

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

BULLETIN 317

MAY 23, 1939.

1. INVESTIGATIONS - POLICE INVESTIGATION MADE OF OFFICERS GIVING FAVORABLE TESTIMONY TO APPLICANT CONCERNING RUGGIERO BOIARDO ON HIS PETITION TO LIFT DISQUALIFICATION - REPORT OF FRANK E. BREX, DEPUTY CHIEF OF POLICE.

May 2, 1939

John F. Harris,
Chief of Police.

Sir:

In compliance with your request for an investigation relative to Deputy Chief Sebold and Sergeant Edward McGrath, regarding their giving favorable testimony about Ruggiero Boiardo, alias Ritchie, to Investigator Samuel Kaufman of Alcoholic Beverage Commissioner D. Frederick Burnett's office, I hereby submit the following:

In company with Clerk Francis J. Long, I visited Commissioner Burnett on April 17th, 1939, at which time Mr. Burnett put his whole files of the case at my disposal and observation.

For the sake of brevity and clarity, we will give a chronological history of the case.

It appears from Mr. Burnett's records, that applicant, to have disqualification removed, Ruggiero Boiardo filed a petition through his Counsel, Frederic M. P. Pearse, on November 21, 1938, taking advantage of an amendment which had been passed by the Legislature of this State June 14, 1938, which made it possible to have disqualification removed after a period of five years of good behavior.

This disqualification consisted of he, the applicant, being ineligible to obtain a liquor license, or to frequent a liquor licensed establishment, as a result of his prior criminal record, a copy of which is attached hereto.

Commissioner Burnett stated that he turned over this matter to his Deputy Commissioner, E. W. Garrett, who in turn assigned Investigator Samuel Kaufman to make a thorough investigation of the applicant's petition.

Investigator Samuel Kaufman visited the Sheriff's office, Probation office, communicated with the Federal Bureau of Investigation and Mr. Thomas Mahaney, Parole Officer. Then on February 26th, Investigator Kaufman visited Police Headquarters, and while waiting to see Deputy Chief Sebold, he spoke to Sergeant McGrath about Boiardo's record as of the last five years. Sergeant McGrath, in substance, responded that he was of the opinion that in view of the absence of any complaints in the last five years, that Boiardo was trying to make an honest living, and he knew nothing to the contrary against him.

He then visited Deputy Chief Sebold and spoke along the same lines to the Deputy, requesting a communication from him about

Boiardo. Deputy Chief Sebold informed him that he knew nothing detrimental to the applicant and that he thought he was trying to make a law-abiding existence, and though a year or so prior there was a rumor that Boiardo might be handling lottery tickets, he was unable to verify that rumor.

Investigator Kaufman stated that Sebold's Clerk was out at the time and he was instructed to come back the next day for the letter.

The next day Investigator Kaufman received the letter to Mr. Burnett in a sealed envelope and turned it over to Commissioner Burnett. Investigator Kaufman of course knew the contents of the letter.

There was testimony given to members of Commissioner Burnett's office by six persons, including the Reverend Gaetano Ruggiero, Pastor of St. Lucy's Church, City, relative to Boiardo's character from the time he left prison on his last sentence. This testimony was independent of the statements that Kaufman received from Deputy Chief Sebold and Sergeant McGrath.

As a result of this whole investigation, on March 25, 1939 the disqualification was lifted from the applicant, Ruggiero Boiardo, and on April 3rd Commissioner Burnett published the affair, without mentioning Boiardo's name, in the circular that he issues to Police Departments giving decisions on various matters under his jurisdiction.

Commissioner Burnett states, "Names in these rehabilitation cases are not given out because publicity prejudices a man who had made a sincere and successful effort to live down his past."

The six character witnesses examined at Commissioner Burnett's office before Mr. Nathan Davis, Attorney, Alcoholic Beverage Control, were all volunteer witnesses.

However, Deputy Chief Sebold and Sergeant McGrath, as I would view it, were not volunteer witnesses. Neither one offered his testimony to anybody connected with Mr. Burnett's office, that is of their own volition. They simply responded to questions that were asked of them by Investigator Samuel Kaufman of Commissioner Burnett's office.

