

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

BULLETIN NUMBER 143.

October 21, 1936

1. EDUCATIONAL CAMPAIGN

October 15, 1936

To: Commissioner Burnett
From: E. W. Garrett

The speaking engagements arranged to date are as follows:

WEEK BEGINNING OCTOBER 18, 1936

Tues. Oct. 20	- Newark Tavern Ass'n - Essex House, Newark - 8:00 P. M.	Deputy Comm'r E. W. Garrett
Thur. Oct. 22	- Kiwanis Club - Hotel Douglas, Newark - 12:15 P. M.	Commissioner D. Frederick Burnett
Thur. Oct. 22	- The Woman's Society, Arlington Avenue Presbyterian Church - 320 Springdale Ave., East Orange - 1:00 P. M.	Inspector S. J. MacIntosh
Thur. Oct. 29	- Rotary Club - Bernards Inn, Bernardsville - 6:15 P. M.	Investigator Wm. S. Codd

WEEK BEGINNING OCTOBER 25, 1936

Wed. Oct. 28	- Essex County League of Building & Loan Ass'ns - Progress Club, 37 Fulton St., Newark.	Inspector Edw. Lurie
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WEEK BEGINNING NOVEMBER 1, 1936

Wed. Nov. 4	- Rotary Club - Salem Apartment Hotel, Salem - 12:15 P. M.	Investigator F. M. Middleton
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WEEK BEGINNING NOVEMBER 8, 1936

Sun. Nov. 8	- Christian Endeavor Society - First Reformed Church, Irvington.	Inspector S. J. MacIntosh
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WEEK BEGINNING NOVEMBER 15, 1936

Tues. Nov. 17	- Orange-West Orange Kiwanis - Y.M.C.A. of Oranges - 12:15 P.M.	Deputy Comm'r N. L. Jacobs
Thur. Nov. 19	- Chamber of Commerce - 51 E. 22nd St., Bayonne.	Inspector M. J. Shapiro

WEEK BEGINNING MARCH 28, 1937

Tues. Mar. 30	- Arlington Women's Club - Arlington.	Inspector M. E. Ash
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E. W. GARRETT,
Deputy Commissioner.

TO THE READERS OF THE BULLETIN:

I have frequent requests from men's clubs, women's societies, churches, police departments, temperance units, tavern owners'

New Jersey State Library

associations, and business, civic and social organizations generally for speakers to inform them of the work which the Department is doing. The foregoing report of Oct. 15th is illustrative of the diversified calls.

I am glad to honor all such requests. In doing so, the men are not sent out to boost the Department but solely to awaken our citizens to the grave importance of the problem and the need of cooperative action all along the line. It is my constant endeavor to prevent, not only the return of Prohibition but the pre-Prohibition evils. The battle will be won when our people are aroused to a determination that liquor control must be placed and maintained upon a high plane of civic consciousness.

Applications for speakers may be made any time by letter directly to me. Assignment of dates will be made at mutual convenience - as far ahead as you and your friends desire.

October 16, 1936. D. FREDERICK BURNETT,
Commissioner.

2. STATUTORY AUTOMATIC SUSPENSION - SCOPE AND OPERATION - APPLIED TO
LICENSEE IN POSSESSION OF REFILLS.

October 16, 1936

To: Commissioner D. Frederick Burnett
From: Jerome B. McKenna.

Re: Automatic Suspension of Plenary Retail Consumption
License C-21, heretofore issued by the Board of
Commissioners of Irvington, N. J., to

SAMUEL FELSENFELD,
223 Orange Avenue,
Irvington, N. J.,

By reason of his conviction in the Essex County
Quarter Sessions Court on charge of "Possession
of Illicit Alcoholic Beverages".

On March 23, 1936, Investigators Wierenga and Moss inspected the above licensed premises. The licensee was in charge. A test was made of two open bottles of whiskey, which indicated that they had been refilled. Subsequent test by the Department Chemist verified the findings of the Investigators. On the same day Federal men visited the licensed premises and also discovered refills. Traces of acetone, a poisonous denaturant, were found.

Felsenfeld was arrested on March 25, 1936 and held for the Grand Jury.

