

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

BULLETIN 225

JANUARY 17, 1938

1. REPORT ON REFERENDA CONCERNING ALCOHOLIC BEVERAGES

January 10, 1938

To the Commissioner:

Since December 6, 1933, the effective date of the New Jersey Alcoholic Beverage Control Act, referenda on questions relating to alcoholic beverages have been held in the following municipalities:

The five classes of referenda questions authorized by the Act are designated in the schedule by the respective section numbers given them in the Pamphlet Reprint of the Act published by the Department, viz.:

- Section 41: "Shall the retail sale of alcoholic beverages, other than brewed malt alcoholic beverages and naturally fermented wine, for consumption on the licensed premises by the glass or other open receptacle pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?"
- Section 42: "Shall the retail sale of all kinds of alcoholic beverages, for consumption on the licensed premises by the glass or other open receptacle pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?"
- Section 43: "Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to the 'Act concerning alcoholic beverages' be permitted in this municipality?"
- Section 44: "Shall the sale of alcoholic beverages be permitted on Sundays in this municipality?"
- Section *44A: Any question as to whether the hours between which the sale of alcoholic beverages at retail may be made in said municipality on weekdays, Sundays, either or both, shall be fixed as requested in the petition for the referendum.

<u>Section 41</u>	<u>Section 42</u>	<u>Section 43</u>	<u>Section 44</u>	<u>Section *44A</u>	<u>Result</u>	<u>Date Held</u>
				(1) Allendale	Yes	11/5/35
			Avalon		Yes	11/6/34
		Barrington			Yes	11/2/37
			Bloomfield		Yes	11/6/34
				(2) Bogota	Yes	11/2/37
			Boonton (Town)		No	11/5/35
		Bridgeton			Yes	11/6/34
				(3) Camden	No	11/2/37
			Cape May		Yes	11/6/34
		Collingswood			No	11/5/35
	Commercial Delanco				No	11/5/35
					No	11/5/35
		Dennis	Dennis		No	11/6/34
			Deptford		Yes	11/5/35
			Dover (Town)		Yes	11/5/35
	Downe				Yes	11/2/37
		Downe			No	11/6/34
			Dunellen		No	11/2/37
			East Orange		Yes	11/6/34
Elk				(4) East Orange	No	11/5/35
					No	11/3/36
			Englewood		Yes	11/6/34
			Ewing		Yes	11/5/35
		Fairfield			Yes	11/6/34
			Gloucester (Twp.)		No	11/6/34
				(5) Gloucester (Twp.)	No	11/2/37
			Gloucester City		Yes	11/5/35
	Greenwich (Twp.) (Cumberland Co.)				No	11/5/35
		Haddonfield			No	11/6/34
			Hamilton (Twp.) (Mercer Co.)		No	11/6/34
		Harrison (Twp.)			No	11/6/34
		Hopewell (Twp.) (Cumberland Co.)			No	11/5/35
			Landis		Yes	11/5/35
			Lawrence (Twp.) (Mercer Co.)		No	11/6/34
			Lawrence (Twp.) (Mercer Co.)		No	11/2/37

<u>Section 41</u>	<u>Section 42</u>	<u>Section 43</u>	<u>Section 44</u>	<u>Section *44A</u>	<u>Result</u>	<u>Date Held</u>
		Linwood			No	11/5/35
	Little Silver		Little Egg Harbor		Yes	11/5/35
					No	11/5/35
			Lower		Yes	11/6/34
			Magnolia		Yes	11/5/35
			Manasquan		Yes	11/2/37
		Mansfield (Twp.) (Burlington Co.)			Yes	11/3/36
			Marlboro		No	11/3/36
	Maurice River				No	11/6/34
	Merchantville				No	11/6/34
		Merchantville			Yes	11/6/34
			Merchantville		No	11/6/34
			Midland Park		No	11/6/34
			Montgomery		No	11/6/34
		Moorestown			No	11/5/35
			North Wildwood		Yes	11/6/34
			Oxford		No	11/5/35
			Paulsboro		No	11/6/34
Plainsboro					Yes	11/5/35
			Ridgefield Park		Yes	11/6/34
			Roxbury		Yes	11/2/37
			Runnemede		No	11/6/34
			Sea Isle City		Yes	11/6/34
	Shrewsbury (Boro)				Yes	11/5/35
			Southampton		No	11/6/34
			South Orange		No	11/6/34
			Stafford		Yes	11/5/35
			Stone Harbor		Yes	11/6/34
			Union (Twp.) (Ocean Co.)		Yes	11/5/35
		Upper Deerfield			No	11/6/34
		Upper Deerfield			No	11/2/37
	Upper Freehold				Yes	11/5/35
			Verona		No	11/6/34
			Verona		No	11/2/37
		Washington (Twp.) (Gloucester Co.)			No	11/6/34
			West Deptford		Yes	11/5/35
			Westville		No	11/6/34
			Westville		No	11/2/37
			Wildwood		Yes	11/6/34
			Woodbine		Yes	11/6/34
		Woodstown			Yes	11/2/37