Both Deputy Chief Sebold and Sergeant McGrath deny that they knew anything about Boiardo's petition. They were not visited by anybody in an interceding manner prior to the filing or after the filing of the petition, and the first they knew of the affair was when Investigator Kaufman visited them.

We feel that this was not discretionary with Deputy Chief Sebold and Sergeant McGrath, but they were in conscience and duty bound to give whatever information they possessed to a duly constituted agent of a division of the State Government.

I cannot conceive of any person in the City being more qualified than Deputy Chief Sebold on a matter of information of this kind, in as much as Deputy Chief Sebold's division receives many complaints on the alcoholic and lottery situations, because information of violations usually seeps into the different offices of a police department relative to certain types of law-breakers.

There is no record of any complaints from any of the persons that Investigator Kaufman interviewed in person or correspondence, or in police headquarters, of Ruggiero Boiardo being suspected as a law-breaker.

I questioned Deputy Chief Sebold relative to the third paragraph in the communication he sent to D. Frederick Burnett, in which the Deputy stated in substance that he heard rumors that Boiardo was connected with an Italian lottery a year or so ago, but was unable to verify the report.

In explanation of that statement, Deputy Chief Sebold stated that Detective Frank Catena of his command made a verbal report to him in which Detective Catena stated that, while he was eating in a restaurant in the First Ward about a year and a half ago, he overheard a remark that would indicate that the name of "Ritchie" was mentioned in connection with a lottery. There was no mention of any particular lottery, just the name of "Ritchie."

In view of this information, Deputy Chief Sebold instructed Detective Catena to continue an investigation in this matter. Detective Catena made many attempts to ascertain if Ritchie Boiardo was in any way connected with the lottery referred to in the restaurant, but was unable to, and reported this to Deputy Chief Sebold.

In this I think that Deputy Chief Sebold showed himself very conscientious in remarking that incident. The thing petered out and it was never verified. That one incident convinces me very clearly that there was no collusion between Deputy Chief Sebold and Ritchie Boiardo, because if there had been collusion, Deputy Chief Sebold did not have to mention that rumor, which was never verified.

I think you will concede that there are no better informed people than members of a police department on the reputations of people that are violators or potential violators of the law. Consequently it was a duty and a right that Commissioner Burnett exercised in checking on the police department for any information we might possess; and by the same token it is a duty of members of the police department to cooperate with other law enforcement divisions in the City, County, State and Nation.

Commissioner Burnett has the power to subpoena and examine under oath if it is necessary, persons possessing any information for or against an accused person on matters that come under Mr. Burnett's duties under the law. So in answering Investigator Kaufman's questions, both Deputy Chief Sebold and Sergeant McGrath avoided the necessity of putting Mr. Burnett to the trouble of compelling these police officers to give the testimony which was necessary for he, Burnett, to carry out his duties.

We are called upon by the Probation office, Prosecutor's office, Courts, Department of Justice, Secret Service Division, insurance companies, and every form of enforcement agencies seeking information along these lines. In my 35 years as a police officer, I have been visited hundreds of times by members of government agencies seeking information that was essential to other divisions, in the performance of their duties.

Mr. Burnett was only carrying out the mandate of the amendment to the law that was passed on June 14th, 1938.

That law compelled Commissioner Burnett to act one way or the other. After a thorough investigation he lifted the disqualification from Boiardo, and when he did, I believe he acted in a conscientious manner.

I do not wish the thought to be conveyed that I am investigating any part of Mr. Burnett's investigation. I certainly am not. There was no need for it. The purpose of my visiting Commissioner Burnett was to get a complete picture of the situation. Mr. Burnett needs no defense of mine. He is a man of high integrity, conscientious, courageous and humane. In baseball umpire parlance - "He calls them as he sees them."

My duty was to investigate the Sebold and McGrath angle of the case. However, I was very much impressed with the readiness of Mr. Burnett in permitting me to peruse the results of his whole investigation.

We have an unique situation in this case, apparently some criticism about some of the angles of this matter. Police Departments nation wide have always been criticized for oppressing people who were trying to rehabilitate themselves. In this case there is some criticism about police officers saying a good word about one fallen from grace but who apparently is trying to redeem himself.