The Grand Jury indicted him for "Possession of Illicit Alcoholic Beverages".

On October 8, 1936 he was brought to trial before a jury in the Essex County Court of Quarter Sessions. The case continued over to October 9, 1936 and on that day the jury returned a verdict of "Guilty as charged".

This conviction worked an automatic suspension of the liquor license for the balance of the term, i. e., through June 30, 1937.

A certified copy of the record of conviction was this day obtained from the County Clerk's Office and Investigator Emmetts of this Department together with Officer Neiworth of the Irvington Police Department closed the place at about 11:30 A. M.

This case was referred by the Department pursuant to your directions to the Board of Commissioners of Irvington for disciplinary action. The Board on May 20th, 1936 held a complete hearing but reserved decision. No decision has been rendered up to the present time. Irrespective of what decision they now reach, the place stays closed because of the statutory automatic suspension unless the suspension is lifted by you for good cause shown.

Should I not ask the Irvington Board to render their decision in the civil matter anyway so as to complete the record?

JEROME B. McKENNA,
Attorney.

Yes and recommend revocation.

D. F. B.

3. APPELLATE DECISIONS - KATZ v. CALDWELL.

ELIAS KATZ,)	
)	
Appellant,)	
-vs-)	ON APPEAL
)	CONCLUSIONS
BOROUGH COUNCIL OF THE BOROUGH)	
OF CALDWELL,)	
)	
Respondent)	

John H. Grossman, Esq., Attorney for Appellant.
Philip D. Elliot, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the denial of an application for a plenary retail consumption license for premises located at 455 Bloomfield Avenue, Caldwell.

Respondent denied the application solely because of a petition filed against the issuance of the license containing some 200 signatures. The members of the Borough Council stated at the time of the denial that they saw no reason why the license should not be granted either in the ordinance or in the state law but that, due to the petition, it should be denied and the matter referred to the State Commissioner for action.

The only issue presented by the petition, the pleadings and at the hearing on appeal was whether the location was suitable.

The premises are situated on the northeast corner of Bloomfield and Central Avenues. Bloomfield Avenue is the main business thoroughfare traversed by buses and trolleys. On the northwest corner of the intersection is a trolley terminal loop, a waiting room and lunch room. On the opposite side of Bloomfield Avenue is a vacant lot. Central Avenue, which ends at Bloomfield Avenue, is zoned for business in this locality and contains several stores.

The population of the Borough is 5114. There are now issued and outstanding five retail consumption licenses.

The only objections brought out at the hearing were that a tavern at the corner in question would necessarily be passed by from two to three hundred school children daily; that it would cause additional traffic congestion and aggravate the existing annoyance of the trolley loop.

These general objections do not justify an issuing authority in refusing a license to a man of good character as appellant is admitted to be, for premises located in an ordinary business section such as this. De Christie v. Gloucester, Bulletin #12, Item #10; Bisante v. Camden, Bulletin #58, Item #10. The fact that there are residential streets in the vicinity does not determine the character of Bloomfield and Central Avenues. Guenther v. Parsippany-Troy Hills, Bulletin #121, Item #8; Doherty v. Atlantic City, Bulletin #58, Item #8. The location is in a wholly business section. There is no legal objection to it.

Accordingly, the action of respondent is reversed. Respondent is directed to issue the license as applied for.

D. FREDERICK BURNETT,
Commissioner.

Dated: October 16, 1936.

4. CLUB LICENSES - SALES TO NON-MEMBERS - THIRTY DAY SUSPENSION.

October 16, 1936

John F. Boyce, City Clerk,
New Brunswick, N. J.

Dear Mr. Boyce:

I have staff report and your certification of the proceedings before the Board of Commissioners of New Brunswick on charge against The Hungarian Workers' Home and Educational Association for having sold alcoholic beverages to non-members contrary to the terms of its club license.

I note the licensee has been adjudicated guilty and the license suspended for a period of thirty days commencing October 8, 1936.

I am not expressing any opinion on the merits of the case because, perchance, it may come before me by way of appeal, and my mind, therefore, is entirely open on that score.