- (1) "Shall the sale of alcoholic beverages at retail, be permitted in this municipality on Sundays except between the hours of 2:00 A. M. and 12:00 Noon?"
- (2) "Shall the sale of all alcoholic beverages be permitted on Sunday, except between the hours of 3:00 A. M. and 12 o'clock Noon?"
- (3) "Shall the sale of alcoholic beverages be permitted on Sundays in the municipality after 1 P. M.?"
- (4) "Shall the sale of alcoholic beverages at retail be permitted in this municipality between the hours of 12 Midnight Saturday and 2 A. M. Sunday?"
- (5) "Shall the sale of alcoholic beverages be permitted in the Township of Gloucester on Sundays after 1 P. M.?"

Referenda, other than those listed above, have also been held in Evesham, Merchantville, Milltown, Runnemede, Rutherford, Union City and Wildwood Crest, but either for failure to submit a question authorized by the Act or for failure to comply with the procedure required by the Act, they are merely advisory, having no binding effect.

Respectfully submitted,

MAURICE E. ASH
Senior Inspector

2. SOLICITORS' PERMITS - REPORT ON HEARINGS HELD FOR THE HALF YEAR ENDING DECEMBER 31, 1937.

January 7th, 1938.

MEMORANDUM TO: D. Frederick Burnett, Commissioner
FROM: Edward J. Dorton, Attorney-in-Chief

In Re: Hearings on Solicitors' Permits, and
Eligibility for Employment.

The following hearings with reference to above matters were held between July 1st, 1937 and December 31st, 1937:

Hearings held on Applications for Solicitors' Permits where conviction of crime was disclosed in questionnaire: 7

Disposition:	
Applications granted	4
Applications denied	2
Pending	<u>1</u>
Total	7

Hearings held after issuance of Solicitor's Permit where fingerprint records subsequently disclosed conviction of crime: 13

Disposition:	
Cancellation of permit recommended	3
Suspension of permit because of false affidavit recommended . . .	1
Disabilities removed by court and recommendation made that no further action be taken	1
Recommendation made that no further action be taken	4
Permit surrendered	1
Pending	<u>3</u>
Total	13

Hearings held as to eligibility for employment: 13

Disposition:	
Applicant advised that he is eligible for employment	4
Applicant advised that he is not eligible for employment	6
Pending	<u>3</u>
Total	13

Hearing held on Application for A.R.C. Permit: 1

Disposition:	
Recommended that permit be denied.	1

TOTAL 34

Respectfully submitted,

EDWARD J. DORTON
Attorney-in-Chief

3. RECAPITULATION BY COUNTIES AND CALENDAR MONTHS OF VIOLATIONS FOUND BY REASON OF INSPECTION OF RETAIL LICENSED PREMISES FOR PERIOD FROM JULY 1ST, 1937 TO DECEMBER 31ST, 1937.

To: D. Frederick Burnett, Commissioner

COUNTY	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.	TOTAL VIOLATIONS
Atlantic	51	1	5	20	7	8	92
Bergen	0	4	0	13	9	38	64
Burlington	10	9	0	0	0	9	28
Camden	5	14	0	28	44	10	101
Cape May	13	4	6	1	0	0	24
Cumberland	0	13	3	4	14	0	34
Essex	18	24	16	67	42	51	218
Gloucester	0	0	2	0	4	11	17
Hudson	27	25	0	13	1	135	201
Hunterdon	0	32	2	1	0	0	35
Mercer	10	0	4	5	33	20	72
Middlesex	3	14	10	41	2	68	138
Monmouth	117	95	10	24	9	0	255
Morris	10	41	7	28	25	0	111
Ocean	12	6	1	3	18	0	40
Passaic	1	0	0	8	7	79	95
Salem	1	3	0	0	1	0	5
Somerset	0	1	6	27	7	0	41
Sussex	1	33	8	1	0	0	43
Union	35	39	17	18	7	0	116
Warren	3	11	15	1	0	0	30
Total	317	369	112	303	230	429	1760