Of course it is absolutely impossible to look into one's heart or mine to see as to whether reformation is sincere or a veneer for other purposes, and the only yardstick we can use, from a human standpoint, is a man's daily conduct and his reputation in the community in which he resides, and, measuring it by that rule, we find that Ritchie Boiardo, who unquestionably was a notorious character prior to being in prison in 1930 and 1931, on his release from prison has, apparently, according to witnesses under oath, been leading a respectable life.

I was in command of the Detective Bureau when he ran afoul of the law several times, and was a witness against him when he was sent to State's Prison on his last sentence.

However, from the date he entered prison until he was paroled, he had a perfect prison record, which is most unusual. Also, from the date of his release till the present, there has not been one recorded complaint against him.

Society today is burdened with the great problem of what to do with, or how to bring back to society, its fallen members, and this is a problem that should concern everybody connected with law enforcement, civic and humane minded persons. In the absence of any specific complaints since Boiardo's release from prison and with the investigation conducted by Commissioner Burnett and the statements by Deputy Chief Sebold and Sergeant McGrath, he, Boiardo, was only given encouragement to live and continue to live a decent life.

When these disqualifications were removed, they were not irrevocably lifted. They can, after sufficient proof of wrongdoing by Boiardo, if necessary, be revoked.

We have examined in question and answer form, stenographically:

Deputy Chief Philip Sebold, Public Morals Bureau.

Sergeant Edward McGrath, Public Morals Bureau.

Detective Frank Catena, Public Morals Bureau.

Investigator Samuel Kaufman, Commissioner Burnett's office.

Mr. Ruggiero Boiardo, the applicant.

D. Frederick Burnett, Commissioner of Alcoholic Beverage Control, State of New Jersey, submitted a statement of his own which was taken down stenographically by Clerk Francis J. Long.

You will find the above named statements accompanying this report, also the following:

Carbon copy of the original letter sent by Deputy Chief Sebold to Commissioner Burnett, dated February 27th, 1939.

Communication from Mr. Thomas Mahaney, Parole Agent, Trenton, New Jersey.

Photostatic copy of Sheet 3, Bulletin 307, issued by Commissioner D. Frederick Burnett.

Copy of criminal record of Ruggiero Boiardo.

In conclusion, I wish to state that we have failed to find anything relative to Deputy Chief Sebold or Sergeant McGrath that would call for disciplinary action. On the contrary, we feel that they only did their duty.

Respectfully submitted,
Frank E. Brex,
Deputy Chief of Police,
Radio Division.

2. GAMBLING - LOTTERIES - SUIT CLUBS

Dear Sir:

We are starting a Suit Club and are writing to inquire whether it is permissible for us to put club books in a tavern. Also, to post a sign regarding same. This is our position. We are acquainted with a man who is bartender, and he is willing to take the responsibility of handling the project, provided, of course, it is within the law. Will you please advise.

Yours truly,
Giorgio Bros.

May 15, 1939

Giorgio Brothers,
Newark, N. J.

Gentlemen:

"Suit Clubs", as I understand it, are merchandising schemes whereby groups of customers pay in weekly sums to a clothing merchant operating the "club", for a certain number of weeks, at the end of which the paid-up "member" becomes entitled to a suit.

The inducement is not the extension of credit, for none is given. The bait or "come-on" lies in the chance that the participant (no pun intended) will win one of the weekly drawings conducted by the club operator and thereby be awarded his suit before he has paid in the full amount ordinarily required.

The scheme is nothing more than a lottery. It may not, therefore, be operated in any phase on premises covered by a liquor license.

The sale or distribution of the club books, or tickets, or participation warrants in taverns would be in violation of State Regulations No. 20, Rule 6, and cause for revocation of the license.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

3. BINGO - HEREIN THE DIFFERENCE BETWEEN A BAR AND A CLOTHES TREE.

May 15, 1939

Walter H. Jamouneau,
Town Clerk,
Irvington, N. J.

My dear Mr. Jamouneau:

I have before me staff report and your letters re disciplinary proceedings conducted by the Board of Commissioners against:

1. John Goepfert
331 - 16th Avenue
2. Olympic Tavern, Inc.,
877 Springfield Avenue
3. Joe's Hilltop Tavern, Inc.
1371 Springfield Avenue.