Such a substantial penalty as here inflicted, again serves notice upon club licensees in New Brunswick that the privileges granted to them at a reduced license fee are not to be abused. Club licensees are legally bound to restrict their sales to bona fide club members and their guests. The sooner they realize that the law is made to be obeyed the better.

Please convey to your Board my sincere appreciation for its continued cooperation in law enforcement.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

5. INSPECTORS AND INVESTIGATORS - LICENSEES SHOULD BEWARE OF IMPOSTERS - HOW LICENSEES CAN IDENTIFY ALCOHOLIC BEVERAGE CONTROL MEN.

October 15, 1936

Hon. J. Lindsay deValliere,
State Tax Department,
Trenton, New Jersey.

Dear Mr. deValliere:

In line with your suggestion of yesterday I am enclosing a sample folder containing the identification card in use by this Department. These identification cards are issued annually by the Commissioner and are countersigned by the investigator or inspector. In addition the folder contains a photograph of the investigator or inspector which is signed by him and stamped with the seal of this Department.

A careful licensee or other party may require the investigator to sign his name upon a separate piece of paper and he can then compare it with the signature on the identification card and photograph if he has not been satisfied by viewing the photograph itself that the carrier is in proper possession of the folder. This is the best protection against fraud which we have devised and if licensees and other complainants would avail themselves of its possibilities they would have less cause for complaint to this Department by reason of confusion of Federal investigators, local police and members of your unit.

Sincerely yours,
D. FREDERICK BURNETT,
Commissioner.

By: E. W. Garrett,
Deputy Commissioner.

6. RESIDENCE - PERSON NOT DOMICILED WITHIN NEW JERSEY IS NOT A RESIDENT THEREOF WITHIN THE MEANING OF THE CONTROL ACT, DESPITE HIS PHYSICAL PRESENCE WITHIN THIS STATE.

October 17, 1936

Philip Blank, Esq.,
Newark, N. J.

Dear Sir: Re: William Orland, 3 Market Street, Camden, N. J.

I have carefully examined our records, including transcript of hearing in the above entitled matter.

Under Sections 22 and 23 of the Control Act, no person may be employed by a retail licensee in connection with the sale of alcoholic beverages unless he has been resident within New Jersey for five (5) years. Persons not qualified as aforesaid may be employed by licensees pursuant to permit provided that they do not sell or participate in the sale of alcoholic beverages.

In People v. Platt, 117 N. Y. 159, 122 N. E. 937 (1889) the Court said that "in all cases where a statute prescribed 'residence' as a qualification for the enjoyment of a privilege or the exercise of a franchise, the word is equivalent to the place of domicil of the person who claims its benefit". See 19 C. J. 297. And although the question depends upon legislative intent in each case, most statutes containing the word "residence" have been

construed to mean "domicil". See Cadwalader v. Howell, 18 N. J. L. 138 (Sup. Ct. 1840); Guggenheim v. Long Branch, 80 N. J. L. 246, aff'd 83 N. J. L. 628 (E. & A. 1912); Hervey v. Hervey, 56 N. J. Eq. 166 (1897).

The Commissioner is satisfied that in the light of the apparent legislative desire to confine the privilege of engaging in the retail liquor business to New Jersey citizens, the Control Act should be similarly construed. See Bulletin #16, Item #4. Any other conclusion would permit numerous persons, who have their actual homes in the metropolitan centers of our neighboring States, to assert a New Jersey residence on the basis of time spent in New Jersey for various purposes.

It is not disputed that William Orland is domiciled in Pennsylvania. His home is with his parents in Philadelphia and he has there voted and registered his automobile. It is apparently true that he has worked in his brother's restaurant in Camden for over six (6) years and has spent most week days and nights in Camden. This, however, does not affect his domicil or afford him residence in New Jersey within the meaning of the Control Act under the adjudicated cases. Whether the exclusion from the retail trade in New Jersey of persons domiciled elsewhere is desirable under the particular circumstances presented is not the Commissioner's function to decide. The policy has been fixed by the Legislature and it is the duty of the Commissioner to administer it.