Respectfully submitted,

E.W. Garrett
Deputy Commissioner

4. REPORT OF SPECIAL PERMITS ISSUED DURING THE MONTH OF DECEMBER, 1937, SHOWING COMPARATIVE TOTALS FOR THE FISCAL YEARS 1936-7 and 1937-8

SPECIAL PERMITS	Total Issued this month	Total Issued this year to date	Total Issued last yr. to date
Athletic Clubs	15	91	109
Charitable organizations	2	17	32
Churches & affiliated organizations	27	435	420
Civic Clubs	2	54	56
Clubs fostering citizenship	1	10	5
Country Clubs	7	25	20
County Fair Associations	-	1	2
Dramatic & Singing Societies	14	53	60
Educational Societies	6	14	12
Employees Organizations	4	45	42
Fraternal Orders	36	159	174
Granges & Farmers Protective Ass'ns.	1	3	1
Hunt, racing & kennel ass'ns	-	15	13
Labor Unions	4	43	33
Licensed Beverage Dealers Ass'ns	-	9	4

	Total Issued this month	Total Issued this year to date	Total Issued last year to date
<u>SPECIAL PERMITS (Cont'd.)</u>			
ORGANIZATIONS RENDERING DIRECT			
PUBLIC SERVICE:			
Fire & Police Departments	1	5	6
Police Benevolent Associations	-	11	10
Firemen's Benevolent Associations	1	6	5
Volunteer Fire Companies	10	123	136
Parent Teachers Associations	-	4	13
Political Organizations	15	199	241
Service Clubs	1	4	19
Sick & Death Benefit Societies	18	216	268
Social Clubs	40	336	291
Sport Clubs	2	32	31
Trade Associations	-	7	15
Veterans Organizations	9	83	74
Yacht Club & Motor Boat Clubs	2	12	13
Musical Organizations	1	12	3
Magistrates Associations	-	1	-
All Others	-	7	11
	<u>219</u>	<u>2032</u>	<u>2119</u>

MISCELLANEOUS PERMITS

To consumer to import for personal consumption	25	58	258
To import to permittee's licensed premises for resale	-	12	10
Disposal of stock of alc. bevs. where license is transferred	38	199	131
Disposal of stock of alc. bevs. where license not renewed	21	128	108
Disposal of stocks of alc. bevs. where license surrendered	-	3	10
Disposal of stocks of alc. bevs. without surrender of license	-	5	-
Disposal of stocks of alc. bevs. where license revoked	-	-	1
HAVING FORCE AND EFFECT OF LICENSE:			
To transport alc. bevs.	-	5	11
To licensee pending issuance of State license	-	4	14
To applicant pending action upon application for retail license and issued at request of Municipal issuing authority	-	69	34
To transport and warehouse alcoholic beverages	-	5	5
To club licensee to sell wine manufactured by its members prior to repeal	-	-	1
To limited winery licensee to sell wine manufactured prior to repeal or wine of illegal purchase or manufacture	-	1	1
To store for personal consumption manufactured without permit	21	135	23

	Total Issued this month	Total Issued this year to date	Total Issued last year to date
<u>MISCELLANEOUS PERMITS (Cont'd)</u>			
To receivers and trustees to sell stocks of alc. bevs.	2	11	6
To wholesale licensee to sell wine for sacramental pur- poses	1	4	6
To bailiff to sell for landlord distraining for rent	-	4	2
To legal representative to carry on business	-	7	2
To purchase for laboratory, test- ing and commercial purposes	1	11	8
In lieu of Solicitors' and ARC permits	-	-	1
To sell warehouse receipts, certifi- cates, contracts, etc.	-	2	1
To sell CCC & WPA Camps	-	3	5
To transport between points out- side N.J. & piers of import and export	2	30	26
To retake, previously sold	-	1	2
To give, demonstration of apparatus	1	7	7
To transport to points outside of N.J.	12	183	197
To transport, vehicles scheduled	-	6	3
Blanket - To employ persons known as pin boys	10	133	-
Blanket - To employ persons disquali- fied, entertainers, etc.	2	13	-
To give miniatures to guests - out- of-state consumption	-	6	-
To persons, pending letters of Administration and action by issuing authority	8	25	3
To authorize illegal purchase & sale	5	22	-
To authorize illegal transpor- tation	3	3	-
To applicant pending application for transfer premises	-	1	1
To sheriff or constable to sell under levy of execution upon judgment	-	4	2
To manufacture for experimental purpose	-	2	-
To sell certain designated places as Port Exchange, State Parks, etc.	-	2	-
To carloading and distributing	-	2	-
To purchase from U.S. Customs, transport and sell	-	2	-
To individual to dispose of alc. bevs.	-	-	1
To bank, assignment of al- coholic beverages as security for loan pend- ing issuance of warehouse receipts	-	1	-
Pending application for transfer person to person	-	-	1
All others	5	15	22
	<u>157</u>	<u>1124</u>	<u>903</u>
TOTAL PERMITS ISSUED	376	3156	3022