Goepfert was charged with sale of alcoholic beverages after 3:00 A.M. and permitting patrons to enter his tavern after 2:00 A.M., each a violation of local ordinance, whereupon his license was suspended for two days. Five days for each offense would have been more in order.

The dismissal of the charge against Olympic Tavern was wholly unwarranted. The State rule expressly forbids Bingo "in any room in which a bar for the service, delivery or sale of alcoholic beverages is located." The game at the Olympic Tavern was conducted in a room in which there was a bar complete with beer spigots, drip plate and brass rail. If that isn't running Bingo in a barroom, what is? The rule means what it says. Licensees are not to evade it by calling the bar a clothes tree or a Good Humor Stand because coats are parked on it or ice cream sold over it.

Mr. Kruttschnitt was plainly right when he said: "I do think Commissioner Burnett's rule is drastic but I do feel that since there is a bar on the premises, it is a violation of the rule.....It just stood there as an ornament, yet it is a bar in the strict interpretation of the law. I am voting no (on the motion to dismiss)."

In Re Bohemian Benevolent and Literary Association, Bulletin 302, Item 17, a case involving the same charge, I said:

"It is not my function to decide in advance of the courts whether Bingo and these other games of chance constitute a violation of the criminal law. Until such determination is made one way or other I have tolerated it on licensed premises, but only under the strict conditions set forth in the above rule." (Rule 16).

If the rule is not obeyed, I shall have to take some really drastic action to insure that it is or else forbid Bingo on any part of licensed premises.

I note that the Hilltop Tavern was given five days for sales on Sunday morning during prohibited hours. That's better!

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

4. LICENSES - TRANSFER AFTER SUSPENSION ORDERED - TRANSFEREE TAKES SUBJECT TO PENALTY IMPOSED.

DISCIPLINARY PROCEEDINGS - SUSPENSION OF LICENSE - NOT AVOIDED BY DEVICE OF SELLING STORE OR TAVERN TO SOMEBODY ELSE.

Dear Sir:

I have been told that the Gaines liquor store on Mt. Prospect Avenue in Newark is for sale. I would contemplate buying this place, but I understand there is a penalty against the license for disobeying the Fair Trade Act.

In the event that I could make arrangements to purchase this store, would I as the owner be liable to the suspension now due on the license?

Yours truly,
Milton Rubin

May 15, 1939

Mr. Milton Rubin,
Newark, N. J.

Dear Sir:

On March 14, 1939, License No. D-135, held by John Gaine for premises at 441 Mt. Prospect Avenue, Newark, was suspended for a period of forty days for selling alcoholic beverages below Fair Trade prices, established pursuant to State Regulations No. 30. The effective date of such suspension, however, has been held in abeyance pending decision by the Court of Errors and Appeals as to the constitutionality of the Fair Trade Act.

A penalty imposed for violation either of the Control Act or State Regulations operates against the license itself, as well as against the licensee personally. Thus, regardless of who is the owner of the license in question, when and if the suspension becomes operative the sale of alcoholic beverages will have to be discontinued at the premises during such period.

If the rule were otherwise, then a licensee who had been penalized for a violation could, by the simple device of selling the store or the tavern to somebody else at full value as a going business and without discount for the suspension, thereby escape all punishment whatsoever.

After a licensee has been tackled and downed, he cannot make a forward pass. Suspensions are not so readily evaded.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

5. LICENSED PREMISES - OUTSIDE SIGNS - SPECIAL RULING RE PARI-MUTUEL ACT.

Dear Sir:

May we, the John F. Monahan Association, as the holder of Plenary Retail Consumption License C-848, place on the outside of our building a sign advocating the Pari Mutuel Act to be voted on in June.

This sign advising the voters that the Act if passed will reduce taxes, is to be placed on the upper part of the building, and for that reason we wish your opinion before proceeding.

Respectfully yours,
William J. Ryan,
Chairman of Board of Trustees.

May 16, 1939

John F. Monahan Association,
Newark, N. J.

Gentlemen:

There is no formal regulation at present against licensees placarding their premises with signs advocating action one way or the other on questions submitted to the voters. As a citizen, each licensee is entitled to his own opinion on pending legislation. There is nothing to prevent debate of public questions upon licensed premises; in fact, fair and orderly discussion should be encouraged everywhere.