Accordingly, you are advised that in view of the finding that William Orland has not been resident in New Jersey for the past five (5) years, he may not be employed by a retail licensee in connection with the sale of alcoholic beverages; his non-residence will not, however, prevent his employment pursuant to permit provided he does not in anywise sell or participate in the sale of alcoholic beverages.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

By: Nathan L. Jacobs,
Chief Deputy Commissioner
and Counsel.

7. CLUB LICENSES - PRACTICE OF ISSUING GUEST CARDS AS OPEN SESAME TO THE BAR DISAPPROVED - BONA FIDE GUESTS NEED NO EARMARKS.

D. Frederick Burnett, Commissioner,
Newark, New Jersey.

Dear Commissioner Burnett:

On behalf of Orange Lodge of Elks, I have been asked to communicate with you to obtain a ruling from you as to whether Paragraph 13, Subdivision 5 of the Alcoholic Control Act can be so construed so as to permit the issuance of guest cards to persons who are bonafide guests of members of our Club.

Very truly yours,

WILLIAM J. McCORMACK.

October 19, 1936

Mr. William J. McCormack,
Orange, New Jersey.

My dear Mr. McCormack:

You may issue guest cards to persons who are bona fide guests of members of your club or give them badges to brandish or tags to tie in their buttonholes or any ear-marks that you choose. But bear in mind that it isn't the card or badge or tag which makes the holder a bona fide guest. Guests are persons expressly invited to the club by a member and who, on arrival at the club, are not only sponsored but personally attended by their respective hosts. Re Club Licenses, Bulletin #100, Item #3, copy enclosed. Real guests are the personal joy of individual members. Why then should they need any card? It would be a strange lapse of memory indeed if a host needed cards or an index to remind him who were his guests!

A guest card of itself has no legal standing. If the guest is a bona fide guest, you may sell and serve him alcoholic beverages. If he is not a bona fide guest, the card won't make him one.

If what you have in mind are visiting Elks, the answer is they need no guest card for they enter in their right as members of the Order at large. All they have to show is their current membership card which certifies their standing.

I cordially advise against the use of any guest cards for all too often they are employed in the effort to evade rather than to comply with the law.

Fraternally yours,

D. FREDERICK BURNETT,
Commissioner.

8. APPELLATE DECISIONS - MORAN v. ORANGE.

PATRICK J. MORAN,)	
	Appellant,)
-vs-		
MUNICIPAL BOARD OF ALCOHOLIC)	ON APPEAL
BEVERAGE CONTROL OF THE TOWN)	CONCLUSIONS
OF WEST ORANGE,)	
	Respondent	

Abraham I. Harkavy, Esq., Attorney for Appellant.
Alfred J. Grosso, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the denial of a plenary retail consumption license for premises known as 112 Main Street, West Orange.

Respondent denied the application "because the Board is of the opinion that there are already sufficient licensed premises in the neighborhood and for the further reason that a petition protesting the granting of the license, signed by ten (10) residents of the immediate neighborhood, was presented to the Board".

The evidence shows that there is a licensed place on Main Street, about one and one-half blocks north of appellant's premises; that there are three licensed places on White Street and two on Ashland Avenue. White Street intersects Main Street about five hundred (500) feet south of the premises in question and Ashland Avenue parallels Main Street and is one block to the east. All six places have been licensed for some time past and all are within three blocks of appellant's premises.

The only evidence that another licensed place is needed was given by appellant. He is presently employed as a chauffeur. About eleven years ago he and a fellow-employee purchased this plot of ground, which has a frontage of about one hundred thirty (130) feet on Main Street, and on which is erected a large frame dwelling. This plot of ground is not located in a strictly business district. While there are two gasoline stations and a factory nearby, it also appears that there are many residences facing on this section of Main Street. Appellant testified that the income from the property in question is not sufficient to meet the carrying charges. Appellant plans to remodel this dwelling at considerable expense and open a "tavern and restaurant". I sympathize with him, if, as appears from his testimony, this property has become a "white elephant". This testimony, however, even when considered in conjunction with appellant's statements that the other licensees are doing a good business, and that a prospective tenant desired to rent his premises for a "tavern", is not sufficient to prove that respondent abused its discretion in determining that there are enough licensed places in the neighborhood.

