

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

BULLETIN 332

JULY 14, 1939.

1. REPORT ON DISCIPLINARY PROCEEDINGS AGAINST LICENSEES INSTITUTED BY MUNICIPALITIES ON THEIR OWN INITIATIVE SO FAR AS PRESENTLY REPORTED.

July 6, 1939

To: D. Frederick Burnett, Commissioner
From: Emerson A. Tschupp, Attorney

Period Covered
July 1, 1938 to June 30, 1939

SUMMARY

Cases Instituted 49

Disposition:

License revoked	4
License suspended	39
Charges dismissed	4
Pending	
Awaiting hearing	1
Licensee reprimanded	1

The foregoing 49 cases involved 55 violations as set forth below:

<u>Municipality</u>	<u>No. of Cases</u>	<u>Charge</u>	<u>Disposition</u>
Belleville	1	Permitting brawl on licensed premises	Dismissed
Bergenfield	1	Employment of minor to sell alcoholic beverages	Dismissed
		Licensed premises open during prohibited hours	License suspended 2 days
Cape May			
North Wildwood	1	Distribution of indecent advertising matter	License suspended 1½ days
Wildwood	2	Sale of alcoholic beverages during prohibited hours	License suspended 2 days
Camden	1	Permitting unnecessary noise and disturbance and sale of alcoholic beverages during prohibited hours	Dismissed
	1	Sale of alcoholic beverages during prohibited hours	Dismissed

<u>Municipality</u>	<u>No. of Cases</u>	<u>Charge</u>	<u>Disposition</u>
Clifton	1	Sale of alcoholic beverages in violation of local regulation	License suspended 5 days
		Employing female bartender in violation of local regulation	License suspended 5 days
Dover	1	Sale of alcoholic beverages during prohibited hours	License suspended 3 days
East Newark	1	Licensed premises open during prohibited hours	Dismissed
Edgewater	1	Sale of alcoholic beverages during prohibited hours	License suspended 10 days
Elizabeth	1	Sale of alcoholic beverages to a minor	License suspended 7 days
	1	Sale of alcoholic beverages during prohibited hours	License suspended 5 days
Englewood Cliffs	1	Gambling on licensed premises	License suspended 15 days
Frelinghuysen	1	Act or happening occurring after issuance which would have justified denial	License revoked
Guttenberg	1	Sale of alcoholic beverages during prohibited hours	License suspended 7 days
Haddon	1	Permitting disorder and drunkenness on licensed premises	Licensee reprimanded
Hoboken	1	Permitting lewdness on licensed premises	License revoked
Jersey City	8	Sale of alcoholic beverages during prohibited hours	Licenses suspended 3 days
	1	Sale of alcoholic beverages during prohibited hours	License revoked
	1	Permitting a known criminal on licensed premises and employment of unregistered employee	License suspended 30 days
	1	Act or happening occurring after issuance which would have justified denial	License revoked
Linden	1	Sale and consumption of alcoholic beverages by a minor	Pending, awaiting hearing
	1	Permitting minors on licensed premises	License suspended 10 days

<u>Municipality</u>	<u>No. of Cases</u>	<u>Charge</u>	<u>Disposition</u>
Manalapan	1	Sale of alcoholic beverages during prohibited hours	License suspended 20 days
Millburn	2	Sale of alcoholic beverages to a minor	License suspended 15 days
Mount Olive	1	Licensed premises open during prohibited hours	License suspended 15 days
North Bergen	1	Sale of alcoholic beverages to minors	License suspended 10 days
		Permitting immoral activities on licensed premises	License suspended for balance of term
		Sale of alcoholic beverages during prohibited hours	Dismissed
North Haledon	1	Permitting excessive noise on licensed premises	License suspended 5 days, sentence suspended
		Permitting known pickpocket on premises	Dismissed
Orange	1	Permitting gambling on licensed premises	License suspended 5 days
Passaic	1	Permitting gambling on licensed premises	License suspended 5 days
Paterson	1	Permitting gambling on licensed premises	License suspended 2 days
Rahway	1	Permitting gambling on licensed premises	License suspended 95 days
Ridgewood	1	Sale of alcoholic beverages to minors	License suspended 31 days
Roselle Park	1	Sale of alcoholic beverages during prohibited hours	License suspended 2 days
Rumson	1	Licensed premises open during prohibited hours	License suspended 5 days
Somerville	1	Sale of alcoholic beverages during prohibited hours	License suspended 2 days
Union City	3	Sale of alcoholic beverages during prohibited hours	Licenses suspended 5 days
West Orange	1	Licensed premises open during prohibited hours	License suspended 3 days

Respectfully submitted,

Emerson A. Tschupp,
Attorney.