But that is quite different from plastering signs of political, economic or moral belief all over the outside of clubs, stores and taverns licensed for the sale of liquor. What one could do, so could all. If all did, it would make a sorry sight irrespective of the merits.

I therefore make special ruling that no signs either advocating or opposing the Pari-Mutuel Act shall be displayed on the outside of licensed premises.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

6. DISCIPLINARY PROCEEDINGS - MISLABELING OF BEER TAPS - SECOND OFFENSE GETS ONLY A SLAP ON THE WRIST IN MORRISTOWN.

May 16, 1939

Nelson S. Butera, Clerk,
Municipal Board of Alcoholic Beverage Control,
Morristown, N. J.

My dear Mr. Butera:

I have before me staff report and your letter of March 23rd re disciplinary proceedings conducted by the Municipal Board against John Roberts, 27 Market Street, charged with mislabeling beer taps, and note that although he pleaded guilty, all he got was a reprimand.

I cannot get enthused over the slap on the wrist which your Board gave the gentleman. It is not at all conducive to public confidence in the integrity of licensees to learn that mislabeling of beer taps goes altogether unpunished in Morristown.

It would have been bad enough to reprimand the licensee had this been his first offense, but according to the staff report, he was caught doing exactly the same thing on a previous occasion, whereupon he was warned and the violation corrected in the presence of the investigators. Yet, despite the fact that this is his second violation, he goes off scot-free with nothing more than a reprimand, which will make about as much impression as a flea on an elephant.

I earnestly suggest that in future cases coming before the Board, it show that it means business. Nothing is so effective as a substantial suspension of the license.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

7. MUNICIPAL REGULATIONS - HOURS - DAYLIGHT SAVING TIME - ADEQUACY OF RESOLUTION ADOPTING DAYLIGHT SAVING TIME AND EXTENT OF ACCEPTANCE THEREOF BY THE COMMISSIONER - THE DAYLIGHT SAVING PERIOD ESTABLISHED BY MUNICIPAL REGULATION SHOULD CONFORM WITH THAT CUSTOMARILY IN USE.

May 15, 1939

Walter Beisch,
Township Clerk,
North Bergen, N. J.

My dear Mr. Beisch:

I have before me resolution pertaining to Daylight Saving Time adopted by the Board of Commissioners on April 19, 1939, reading:

".....that the Township of North Bergen, does hereby adopt DAYLIGHT SAVING TIME, whereby the Eastern Standard Time is advanced one hour from 2 A.M., April 29th, 1939 to 3 A.M., September 30th, 1939, and do fix and determine the aforesaid time to be the Official time of the Township of North Bergen for the period aforesaid, and the Township Clerk is directed to forward a certified copy of this resolution to the head of each department of the Township."

I find nothing in the statutes expressly authorizing municipalities to establish Daylight Saving Time, or to fix and determine any standard of time for the municipality. Hence, because of questions which might arise as to the validity of such action, I express no opinion on the legal sufficiency of the method chosen. It is apparent that it is the wish of the Board that the Township as a whole shall run on Daylight Saving Time during the Daylight Saving period. I shall, therefore, honor the resolution as definitive of the time presently in effect in your municipality and as establishing Daylight Saving Time as the standard of time for the administration of the Board's alcoholic beverage regulations. See Re Wieser, Bulletin 287, Item 17; Re Tanier, Bulletin 261, Item 1; Re Wagner, Bulletin 58, Item 4. This ruling will stand until on appeal to me or in some court of competent jurisdiction there is a contrary adjudication.

I note that the resolution adopts Daylight Saving Time from 2:00 A.M. April 29th, to 3:00 A.M. September 30, 1939. Daylight Saving Time is customarily in use from 2:00 A.M. on the last Sunday in April until 2:00 A.M. on the last Sunday in September. That would be this year from April 30th until September 24th. Your resolution, however, calls for Daylight Saving from the last Saturday in April until the last Saturday in September, a whole week longer in fact than the customary period. It is my suggestion, in order that the Daylight Saving period in North Bergen shall coincide with that in effect in the other municipalities, that the Board at earliest convenience amend the resolution accordingly. You can do this, simply and effectively, by striking out "from 2 A.M., April 29th, 1939 to 3 A.M., September 30th, 1939", and in its place inserting "from 2:00 A.M. on the last Sunday in April until 2:00 A.M. on the last Sunday in September, each year."