The determination of the question as to the number of licensed premises which should be permitted in any given vicinity is a matter confided to the sound discretion of the issuing authority. Where an attack is made upon the exercise of this discretion, the burden rests upon appellant to prove an abuse of that discretion by clear and convincing evidence. Bader v. Camden, Bulletin #44, Item #8; Kalish v. Linden, Bulletin #71, Item #14; Connolly v. Middletown, Bulletin #81, Item #11; Cascio v. Roselle Park, Bulletin #127, Item #7, and cases therein cited.

At the hearing of this appeal, nine persons residing in the immediate neighborhood testified that there are enough licensed places in that section of the Town. Appellant contends that their evidence does not prove that the action of respondent was reasonable because most of these witnesses admitted that they do not patronize saloons. Their testimony, however, does show that respondent's action is backed by the strongly expressed sentiment of the residents of this section of the community. The burden is upon appellant to show that respondent's action was unreasonable. This burden he has not sustained.

The action of respondent is, therefore, affirmed.

D. FREDERICK BURNETT,
Commissioner.

Dated: October 19, 1936.

9. APPELLATE DECISIONS - ZIOMEK v. HADDON TOWNSHIP.

JOHN ZIOMEK,)	
)	
Appellant,)	
)	ON APPEAL
-vs-)	CONCLUSIONS
)	
TOWNSHIP COMMITTEE OF THE)	
TOWNSHIP OF HADDON,)	
)	
Respondent.)	

Frank M. Lario, Esq., Attorney for Appellant.
Mark Marritz, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the denial of a renewal of plenary retail consumption license for premises located at #905 White Horse Pike, Bettletwood, Township of Haddon.

Respondent denied the renewal for the following alleged reasons: (1) appellant failed to obtain the consent of 60% of the residents within a radius of 300 feet as required by a local ordinance; (2) appellant sold alcoholic beverages to minors; (3) appellant sold alcoholic beverages on credit, contrary to a local ordinance; and (4) appellant is unfit to conduct a licensed premises.

The first reason for the denial is without merit. Such a requirement in effect confers upon 41% of the residents in the designated area the veto power to prevent the consideration of appellant's application, and hence the power to withhold the issuance of the license. The discretionary function expressly delegated to the issuing authority cannot be redelegated. See In re: Ewing Township, Bulletin #108, Item #1, and cases therein cited.

The charge of selling to minors is amply supported by the evidence. Ernest Vettise, a boy of 17, testified that he had purchased beer from the licensee and from the licensee's son on many occasions; that he had been present when other minors had been served. In this he was corroborated by his brother, Michael. The licensee himself admitted that Ernest was served on the premises but stated that Ernest's father and brother bought the beer and then gave it to Ernest. The law prohibits serving, directly or indirectly, equally with selling, to a minor. (Rule #1 of Rules Concerning Conduct of Licensees and Use of Licensed Premises).

Sale of alcoholic beverages to a minor is a grave offence for which licenses have been revoked. Wellens v. Passaic, Bulletin #134, Item #4; Price v. West Windsor, Bulletin #127, Item #2. At law, it is a misdemeanor. Control Act, Sec. 77. The fact that the sales in the present case were limited to beer does not alter the result. Beer is an alcoholic beverage. It is so defined by the Control Act, Sec. 1(a).

Whether a renewal should be granted or not, is, like the original issuance of the license, a matter to be decided in the light of what is then determined as the best common interest of the public at large. Thaler v. Trenton, Bulletin #138, Item #1; Malone v. Bordentown, Bulletin #129, Item #8. The determination of respondent in the instant case is founded upon substantial evidence and will, therefore, be sustained. Schelf v. Weehawken, Bulletin #138, Item #10; see also Ford v. Knowlton, Bulletin #84, Item #5.

Hence it is unnecessary to consider the third and fourth reasons alleged. One good reason is sufficient.

The action of respondent is affirmed.

D. FREDERICK BURNETT,
Commissioner.

Dated: October 19, 1936.

10. APPELLATE DECISIONS - CAIN v. LYN DHURST.

LOUIS J. CAIN,)	
)	
Appellant,)	
)	
-vs-)	ON APPEAL
)	CONCLUSIONS
BOARD OF COMMISSIONERS OF THE)	
TOWNSHIP OF LYN DHURST,)	
)	
Respondent.)	