INCOME FROM PERMITS:

Total for month of December, 1937	\$5,765.00
Total this year to date	34,570.58
Total last year to date	31,210.64

APPLICATIONS FOR SPECIAL PERMITS DENIED	Total this month	Total this year to date	Total last year to date
Application not complete	-	4	3
Holder of Retail License for social affair in another municipality	-	-	1
Application not complete-operated	-	-	1
Approval of Issuing Authority withheld	-	-	2
Regulations do not permit issue	2	3	3
Ad Interim, not previously licensed	-	1	-
Ad Interim, notice of intention of transfer not published	-	1	-
Premises not eligible	-	1	-
To deliver to unlicensed transporters for delivery without the State of N. J.	-	-	2
For social affair where application and/or fee was not received be- fore period for which affair was to be held and approvals of Police and Clerk not furnished	-	-	6
To sell - Pending approval & issue by municipal authority	-	1	-
Application filed to replace	-	1	-
Not Bona Fide organization	-	1	-
Pending transfer of premises	-	2	-
Pending issuance of retail license	-	1	-
Import for resale - Alcoholic beverages can be obtained thru N.J. Wholesalers	-	2	-
Pending action on appeal for retail license	-	-	1
To transport out of the State - not completed	-	-	3
Transaction not consummated	-	-	3
To transport out of New Jersey - transported without permit	-	-	2
Permit not necessary	-	-	14
Affair not to be held	-	-	1

APPLICATIONS FOR SPECIAL PERMITS -
FEES FORFEITED

Blanket to employ disqualified persons Employed prior. Permit denied	-	1	-
For social affair where application and/or fee was not received before period for which affair was to be held	-	3	-

	Total	Total	Total
APPLICATIONS FOR SPECIAL PERMITS -	this month	this year	last year
FEES FORFEITED (Cont'd.)	to date	to date	to date

To store wine for personal consumption, period expired prior to issue	-	7	-
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Not approved by Municipal Clerk.	-	1	-
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Illegal operation of business, absence of licensee	1	1	-
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Illegal transportation out of N.J.	1	1	-
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Denied - no release Tax Dept.	-	-	1
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APPLICATIONS FOR SPECIAL PERMITS WITHDRAWN

Permit not necessary	5	6	-
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Affair not held	1	1	-
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Withdrawn prior to issue	2	6	-
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Affair postponed	-	3	-
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10	48	43
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Respectfully submitted

ERWIN B. HOCK

Deputy Commissioner

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

January 8, 1938.

RE: Case No. 202

In his application solicitor denied that he had ever been convicted of any crime.

Fingerprint records disclosed that he had been arrested, in 1932, on a charge of conspiracy to violate the National Prohibition Act. Further investigation disclosed that solicitor, with sixteen others, was indicted for conspiracy to smuggle and to transport intoxicating liquor into this country by means of speed boats.

At the hearing solicitor admitted that he and the others had been tried in a Federal court on said indictment and found guilty by a jury; that he had been sentenced to serve eighteen months in a reformatory and had actually served one year of his term.

Concerning his participation in the conspiracy, solicitor testified that he was unemployed at the time; that he was offered an opportunity to work as a helper on a truck which appeared to contain a load of produce, which in fact contained a quantity of liquor, the produce being used as a camouflage; that he was to be paid for his night's work; that he did not know that liquor was carried on the truck until after his arrest.

Conspiracy to violate the National Prohibition Act may or may not involve moral turpitude. It does not appear that solicitor was one of the master minds in the conspiracy, as appeared in the case of Solicitor's Permit Case No. 46, Bulletin 168, Item 7, but rather that his participation was in a minor capacity. Under these circumstances, I do not believe that the crime for which he was convicted involved moral turpitude.

As to his false affidavit, solicitor testified that he had been advised by other salesmen that violations of the

Prohibition Act had been "forgotten, wiped out or cleared by Repeal." The advice was bad. His affidavit is false.

It is recommended that solicitor's permit be suspended for ten (10) days because of his false affidavit.