Kindly send me certified copy of such amendment as the Board adopts, for my records.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

8. ALCOHOLISM - THE PROBLEM, THE LAW, AND A PROPOSED SOLUTION.

May 15, 1939

Mr. Uzal H. McCarter,
Newark, N. J.

My dear Mr. McCarter:

I have read with great interest and profound sympathy the newspaper reports of your plan for the solution of alcoholism through the establishment of Alcoholic Consultation Bureaus.

I say "profound sympathy" because hardly a week goes by when there do not come to me several pitiful stories of alcoholism on the part of the husband, or wife, or some other member of the family. They tell of broken homes and economic distress - of lack of food and clothing - of nervous strain and mental anguish - of wasted lives - all because of someone's uncontrollable addiction to drink.

Here is one that comes to me today (concerning a woman - usually it's a man):

"I am acquainted with Rule 1 of State Regulations No. 20 prohibiting the sale of alcoholic beverages to any person actually or apparently intoxicated. My reason for writing was to find out if, after notifying a retail licensee that a person was an alcoholic addict, he continued to sell, what further steps can be taken to stop him. I fully recognize that a licensee has the right to sell to a person whom he believes is sober. But many fail to recognize, after due warning, that a person is an addict, particularly a woman, that there is a moral obligation aside from their legal rights to accede to the request. The few dollars that they get result in considerable unhappiness to others. This condition helped to put over the prohibition amendment and may again help to arouse the people against the sale of alcoholic beverages. I think your letter to Mr. Culligan brings this out very nicely.

"My problem is a rather peculiar one. Mrs. W***** will go to a store and buy liquor and other times have it delivered. This happens during the daytime. Whenever I have been able to find out who sold her the liquor I went to them and explained the situation. Some of them agreed and stated that they did not want that kind of business. Others agreed, but I had to tell them several times. Still others said that if they didn't sell someone else would.

"I recently took Mrs. W***** to Pittsburgh for treatments but she still drinks. I do not wish to involve you in any way with my personal problem. I am grateful for your advice. As for giving Mrs. W*****'s name and mine to licensees, if you feel that it will be helpful you have my permission. I have gone beyond the stage of trying to keep the matter from the public. Many know about it. I told Mrs. W***** that I intended to write to you to find out how far I can go in the law so there is no idea of 'going behind her back'. Each move I have made I have told her I intended to do it. After going through this situation for nearly nine years one finally realizes that drastic measures have to be taken to try and find a solution when sanatoriums, hospitals and doctors are not able to help."

There, succinctly put, is the whole thing; the futility and the ever present hope; the continual seeking for a remedy despite continuous discouragement. A conservative estimate of the number of such pleas sent in to me for help would be 150 to 200 a year.

Yet there is so very, very little that I can do for them. To request one or three or a group of licensees not to sell to a certain person merely drives him to other places. If I should extend this to every licensee in the municipality, the party would only have to step over the line into some adjoining place. If every legitimate licensee in the State turned him out then the bootleggers would gladly take him up. The law, whether it is prohibitive or permissive, is a vain thing to cope with personal habits. It may well regulate the manufacturing, distribution and sale of alcoholic beverages. The rules prohibit sales to persons actually or apparently intoxicated. But there are no facilities provided for the solution of individual behavior problems, or their adjustment by psychiatric or occupational treatment. When all is said and done, these chronic cases are really medical or clinical, not police problems.

I think you are on the right track and hope that something can be developed to alleviate the situation for these people and those who suffer with them.

Sincerely yours,
D. FREDERICK BURNETT,
Commissioner.

9. ADVERTISING - WINDOW DISPLAY - PRICE TAGS MAY HAVE NO ATTACHMENTS OR APPURTENANCES.

May 15, 1939

Mr. Emil Sawczuk,
Ferry Wine & Liquor Store,
Newark, N. J.

My dear Mr. Sawczuk:

I have before me your sketch of proposed window display consisting of a sign five feet long and ten inches high with the words "One Week Only", and ribbon streamers running from an arrow at the bottom of the sign to bottles in the window.

