defendant-permittee.  
 Harry Castelbaum, Esq., appearing for Department of Alcoholic  
 Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee has pleaded non vult to a charge alleging that she possessed three 4/5 quart bottles of whiskey, the contents of which were not genuine as labeled, in violation of R. S. 33:1-50. The defendant-permittee has pleaded non vult to a charge that he illegally bottled alcoholic beverages for the purpose of sale, in violation of R. S. 33:1-78.

The charges against the defendant-licensee and the defendant-permittee arise out of the same incident and, therefore, may be disposed of at one and the same time.

On October 23, 1945, an investigator of the State Department of Alcoholic Beverage Control seized the three bottles; to wit, one 4/5 quart bottle labeled "Three Feathers Blended Whiskey Yellow Label", and two 4/5 quart bottles labeled "Carstairs White Seal Blended Whiskey", when his tests made in the course of a routine inspection of defendant-licensee's open stock indicated that the contents of the bottles were not genuine as labeled. Subsequent

analysis by the Chemist employed by the Department of Alcoholic Beverage Control tended to confirm this conclusion.

At the time of the seizure both the licensee and defendant's husband, Fred Feuerstack, an alien holder of an employment permit issued by the Department of Alcoholic Beverage Control, admitted in written statements that the three bottles had been refilled, or partly refilled, with a slow-moving whiskey by the permittee-bartender with the knowledge and consent of the licensee. The stated reason as given in both confessional statements was that the brands disclosed by the respective labels on the seized bottles were popular with the licensee's patrons; that these brands were hard to secure; and that the licensee and her bartender decided they would refill the bottles with other less popular whiskeys, of which they had a considerable stock. This admission of an out and out fraud on the patrons of the tavern compels a finding of "guilty as charged" against both the defendant-licensee and against the defendant-permittee.

Neither defendant has any prior adjudicated record. I shall suspend the license for a period of twenty days. See Re Petrucelli, Bulletin 580, Item 2. I shall further suspend the permit of the permittee for a period of thirty days. See Re S. M. S. LaFratellanza Society and DeMassari, Bulletin 633, Item 6.

Accordingly, it is, on this 8th day of January, 1946,

ORDERED, that Plenary Retail Consumption License C-4, issued by the Borough Council of the Borough of Northvale to Theresa Feuerstack, t/a Friendly House, for premises Tappan Road, Northvale, be and the same is hereby suspended for a period of twenty (20) days, commencing at 1:00 a.m. January 11, 1946 and terminating at 1:00 a.m. January 31, 1946; and it is further

ORDERED, that Employment Permit No. 2293, issued by the State Commissioner of Alcoholic Beverage Control to Fred Feuerstack be and the same is hereby suspended for a period of thirty (30) days, commencing at 1:00 a.m. January 11, 1946 and terminating at 3:00 a.m. February 10, 1946.

ALFRED E. DRISCOLL  
Commissioner.

11. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED  
FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary  
Proceedings against

JAMES W. ESKRIDGE  
T/a JIMMY'S TAVERN  
2802 Buren Avenue  
Camden, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-26, issued by the  
Municipal Board of Alcoholic  
Beverage Control of the City of  
Camden.

James W. Eskridge, Defendant-licensee, Pro se.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The defendant has pleaded non vult to a charge that he pos-  
sessed two 4/5 quart bottles labeled "Canadian Club Blended Canadian  
Whisky", the contents of which were not genuine as labeled, in  
violation of R. S. 33:1-50.

On November 27, 1945 an investigator of the State Department  
of Alcoholic Beverage Control seized the above described two  
bottles of whisky when preliminary field test thereof indicated  
that the contents of the said bottles were different in character-  
istics from the whisky named on the labels. Subsequent analysis by  
the Department Chemist confirmed the fact that said seized whisky  
was not genuine as labeled.

Defendant denies any knowledge whatsoever of the violation.  
Nevertheless, a licensee is held strictly accountable for the alco-  
holic beverages found on his licensed premises. Cf. Re Kurian,  
Bulletin 517, Item 2.

Defendant has no previous adjudicated record. I shall suspend  
defendant's license for a period of fifteen days. Cf. Re Baker,  
Bulletin 682, Item 3.

Accordingly, it is, on this 11th day of January, 1946,

ORDERED, that Plenary Retail Consumption License C-26, issued  
by the Municipal Board of Alcoholic Beverage Control of the City of  
Camden to James W. Eskridge, t/a Jimmy's Tavern, for premises  
2802 Buren Avenue, Camden, be and the same is hereby suspended for  
a period of fifteen (15) days, commencing at 2:00 a.m. January 15,  
1946, and terminating at 2:00 a.m. January 30, 1946.

ALFRED E. DRISCOLL  
Commissioner.



12. DISCIPLINARY PROCEEDINGS - APPLICATION FOR RECONSIDERATION OF  
SUSPENSION PERIOD BY BONA FIDE TRANSFEREE OF LICENSE DENIED -  
SUSPENSION REIMPOSED.

In the Matter of Disciplinary )  
Proceedings against )

GIOVANNI SCIALES & VIRGINIA )  
SCIALES, )

T/a BLACK CAT INN )

N/W Cor. Delaware St. & Crown )  
Point Road )

West Deptford Township )

P. O. Thorofare, RFD, N. J., )

ON PETITION  
ORDER

Holders of Plenary Retail Consump- )  
tion License C-8, issued by the )  
Township Committee of West Deptford )  
Township, and transferred during the )  
pendency of these proceedings to )

JOHN M. SWEENEY, JR. )

for the same premises. )  
----- )

Frank Sahl, Esq., Attorney for Petitioner, John M. Sweeney, Jr.

BY THE COMMISSIONER:

On October 16, 1945 a license issued to Giovanni Sciales and Virginia Sciales, t/a Black Cat Inn, by the Township Committee of West Deptford Township was ordered suspended for a period of sixty days. These defendants had previously admitted that they were a "front" for one Salvatore Sciales, an alien not qualified to hold a liquor license, and that they had by false answers in their application for a license concealed his interest at the time of their application for the license. See Bulletin 682, Item 9.

At about the time the order above referred to was entered, the defendant partnership transferred its license and the business to John M. Sweeney, Jr., who appears to be qualified to hold a plenary retail consumption license, thus correcting the unlawful situation. Prior to the effective date of the suspension above referred to, the new licensee made application for a postponement of the effective date of the suspension and for permission to present his reargument relative to the penalty therein. There being no desire to cause undue hardship, and in an effort to give the licensee every opportunity to present any reasons for modification of the order, the effective date of the suspension heretofore imposed was postponed until further order.

I have given careful consideration to the petition filed herein and to the argument of counsel for the new licensee. I have again evaluated the penalties imposed in "front" cases motivated by reason of non-citizenship and have again reached the conclusion that the nature of the violation fully warrants the penalty normally imposed, to wit, a suspension for a period of sixty days.

The order heretofore entered (Bulletin 682, Item 9) will be reinstated and the penalty reimposed.

Accordingly, it is, on this 9th day of January, 1946,

ORDERED, that Plenary Retail Consumption License C-8, issued by the Township Committee of West Deptford Township to Giovanni Sciales and Virginia Sciales, t/a Black Cat Inn, for premises on N/W Corner Delaware Street and Crown Point Road, West Deptford Township, and transferred during the pendency of these proceedings to John M. Sweeney, Jr. for the same premises, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. January 14, 1946 and terminating at 2:00 a.m. March 15, 1946.

*Alfred E. Driscoll*

Commissioner.