Edward J. Dorton
Attorney-in-Chief

Approved:

D. FREDERICK BURNETT
Commissioner

6. ADVERTISING - HIGH SCHOOL YEAR BOOK - BEER ADVERTISING IS OUT OF PLACE IN SUCH A PUBLICATION.

January 10, 1938.

Peter Doelger Brewing Corporation,
Harrison, N. J.

Gentlemen:

I have yours of the 7th reporting request to you from Harrison High School to insert advertisement in their Senior Class Year Book, and inquiring policy in such a case.

You may, if you wish, but if I were you, I wouldn't. The boys and girls in the Senior Class average 17 to 18 years of age. The year book is not designed nor appropriate for general circulation. Its primary appeal is to fond families, admiring schoolmates and junior friends - practically all minors except the parents.

Beer advertising seems wholly out of place in such a publication. I am glad you submitted the question.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

7. ELIGIBILITY FOR EMPLOYMENT - MORAL TURPITUDE - FACTS EXAMINED - CONCLUSIONS

January 8, 1938.

Re: Case No. 203

Fingerprint records disclosed that employee was arrested, in 1932, on a charge of breaking, entry and larceny and, in 1934, on a charge of grand larceny.

At the hearing, employee admitted that he has been arrested, indicted and pleaded guilty to the charge first named above; that he was then placed on probation for three years and ordered to make restitution. Explaining this conviction, employee testified that at the time of his first arrest he was eighteen years and two months of age; that he and another young man had broken into a factory and had stolen tools valued at more than five hundred dollars.

Employee admitted his second arrest, at which time he with three other young men were accused of stealing cigars worth about fifty-eight dollars. He testified that he appeared in one of the criminal courts in a city of the first class of this State, and that the judge "threw the case out." He admitted, however, that at that hearing a detective had testified against him and the other boys. Our investigation shows that the judge of the criminal court placed him on probation at that time, which indicates that employee was found guilty of larceny. The judge of said

court, under the provisions of Chapter 162, P.L. 1934, had jurisdiction to try the case if defendant in writing waived indictment and trial by jury. It sufficiently appears that employee was convicted after his second arrest.

Both the crime of breaking, entry and larceny and the crime of grand larceny ordinarily involve moral turpitude. No facts have been presented in this case which would lead to any other conclusion.

It is recommended, therefore, that employee be advised that he is not eligible to be employed by a licensee.

Edward J. Dorton,
Attorney-in-Chief.

Approved:

D. FREDERICK BURNETT
Commissioner

8. EMPLOYEES OF LICENSEES WHO ARE ALSO MEMBERS OF A MUNICIPAL GOVERNING BODY - DISQUALIFIED TO PARTICIPATE IN ALCOHOLIC BEVERAGE CONTROL MATTERS - BUT NOT BARRED FROM BECOMING PRESIDING OFFICER OF GOVERNING BODY IN THE ABSENCE OF FACTS REQUIRING DISQUALIFICATION AS SUCH PRESIDING OFFICER.

January 3, 1938

Dear Sir:

On January 1, 1938 James J. Davis a member of City Council, was elected President of that body of Elizabeth, New Jersey. He is employed by the Elizabeth Brewing Company, better known as Peter Breidt Brewing Company, 604 Pearl Street, Elizabeth, New Jersey, in an executive capacity and has complete control of the sales and distribution of that concern. He has been with that company for some time.

When he was nominated to that office and before a vote was taken I challenged and questioned whether he could legally hold that office because of the fact that he is connected with the Peter Breidt Brewing Company. As President of the City Council he is ex officio, a member of every committee and he also has the power of appointing the members of the Alcohol Beverage Control Board of our City, and in many instances is the acting Mayor and as such has complete control over the Police Department and is, therefore, charged with the enforcement of the Law.

I believe that an examination of the Rules of your office will reveal the fact that no member of a Municipal Governing Body charged or entrusted with the enforcement of the Law, and also connected with a brewery could legally hold the office of Councilman, and also be President of City Council because he must serve his master and employer and it will necessarily follow that if he does not properly serve his master it will cause the loss of his job.

It is indeed very difficult for a Councilman, and in this particular instance the President of City Council to faithfully serve the public and a conflicting private interest at the same time.

* * * * *

The purpose of this letter, of course, is to receive official opinion from you determining the legality of the said

James J. Davis to hold the office as President of City Council of our City when he is engaged in an executive capacity with a brewing company.

Very truly yours,

THOMAS A FORD

January 10, 1938.

Mr. Thomas A Ford,
Elizabeth, N. J.