I take it that the articles in the display will be priced. Otherwise, there would be no point to the advertisement. But that means that the sign will infer that the prices quoted are special prices, solely for the week. Hence, even though you used only the regular $1\frac{1}{2}$ " x $1\frac{1}{2}$ " price tags on these articles, the association of the sign and the price tags will create an advertisement of price in excess of the allowable size. Regulations No. 21 (Pamphlet Rules, page 64) prohibit such price advertising.

Price tags may have no attachments or appurtenances to embellish their size.

The proposed display, for these reasons, is not permissible.

I am not at all favorably impressed with signs advertising alcoholic beverages plastered all over show windows. It makes an extremely unsightly appearance at best and is very apt to produce an adverse public reaction. It is much better that licensees keep whatever signs they put in windows small and quiet and very dignified.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

10. DISCIPLINARY PROCEEDINGS - OPERATION OF LIQUOR BUSINESS OF COUNTRY CLUB BY A CONCESSIONAIRE - POSSESSION OF SLOT MACHINES - SUSPENSION OF THIRTY DAYS IMPOSED.

DISCIPLINARY PROCEEDINGS - IMPOSITION OF FINE BY TOWNSHIP COMMITTEE TO DEFRAY COSTS - NO AUTHORITY UNDER ALCOHOLIC BEVERAGE LAW.

May 11, 1939

Peter MacDonald,
Wayne Township Clerk,
Mountain View, N. J.

My dear Mr. MacDonald:

I have before me staff report and your letter re disciplinary proceedings conducted by the Township Committee against Preakness Hills Country Club, Ratzler Road, Preakness, charged with permitting the conduct of its liquor business by a concessionaire, and possession of slot machines, and note that its license was suspended for thirty days with a remission of six days because of its guilty plea.

On the first mentioned charge, it appears from the report that the facts are:

"On September 14, 1938, Investigators Lippitt and Wierenga on routine inspection learned from the Assistant Secretary Morgan Jenkins of the licensee corporation that the club had secured the license in its own name, but had agreed with one William G. Herzberg to permit him to purchase and sell all alcoholic beverages and retain all profits therefrom, he, in return, to pay the club one dollar a day. Voluntary signed statements were obtained from Jenkins and Herzberg, both of which substantiated the verbal admission of Jenkins. It appeared that the arrangement with Herzberg was entered into on December 1, 1937. Nevertheless, in its application for its 1938-39 license filed June 7, 1938, the club denied that any person other than itself had any interest in the license applied for, or the business to be conducted thereunder."

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

According to the staff report, the Committee, in addition to the suspension of the license, also imposed a fine of twenty-five dollars upon the licensee to defray the cost of conducting the proceedings.

There is nothing in the Alcoholic Beverage Law which would permit the imposition of a fine by an issuing authority either by way of penalty in disciplinary proceedings or by way of obtaining reimbursement of the expense of conducting the proceedings. Whether there is any other provision of the general municipal law which would authorize the imposition of such a fine is a matter concerning which the Township Committee should consult the municipal attorney.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

11. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against)	
SIDNEY M. SCHER,)	
102 Walnut Avenue,)	CONCLUSIONS
Cranford, New Jersey,)	AND ORDER
Holder of Plenary Retail Distribution License D-3, issued by the Township Committee of the Township of Cranford.)	
-----)	

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

Nicholas A. Tomasulo, Esq., Attorney for the Licensee.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling liquor at his licensed premises on March 15, 1939 in violation of Rule 6 of State Regulations No. 30.

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

Accordingly, it is, on this 17th day of May, 1939, ORDERED, that Plenary Retail Distribution License D-3, heretofore issued to Sidney M. Scher by the Township Committee of the Township of Cranford, be and the same is hereby suspended for a period of five (5) days. Pursuant to notice of December 17, 1938, Bulletin 289, Item 1, the effective date of such suspension is reserved for future determination.