2. REPORT ON CASES INVOLVING NON-PAYMENT OF TAXES OR PENALTIES OR OTHER FAILURE TO COMPLY WITH THE TAX LAW, CONDUCTED DIRECTLY BY THE DEPARTMENT.

July 6, 1939

To: D. Frederick Burnett, Commissioner
From: Emerson A. Tschupp, Attorney

Period Covered
July 1, 1938 to June 30, 1939

SUMMARY

<u>Cases Instituted</u>	81
<u>Disposition:</u>	
License surrendered	2
Permit cancelled	2
License or Permit suspended for balance of term	14
Suspended for balance of term but reinstated after payment of penalty and service charge	4
Dismissed after charges were served, but before entry of order of suspension, after payment of penalty and service charge	53
Complaint withdrawn by State Tax Department	5
Pending, decision reserved	<u>1</u>
	81

The foregoing 81 cases involved licensees and permittees as set forth below:

State Licensees

<u>Cases Instituted</u>	16
<u>Disposition:</u>	
License surrendered	2
License suspended for balance of term	3
Dismissed after charges were served, but before entry of order of suspension, after payment of penalty and service charge	<u>11</u>
	16

Permittees

Cases Instituted 16

Disposition:

Permit cancelled	2
Permit suspended for balance of term	8
Dismissed after charges were served, but before entry of order of suspension, after payment of penalty and service charge	3
Complaint withdrawn by State Tax Department	3
	<u>16</u>

Municipal Licensees

Cases Instituted 49

Disposition:

License suspended for balance of term	3
Suspended for balance of term but reinstated after payment of penalty and service charge	4
Dismissed after charges were served, but before entry of order of suspension, after payment of penalty and service charge	39
Complaint withdrawn by State Tax Department	2
Pending, decision reserved	1
	<u>49</u>

Respectfully submitted,

Emerson A. Tschupp,
Attorney.

3. REPORT OF DISCIPLINARY PROCEEDINGS AGAINST STATE LICENSEES AND PERMITTEES INSTITUTED BY THE DEPARTMENT

July 6, 1939

To: D. Frederick Burnett, Commissioner
 From: Emerson A. Tschupp, Attorney

Period Covered
July 1, 1938 to June 30, 1939

SUMMARY

Cases Instituted 11

Disposition:

License cancelled	1
Permit revoked	1
License or permit suspended	7
Pending:	2
Decision reserved	1
Awaiting hearing	1
	<u>11</u>

The foregoing 11 proceedings involved 18 violations as set forth below:

<u>Kind of License</u>	<u>Charge</u>	<u>Disposition</u>
State Beverage Distributor	Employing unlicensed solicitor	License suspended 10 days
Solicitor's Permit	Solicitation while unlicensed	Permit suspended 15 days
Solicitor's Permit	Solicitation while unlicensed	Permit suspended 10 days
State Beverage Distributor	Employing unlicensed solicitor	License suspended 10 days
State Beverage Distributor	Loan of credit to retail licensee	License suspended 5 days
State Beverage Distributor	Aiding and abetting non-licensee to exercise the privileges of a license. Warehousing alcoholic beverages in violation of terms of license. Unlawful solicitation of purchases of alcoholic beverages	Pending, decision reserved.

<u>Kind of License</u>	<u>Charge</u>	<u>Disposition</u>
State Beverage Distributor	Fraud in application for license. Prohibited interest in a brewery. Employment of unlicensed solicitors. Failure to file statement of employment	License cancelled
State Beverage Distributor	Unlawful transportation of alcoholic beverages. Purchase of alcoholic beverages from unlicensed solicitors.	License suspended 3 days License suspended 5 days
Solicitor's Permit	Act or happening occurring after issuance of permit which would have justified denial.	Permit revoked
State Beverage Distributor	Holding mortgage on chattels at licensed premises. Loan of money to retail licensee, with agreement to sell products to him. Maintaining salesroom in violation of terms of license.	Pending, awaiting hearing

Respectfully submitted,

Emerson A. Tschupp,
Attorney.

4. RETAIL LICENSES - SPECIAL CONDITIONS - NOISE AND DISTURBANCE.

July 6, 1939

Paul A. Volcker,
Township Manager,
Teaneck, N. J.