Dear Mr. Ford:

I have yours of the 3rd.

My records show that Mr. Davis is not employed in executive capacity but as a shipping clerk.

He, as President of the City Council, has no power, as you think, to appoint the Alcoholic Beverage Control Board of Elizabeth. The Control Act (Sec. 5) provides that such appointments be made by the City Council itself acting as a body.

You are also mistaken in your idea that as President of the Council he has, ex officio, control over the Police Department. That control is lodged in Elizabeth in a separate Board of Police Commissioners, appointed by the Mayor, which Board is wholly independent of the Council. P.L. 1909, c. 95, as amended by P.L. 1932, c. 125.

There is, therefore, no law or rule which would disqualify Mr. Davis from becoming President of the Council in the absence of facts requiring such disqualification.

In his capacity as a Councilman, he is, because of his brewery connection, barred from participation in any matter concerning any phase of alcoholic beverage control or the administration or enforcement of the liquor laws. In such matters he may have neither voice nor vote. Re Loog, Bulletin 39, Item 3; re Brundage, Bulletin 80, Item 7, Bulletin 84, Item 17; Marsteller v. Hagenbucher, Bulletin 95, Item 10.

As regards possible magisterial powers as Acting Mayor, the same principles apply, i.e., he may not sit in any liquor matter coming before him as a judge.

Aside from the foregoing, I am aware of no other disqualifications.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

9. DISCIPLINARY PROCEEDINGS - GERSON L. ROBINSON - CONCLUSIONS

In the Matter of Disciplinary)
Proceedings against)
GERSON L. ROBINSON,)
Reading Terminal,)
Woodbridge Township, N. J.,)
Holder of Plenary Retail Dist-)
tribution License No. D-3 issued)
by the Township Committee of)
Woodbridge Township.)

CONCLUSIONS
AND
ORDER

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Harry S. Medinets, Esq., Attorney for the Licensee.
Jerome B. McKenna, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

After charges had been duly served upon the licensee, he pleaded as follows: (1) non vult to the first charge that, on October 6, 1937, he permitted containers of alcoholic beverages to be opened and the contents thereof to be consumed on the licensed premises, in violation of State Rule 14 of Rules Concerning Conduct of Licensees and Use of Licensed Premises; (2) guilty to the second charge that, on November 2, 1937, he committed a similar violation of said rules and regulations; and (3) guilty to the third charge that, on November 2, 1937, he sold alcoholic beverages to consumers while the polls were open for a general election, in violation of State Rule 2 of Rules Concerning Conduct of Licensees and Use of Licensed Premises.

Licensee's attorney made a fervent plea for leniency because of the licensee's good reputation and because the premises in question are not accessible to or patronized by the general public. In fixing a penalty, consideration may be given to the good character of a licensee, but I am not impressed with the argument that the inaccessibility of the premises warrants any leniency. The Control Act, as well as the rules and regulations of this Department, apply to all licensees wherever their premises may be.

Accordingly, it is on this 9th day of January, 1938, ORDERED that plenary retail distribution license No. D-3, issued to Gerson L. Robinson by the Township Committee of Woodbridge Township, be and the same is hereby suspended for fifteen (15) days, effective January 13, 1938.

D. FREDERICK BURNETT
Commissioner

10. MUNICIPAL ORDINANCES - REQUIREMENT THAT ALL PLACES WHERE FOOD OR DRINK IS SOLD BE CLEAN AND SANITARY AND THAT ALL PERSONS EMPLOYED IN SUCH PLACES HOLD CERTIFICATES OF HEALTH - APPROVED.

January 10, 1938.

Thomas J. Wieser,
City Clerk,
Linden, N. J.

My dear Mr. Wieser:

I have before me your letter of December 30th and the ordinance adopted by the Board of Health amending Sections 46, 47, 47-A and 48 of the Sanitary Code adopted April 12, 1925.

I note that the ordinance requires that all places where food or drink is sold shall be kept in a clean and sanitary condition and that all persons employed in such places shall hold certificates of health, of the nature and in the manner the ordinance prescribes.

To the extent that the ordinance may be said to regulate the conduct of licensed liquor businesses, it is approved as submitted.

The approval herein given is subject, as in the case of all municipal regulations given ex parte approval, to review on appeal. See in this connection Re Hauck & Felter, Bulletin 130, Item 3, and the items cited therein.

Very truly yours,

D. FREDERICK JURNETT
Commissioner

11. DISCIPLINARY PROCEEDINGS - SALES DURING PROHIBITED HOURS ON SUNDAYS - THE FUTILITY OF FINES.

January 12, 1938.