D. FREDERICK BURNETT,
Commissioner.

12. DISCIPLINARY PROCEEDINGS - SALES OUT OF HOURS - 5 DAYS.

In the Matter of Disciplinary Proceedings against)

JOSEPH KOBYLARZ,)
46 Wood Street,)
Garfield, New Jersey,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License No. C-89, issued by)
the Commissioner of Alcoholic Beverage Control of the State of)
New Jersey.)
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Edward Lukacsko, Esq., Attorney for Licensee.
Richard E. Silberman, Esq., Attorney for the Department of
Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleads guilty to a charge of selling alcoholic beverages at 11:30 A.M. on Sunday, April 16, 1939, in violation of an ordinance of the City of Garfield which prohibits such sales between 3:00 A.M. and 12:00 Noon on Sundays.

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

ORDERED, that Plenary Retail Consumption License No.C-89, heretofore issued to Joseph Kobylarz by the Commissioner of Alcoholic Beverage Control of the State of New Jersey, be and the same is hereby suspended for a period of five (5) days, effective May 23, 1939 at 2:00 A.M. Daylight Saving Time.

D. FREDERICK BURNETT,
Commissioner.

13. DISCIPLINARY PROCEEDINGS - FAIR TRADE - WHOLESALING AT CUT RATES.

In the Matter of Disciplinary Proceedings against
 LOU & ED'S TAVERN, INC.,
 266 Park Avenue,
 Newark, N. J.,
 Holder of Plenary Retail Consumption License C-472, issued by the
 Municipal Board of Alcoholic Beverage Control of the City
 of Newark.
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CONCLUSIONS AND ORDER

Stanton J. MacIntosh, Esq., Attorney for the State Department of Alcoholic Beverage Control.
 Andrew B. Crummy, Esq., Attorney for the Defendant-Licensee.

BY THE COMMISSIONER:

The defendant pleaded non vult to the charges of selling, on two occasions during Christmas season last past, a quantity of liquor below the Fair Trade prices, in violation of Rule 6 of State Regulations No. 30.

On December 15, 1938, the defendant, through its managing president, sold to the National Carloading Corporation six cases of quarts of Hiram Walker Canadian Club Canadian Whiskey (the Fair Trade price, in total, being \$265.68) for \$226.20; eleven cases of quarts of Burnett's White Satin DeLuxe (the Fair Trade price, in total, being \$213.84) for \$147.40; a fifth of D.O.M. Benedictine (the Fair Trade price being \$4.49) for \$3.50; a fifth of E. Remy Martin Cognac Three Star (twelve years old) (the Fair Trade price being \$3.55) for \$2.66; five fifths of Ballantine's Liqueur Blended Scotch (the Fair Trade price, in total, being \$18.95) for \$14.30; and one case of pints of Calvert's "Special" Blended Whiskey (the Fair Trade price, in total, being \$27.84) for \$20.85. The total purchase price for these items was \$414.91. Under the Fair Trade prices, it should have been \$534.35.

On December 21, 1938, the defendant similarly sold to the National Carloading Corporation fourteen quarts of Wilson "That's All" Whiskey (the Fair Trade price, in total, being \$28.35) for \$28.00; a fifth of E. Remy Martin Cognac Three Star (twelve years old) (the Fair Trade price being \$3.55) for \$3.00; and a fifth of D.O.M. Benedictine (the Fair Trade price being \$4.49) for \$4.00. The total purchase price for these items was \$35.00. Under the Fair Trade prices, it should have been \$36.39.

These items, on both occasions, were purchased by the National Carloading Corporation for Christmas presents to various of its customers. The defendant's president states that he sold the liquors as a result of the solicitation of a representative of the National Carloading Corporation, who was a customer of his.

In view of the size of the sales and the "I can get it for you wholesale" salesmanship, the license should be suspended for twenty (20) days. However, the defendant pleaded non vult and admitted all the facts without the necessity of producing witnesses. It is its first offense of record. Its license will therefore be suspended for ten (10) days.

Accordingly, it is, on this 19th day of May, 1939,
ORDERED, that Plenary Retail Consumption License C-472, heretofore
issued to Lou & Ed's Tavern, Inc., by the Municipal Board of Alco-
holic Beverage Control of the City of Newark, be and the same is
hereby suspended for a period of ten (10) days. Pursuant to notice
of December 17, 1938, Bulletin 289, Item 1, the effective date of
such suspension is reserved for future determination.

L. G. Frederick Burnett

Commissioner.