Maclyn S. Goldman, Esq., Attorney for Appellant.
Leo F. Reilly, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant appeals from the denial of his application for a plenary retail consumption license for premises #600 Ridge Road, Lyndhurst.

Respondent alleges in its answer that the application was properly denied, because, among other reasons, there is a sufficient number of taverns located in the vicinity of #600 Ridge Road to supply the needs of that area.

While the neighborhood in question is technically in a business zone, it is in fact largely residential. There are many homes in the immediate vicinity, and the business properties are principally occupied by neighborhood shops. A large school is not more than 1500 feet distant and the corner at which the premises are located is used extensively by the school children. Within a radius of 1000 feet from the premises there are four taverns already licensed. Two of the neighborhood residents testified that these were more than sufficient to take care of the thirst requirements of both local and transient patrons. The appellant himself would not say that an additional tavern was absolutely needed at the location in question and he stated that from his observations in the neighborhood, he could hope to derive only a small fraction of his business from among the local residents.

The right of a municipality to deny an application where the issuance thereof would result in too many licensed places in the neighborhood is well settled. Crisonino v. Bayonne, Bulletin #101, Item #6; Palmer v. Englishtown, Bulletin #116, Item #14; Lackowitz v. Waterford, Bulletin #125, Item #12; Szymanski v. Hillsborough, Bulletin #140, Item #10.

Appellant urges that the present application was denied by reason of a petition of remonstrance filed against it and without any independent determination by respondent issuing authority that the objections were sound. There is nothing in the records to support this contention. The appellant has not sustained the burden

upon him of showing that an additional licensed place is needed.
Lisi v. Newfield, Bulletin #121, Item #9; Szymanski v. Hillsborough,
supra.

The action of respondent is affirmed.

D. FREDERICK BURNETT,
Commissioner.

Dated: October 19, 1936.

11. ADVERTISING - SACRILEGIOUS AND OTHER OFFENSIVE ADVERTISING -
LIQUOR INDUSTRY IN NEW JERSEY IS EXPECTED TO KEEP ITS OWN HOUSE
IN ORDER.

October 19, 1936

Carl W. Badenhausen, President,
New Jersey Brewers' Association,
Newark, N. J.

Dear Mr. Badenhausen:

I am today in receipt of letter (in envelope sloganed
"Repeal has failed!") from one Ethel Hubler, Editor and Publisher
of "The National Voice" of Los Angeles, California, dated October
12th, reading:

"Holiday advertising copy which links liquor to
the Bible and pictures Santa Claus astraddle a beer keg
will not be tolerated by the church leaders and by the
mothers of America, who still cherish Christmas as a sacred
holiday.

"Last year, Santa Claus, patron saint of children
during the holiday season, was pictured loaded down with
beer bottles, drinking cocktails, serving as bartender and
in similar roles.

"Persistent use of sacred Bible characters and Santa
Claus to exploit beer and liquor will put the brewers and
distillers in a very bad light in the eyes of a large part
of our population.

"Already a brand of fancy liquor imprinted with an
image of Christ on the cork has made its appearance on
shelves of liquor stores throughout the country.

"There are many of us who believe that this is
carrying liquor exploitation far beyond the limits of pro-
priety. Beer and liquor interests will do themselves more
harm than they can possibly imagine if they use such sales
tactics again this Christmas.

"As a member of the National Temperance Council, I
urgently request the Liquor Control Board of New Jersey to
follow the lead of the Pennsylvania Liquor Control Board in
demanding that brewers refrain from such advertising methods
this year."

Comment is unnecessary except as regards the last para-
graph. I do not deem it necessary, so far as New Jersey is concerned,
to lay down any rule barring such self-evident offensive advertising
as I am confident that you and your Association abhor sacrilege and

will instinctively resent it without any prompting either from me or the learned Publisher. I have not seen or heretofore heard of any such advertising and, on mere inflammatory propaganda, shall not dignify it by any rule.

Please bring to my attention anything which would give cause or color for the charge she makes.