Miss Ethel M. Hoyt,
City Clerk,
Hackensack, New Jersey

My dear Miss Hoyt:

I have staff report of the proceedings before the City Council of Hackensack against Walter Kinzley, t/a Hackensack Cafe, charged with having sold alcoholic beverages during prohibited hours on Sunday in violation of your local ordinance to which he pleaded guilty.

Your certification states:

"In connection with the charges against Walter Kinzley, in that he sold alcoholic beverages during prohibited hours on November 14, 1937, I wish to advise that this case was tried November 23, 1937, before Recorder Sansone, and Mr. Kinzley was fined \$51.50.

"Mr. Kinzley also appeared before the City Council, at its regular meeting January 5, 1938, pursuant to charges of selling liquor after prohibited hours, and pleaded guilty. It was the consensus of opinion that inasmuch as he had been fined \$51.50, that he be discharged with a severe reprimand, and that if there is a re-occurrence of this offense the matter will be taken out of the hands of the Recorder, and he will be dealt with more drastically."

I hope he will be.

Licensed regard fines as a mere tax on the cost of doing a profitable business out of legitimate hours. If he can do it, why not let all licensees have the same privilege upon payment of the same fine? Or, why not short-cut it by cancelling the ordinance and throwing Sunday sales wide open?

There is no reason for taking cases out of the hands of Recorder Sansone. He did his duty by imposing the fine. That was all he could do. Your City Council had the full power to inflict a suspension on top of the fine, which would have told the licensee more eloquently than all the fines in Christendom that the old army game doesn't work in Hackensack.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

12. DISCIPLINARY PROCEEDINGS - PROSTITUTION AND OTHER VIOLATIONS -
REVOCATION INDICATED AND EFFECTED.

January 13, 1938.

Miss Mary E. Vaccaro,
Acting City Clerk,
Asbury Park, N. J.

Dear Miss Vaccaro:

I have staff report and your certification of the proceedings before the City Council of Asbury Park against Joseph Ballerino, charged with (a) having allowed and permitted prostitutes to ply their trade in the licensed premises, (b) having allowed and permitted sale and distribution of contraceptives on the licensed premises, (c) having permitted a lottery to be conducted on the licensed premises and (d) having sold alcoholic beverages to an intoxicated person; all in violation of State Rules.

I note the licensee pleaded guilty to the charges and that his license was immediately revoked.

That is as it should be.

Please extend my sincere thanks to your Council.

Very truly yours,
D. FREDERICK BURNETT
Commissioner

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

13. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1ST, 1937
TO JANUARY 1ST, 1938 AS PER CERTIFICATIONS RECEIVED FROM THE ISSUING AUTHORITIES.

County	C L A S S I F I C A T I O N O F L I C E N S E S										Number Surren- dered Revoked Expired	Number Licen- ses in Effect	Total Fees Paid
	Plenary Retail Consumption	Plenary Retail Distribution	Club	Limited Retail Distribution	Seasonal Retail Consumption	No.	Fees	No.	Fees	No.	Fees		
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	463	175,149.93	42	16,700.00	14	1,011.85	2	50.00	3	308.50	1	523	193,200.28
Bergen	810	266,396.31	224	53,439.96	43	3,717.00	46	2,115.00	1	93.75	3	1121	325,762.02
Burlington	177	53,668.56	15	3,335.78	24	2,821.63	1	25.00	0		0	217	59,850.97
Camden	457	186,294.27	46	16,600.00	57	5,125.74	2	100.00	2	228.15	0	564	208,348.16
Cape May	122	42,522.84	9	3,150.00	4	360.06	0		0		0	135	46,032.90
Cumberland	75	22,790.00	13	2,300.00	24	2,280.27	0		0		0	112	27,370.27
Essex	1456	731,799.82	344	152,674.90	66	9,253.86	24	1,162.86	3	1,246.44	1	1892	896,137.88
Gloucester	115	32,157.23	9	1,345.00	3	200.00	0		0		0	127	33,702.32
Hudson	1658	689,150.23	262	106,237.23	44	4,831.39	77	3,171.67	0		7	2034	803,390.52
Hunterdon	77	20,605.00	1	200.00	0		0		0		0	78	20,805.00
Mercer	444	184,841.04	42	10,744.29	26	3,245.11	0		1	300.00	0	513	199,130.44
Middlesex	606	241,449.15	35	9,567.68	34	2,880.45	1	25.00	3	488.82	2	677	254,411.10
Monmouth	489	191,427.88	71	17,631.13	22	2,530.28	9	385.00	14	3,775.77	5	600	215,750.06
Morris	313	92,606.40	66	16,366.46	24	1,707.62	1	25.00	9	1,252.62	3	410	111,958.10
Ocean	167	80,944.38	25	9,000.00	7	700.00	0		0		1	198	90,644.38
Passaic	923	358,069.16	117	32,826.83	33	3,821.34	22	1,050.00	3	440.32	2	1096	396,207.65
Salem	51	15,740.00	4	524.00	5	500.00	0		0		0	60	16,764.00
Somerset	175	61,330.05	21	5,000.00	7	525.00	0		2	402.26	1	204	67,257.31
Sussex	154	32,780.52	8	1,225.00	4	210.00	0		2	300.00	1	167	34,515.52
Union	552	270,901.24	114	38,445.97	54	6,575.00	17	749.40	0		0	737	316,671.61
Warren	133	37,518.19	11	1,507.50	17	570.00	2	70.00	1	150.00	0	164	39,815.69
TOTALS	9417	3,788,142.20	1479	498,881.73	512	52,866.60	204	8,928.93	44	8,986.63	27	11,629	4,357,726.18