My dear Mr. Volcker:

I have before me yours of June 27th, regarding the renewal of plenary retail consumption licenses for R. & F., Inc., 653 Cedar Lane, James Jos. Whelan, 163-165 Cedar Lane, and William C. Muller, 1358 Queen Anne Road, and note that each was authorized subject to condition that:

"This license is granted upon the condition that there shall be no dancing or the playing of any kind of music upon the licensed premises that shall disturb the peace and quiet of the neighborhood of said premises between the hours of eleven o'clock in the evening, daylight saving time or standard, whichever time is in use, and the hour for closing the premises according to the liquor ordinance.

"The licensee shall not allow, permit or suffer in or upon the licensed premises any disturbances, lewdness, immoral activities, brawls, or unnecessary noises, or allow, permit or suffer the licensed place of business to be conducted in such manner as to become a nuisance.

"Any violation of these conditions shall be sufficient cause for immediate revocation of the license."

I understand that the conditions were imposed by the Council because of complaints received of excessive noise.

The conditions are approved as submitted subject, as with all ex parte approvals, to review on appeal.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

5. MUNICIPAL REGULATIONS - HOURS - POOR POLICY TO ALLOW SALES IN THE DAYTIME ON SUNDAYS BEFORE NOON.

July 6, 1939

Wm. Fredericks, Jr.,
Clerk of Hardyston Township,
Stockholm, N. J.

My dear Mr. Fredericks:

I have before me yours of June 28th and alcoholic beverage ordinance adopted June 27, 1939.

The ordinance appears to be in proper form and is approved, subject, as in the case of all ex parte approvals, to review on appeal.

I note that according to Section 5, Sunday sales are prohibited only between 2:00 A.M. and 6:00 A.M. As a matter of general regulation, I am opposed to sales in the daytime on Sundays before noon. Re Tanier, Bulletin 293, Item 2; Re Dobnack, Bulletin 308, Item 6; Re Biesel, Bulletin 309, Item 11. I appreciate, however, that different conditions prevail in different municipalities. As the one church in the Township is a mile from the nearest licensed premises and as there have never been any complaints from the church people of sales of alcoholic beverages Sunday mornings, I shall accept Section 5 as it now stands, tentatively, pending review on appeal. Personally, I think it is a mistake.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

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

In the Matter of Disciplinary)
Proceedings against)

ASTOR J. TSIBIKES,)
T/a Royal Delicatessen,)
732 Bergen Avenue,)
Jersey City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distri-)
bution License D-4, issued by)
the Board of Commissioners of the)
City of Jersey City)
-----)

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

Astor J. Tsibikas, Pro Se.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling liquor at his licensed premises on May 26, 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).

Subsequent to the institution of these proceedings, the above mentioned license has expired and has been renewed by the issuance of Plenary Retail Distribution License D-4 for 1939-1940, issued to Astor J. Tsibikas, t/a Royal Delicatessen.

Accordingly, it is, on this 7th day of July, 1939, ORDERED, that Plenary Retail Distribution License D-4, heretofore issued to Astor J. Tsibikas, t/a Royal Delicatessen, by the Board of Commissioners of the City of Jersey City, 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.

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

In the Matter of Disciplinary)
 Proceedings against)

RALPH BERGER,)
 T/a Berger's Delicatessen,)
 5206 Ventnor Avenue,)
 Ventnor City, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Distri-)
 bution License D-4, issued by the)
 Common Council of the City of)
 Ventnor City.)
 - - - - -)

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

Ralph Berger, Pro Se.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling
 liquor at his licensed premises on May 8, 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).

Subsequent to the institution of these proceedings, the
 above mentioned license has expired and has been renewed by the
 issuance of Plenary Retail Distribution License D-4 for 1939-
 1940.

Accordingly, it is, on this 7th day of July, 1939,

ORDERED, that Plenary Retail Distribution License D-4
 for 1939-1940, heretofore issued by the Common Council of the
 City of Ventnor City, 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 suspen-
 sion is reserved for future determination.

D. FREDERICK BURNETT,
 Commissioner.

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

In the Matter of Disciplinary
Proceedings against

HERMAN TUBLITZ and
NATHAN TUBLITZ,
T/a Tublitz Brothers,
75 South Orange Avenue,
South Orange, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Distri-
bution License D-5, issued by the
Board of Trustees of the Village
of South Orange

Ellamarye H. Failor, Attorney for the Department of
Alcoholic Beverage Control.
Herman Tublitz and Nathan Tublitz, by Herman Tublitz.