Cordially yours,

D. FREDERICK BURNETT,
Commissioner.

12. RULES GOVERNING SIGNS - INDIRECT ADVERTISING OF PRICE - "VALUE LIQUORS" STRICTLY CONSTRUED AGAINST LICENSEE ADVERTISING ITSELF AS A PRICE-WRECKER - HEREIN OF THE INTERPRETATION OF LANGUAGE WITHOUT RESORT TO DAYDREAMS.

The Giant Tiger Corporation,
Camden, New Jersey.

Gentlemen:

With your letter you enclosed photographs of the large neon sign attached to the exterior of your premises reading "Value Liquors" and asked for a ruling as to whether or not it constituted a violation of the State Rules Governing Signs and Other Advertising Matter.

You contend that "value" indicates merely the quality which "renders a thing useful or estimable or excellent," eschewing the idea, perish the thought, that it could be indicative of price. Your letterhead, however, does not bear out your position. "Value Liquors" when used by you whose letterhead describes the "Giant Tiger" as "America's Greatest Price Wrecker" undoubtedly conveys to the public the impression that your sign refers to price rather than to quality. Value as commonly used by us mortals means the worth of a commodity, its worth in money, its market price. Say "value" to any man and he'll think of "price". Say it to a woman, and she'll think "bargain". Both will think in terms of money. Neither will daydream of utility or esteem or excellence. We are not doing cross word puzzles today!

The sales slogan, "Value Liquors", is indirect advertising of price and therefore in violation of Rule 3 of the State Rules Governing Signs even though the price itself is not named. See Bulletin 120, items 1 and 10, copies enclosed.

Remove the sign forthwith.

Very truly yours,

D. FREDERICK BURNETT
Commissioner

13. MINORS - NOT SUBJECT TO PROSECUTION FOR MISREPRESENTING AGE - SIGNS PURPORTING TO REPRESENT THAT SUCH LAW EXISTS ARE NOT PERMISSIBLE.

Mr. D. Frederick Burnett, Commissioner,
Newark, N. J.

Dear Sir:

The following question has been asked me by the Deptford Township Beverage Association and I would appreciate you advising me:

"Are there any laws on the Statute books whereby any minor misrepresenting their age can be dealt with under such law."

This association feels that there should be some protection to them in their Alcoholic Beverage Business when the minor is questioned on his or her age and then misrepresents it.

One of the licensees has posted a sign in his place of business stating "It is Unlawful for any one to misrepresent their age and upon conviction thereof is subject to a fine or imprisonment or both." He would therefore like to know if such a sign is permissible.

Very truly yours,
THOMAS QUINN,
Township Clerk.

October 19, 1936

Thomas Quinn,
Clerk of Deptford Township,
R. F. D. Westville, New Jersey.

Dear Mr. Quinn:

There is no law in New Jersey whereby a minor misrepresenting his age is made subject to prosecution although I think there ought to be.

In the absence of any such law, the sign you mention would be a misrepresentation and therefore is not permissible.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

14. RETAIL LICENSEES - MAY ACQUIRE ALCOHOLIC BEVERAGES ONLY FROM LICENSED NEW JERSEY MANUFACTURERS OR WHOLESALERS UNLESS SPECIAL PERMIT HAS FIRST BEEN OBTAINED.

SPECIAL PERMITS - ISSUABLE TO CLUBS TO RECEIVE DONATIONS OF ALCOHOLIC BEVERAGES FROM MEMBERS.

D. Frederick Burnett, Commissioner,
Newark, New Jersey.

Dear Sir:

At the time of consideration of our Club license at our past meetings various members offered to donate liquor to our bar as a medium to raise additional cash to purchase and defray the expenses of said bar expenses.

If we may accept these donations -- must we list them on our monthly reports which I understand we have to file to the State Tax Division.

I remain

PETER MARIOT,
Treasurer for the
American Independent Club.

October 19, 1936

Peter Mariot, Treasurer,
American Independent Club,
Highland Park, New Jersey.

Dear Sir:

Licensed retailers may not purchase from other retailers. Nor may they purchase from anyone who does not hold a license. The Alcoholic Beverage Control Act contemplates that alcoholic beverages may be acquired by retail licensees only from wholesalers and manufacturers who are duly licensed in New Jersey.