D. FREDERICK BURNETT, Commissioner:

Report for the six months period ending January 1, 1938.

Respectfully submitted,

ERWIN B. HOCK,

Deputy Commissioner

14. RETAIL LICENSES - MUNICIPAL REGULATIONS - LICENSES ARE GOVERNED BY THE TERMS OF ALL DULY ENACTED REGULATIONS WHETHER ISSUED BEFORE OR AFTER THE REGULATIONS WERE ADOPTED.

MUNICIPAL ORDINANCES - CLOSED HOURS - REGULATION REQUIRING LICENSED PREMISES TO BE CLOSED DURING CERTAIN HOURS DOES NOT PERMIT CONDUCT OF ANY OTHER BUSINESS UPON THE LICENSED PREMISES DURING THOSE HOURS.

January 14, 1938.

Hon. William I. Leonard, Jr.
Fieldsboro, N. J.

My dear Mr. Leonard:

All licensees in Fieldsboro are governed by the terms of your ordinance of December 7, 1937 regardless of whether their licenses were issued before or after the ordinance was adopted.

The suggestion that licenses issued prior to the adoption of the ordinance would be governed solely by the regulations then in effect, is wholly without merit. There is nothing to prevent the Council from amending its regulations or enacting new regulations at any time. See re Lamson, Bulletin 118, Item 6 and the items cited therein; also, re Huff, Bulletin 136, Item 7, re Knox, Bulletin 157, Item 11, re Butera, Bulletin 180, Item 3, re Monks, Bulletin 183, Item 6.

You will note that the license certificate itself provides that the license is "subject to the provisions of all municipal ordinances and/or resolutions.....which have been or shall have been approved by said State Commissioner." See Bulletin 31, Items 11 through 15. The ordinance of December 7, 1937, and the amendment of Section 2 adopted December 23, 1937 were approved by me in letters of December 13, 1937 and January 3, 1938, to J. B. Tomlinson, Esq., Borough Solicitor, and Miss Ruth Leonard, Borough Clerk, respectively. The ordinance is, therefore, in full force and effect.

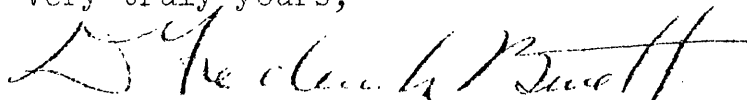
Your previous ordinance of June 6, 1935 could not in fact govern any licenses for it no longer exists. Section 9 of the December 7, 1937 ordinance expressly provides: "All resolutions and ordinances heretofore adopted by the Borough Council pertaining to alcoholic beverages are hereby repealed."

As it now stands, the ordinance of December 7, 1937 clearly requires that all places licensed for the sale of alcoholic beverages shall be closed on Sundays, without exception. If, therefore, it is the desire of the Council to permit restaurants to remain open on Sundays, but not, however, to sell alcoholic beverages, you will have to amend the ordinance. I offer for your consideration the following, to be inserted in the ordinance as the second paragraph of Section 3:

"Nothing contained in Sections 2 or 3 shall prevent bona fide hotels and restaurants from remaining open on Sundays for the conduct of business other than the sale of alcoholic beverages."

See in this connection re Stevens, Bulletin 197, Item 5.

Very truly yours,



Commissioner