Our scheme of control requires that all alcoholic beverages which are sold in this State be routed through definite licensed channels. In no other way can we ascertain that the liquor sold is legitimate and that the tax has been paid.

Accordingly, it must be concluded that retail licensees may not acquire alcoholic beverages, either by purchase or by gift, from anyone other than licensed New Jersey manufacturers or wholesalers unless special permit therefor is first obtained.

If the members of your club wish to donate alcoholic beverages to the club for the club to sell, the club should first make application for such special permit. The application should be in the form of a petition setting forth the names and addresses of the donating members, a schedule of the specific alcoholic beverages to be donated indicating the source from which they came and an appraisal of their retail value. The fee for the permit will be \$10.00 and must accompany the application. It is payable in cash, money order or certified check drawn to the order of D. Frederick Burnett, Commissioner. If the permit is granted, both the receipt and sale of the merchandise will have to be reported on your monthly report of sales to the State Tax Department.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

By: Maurice E. Ash,
Senior Inspector.

15. 200 FOOT RULE - HOTELS - STATUTORY EXEMPTION RUNS IN FAVOR OF HOTEL PREMISES.

October 19, 1936

Joseph H. Bryan, M. D.,
Asbury Park, New Jersey.

My dear Dr. Bryan:

Two hundred feet is the prescribed distance between churches and all licensed premises except those which are exempt by statute. Hotels are among those which are exempt. Section 76 of the Control Act provides that no license shall be issued for the sale of alcoholic beverages within two hundred feet of any church or public school house or private school house not conducted for pecuniary profit, except to manufacturers, wholesalers, hotels, clubs and fraternal organizations which owned or were actually in possession of the licensed premises on December 6, 1933, when the Act became effective. I am enclosing herewith Bulletin #3, Item #8, which deals with the manner of measuring the two hundred feet.

True, licenses are not issued to hotels. They are issued to the individuals or corporations which operate them. And strictly, a new owner taking possession now would not have owned or been in possession when the Act became effective. But the statute clearly contemplates that the exemption shall run in favor of hotel premises. See re Ogilvie, Bulletin #59, Item #2, copy also enclosed. Any contrary conclusion would prevent present owners or lessees from ever being able to dispose of their holdings in the future. Hotel premises, generally speaking, are not adaptable to other uses.

If the hotel were a bona fide hotel on December 6, 1933 and will be operated as a bona fide hotel in the future, it comes within the exemption contained in Section 76.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

16. LOTTERY - WHAT CONSTITUTES - GIVING AWAY OF CLOCK TO HOLDER OF LUCKY KEY.

Dept. of Alcoholic Beverage Control,
Newark, New Jersey.

Gentlemen:

I have the following proposition from an agent of a clock concern:

They want to put a clock on display in my store. I am to pay for the clock by taking a certain number of keys at a penny a piece, giving a key away with each purchase. One of the keys opens a cabinet in the clock, and the person holding this key to be awarded the clock.

Will you please advise me before I definitely commit myself to this plan whether or not there is any ruling of your Department against this sort of advertising scheme.

Very truly yours,

CHAS. A. WOODRUFF
(Liquor Store).

October 19, 1936

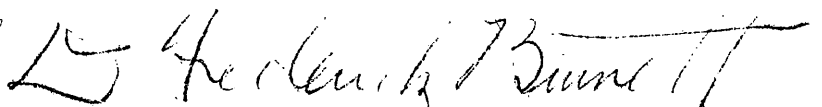
Mr. Charles A. Woodruff,
Springfield, New Jersey.

Dear Mr. Woodruff:

To dispose of a clock to the holder of the lucky key, the keys having been given promiscuously to your customers with each purchase, constitutes a lottery. It is, therefore, prohibited by law and by the State rules and regulations. See re Hutchins, Bulletin #56, Item #11, and re Pelous, Bulletin #43, Item #16, copies enclosed. The scheme you contemplate is essentially the same as in re Pelous, the only difference being that in the Pelous case it was intended to give tickets away while in yours the prize-winning token is the key.

Very truly yours,

New Jersey State Lottery



Commissioner.