BY THE COMMISSIONER:

These licensees have pleaded guilty to a charge of sell-
ing liquor at their licensed premises on May 19, 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).

Subsequent to the institution of these proceedings, the
above mentioned license has expired and has been renewed by the
issuance of Plenary Retail Distribution License D-5 for 1939-1940.

Accordingly, it is, on this 7th day of July, 1939,

ORDERED, that Plenary Retail Distribution License D-5
for 1939-1940, heretofore issued to Herman Tublitz and Nathan
Tublitz, T/a Tublitz Brothers, by the Board of Trustees of the
Village of South Orange, 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.

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

In the Matter of Disciplinary)
 Proceedings against)

LOUIS SILVER,)
 T/a Silver's Delicatessen,)
 6430 Ventnor Avenue,)
 Ventnor City, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Distri-)
 bution License D-9, issued by)
 the Common Council of the City)
 of Ventnor City.)
 - - - - -)

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

Louis Silver, Pro Se.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of sell-
 ing liquor at his licensed premises on May 10, 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).

Subsequent to the institution of these proceedings,
 the above mentioned license has expired and has been renewed by
 the issuance of Plenary Retail Distribution License D-9 for
 1939-1940.

Accordingly, it is, on this 7th day of July, 1939,

ORDERED, that Plenary Retail Distribution License
 D-9, heretofore issued to Louis Silver, t/a Silver's Delicatessen,
 by the Common Council of the City of Ventnor City, be and the
 same is hereby suspended for a period of five (5) days. Pursu-
 ant to notice of December 17, 1938, Bulletin 289, Item 1, the
 effective date of such suspension is reserved for future deter-
 mination.

D. FREDERICK BURNETT,
 Commissioner.

10. SPECIAL PERMITS - WHY ISSUED AND WHY CANCELLED - HEREIN OF
CAMP NORDLAND AND ISMS.

Dear Mr. Burnett:

I have read that you have issued a special temporary permit to the German (American) Bund Camp Nordland, in Newton, N.J. to sell liquor.

We 100 percent Americans are continually fighting any and all foreign Isms, and you by issuing the above permit encourage them.

The majority of the members of the Bund are aliens, and they have favors shown them instead of discouraging them.

Such acts as the above mentioned make it more difficult for we veterans in our fight against Isms.

I, as a veteran of the Spanish American War and the World War, send this letter as a protest to the above mentioned permit.

Very truly yours,

J. A. LAWRENCE
Past Commander of The American
Legion Post, Red Bank, N.J.

July 8, 1939.

Hon. J. A. Lawrence,
Past Commander, American Legion Post
of Red Bank,
Colt's Neck,
New Jersey.

My dear Commander:

I note your protest but respectfully dissent from your conclusions.

The reason this permit was issued was because Klapprott, an American citizen, had applied for renewal of his license but the Township Committee, in view of objections filed and hearings then and now in process, had neither granted nor denied it. If it should later eventuate that he was entitled to a license, there is no way in which days lost could ever be given back. He swore that he had conducted his business for two years in a lawful manner and never committed a violation of the law, or the rules and regulations and that he had invested large sums of money to establish the good will of his business. If you were in his place, wouldn't you deem it an outrage if your business were to be suddenly brought to a halt because somebody said something about you which you had no chance to defend? The practice of convicting a man before he is tried |x

is a dangerous business in a democracy.

Of course, I issued the permit.

Later, on July 6th, on complaint that the law which forbade the wearing of uniforms similar to those of the Nazis or of imitating Hitler's salutes, had been violated at Camp Nordland on July 4th, I conducted an all day hearing at which both sides were fully heard.

It thereby became clear that the law had been violated, both as to uniforms and as to salutes. True, the law did not declare whether the forbidden acts were a misdemeanor, or what, but it was an expression of the will of the sovereign State of New Jersey, and that was enough.

Of course, I cancelled the permit.

xx Please do not think for a moment that I encourage swastikas or goose-stepping. We must not, however, do here the very thing we condemn abroad. Savagery feeds on reprisals. Like begets like. The golden rule will never prevail except by force of example.

"Isms" are not squelched by hitting below the belt or making martyrs. We, who glory in our priceless heritage of due process of law -- or fair play which is but another name for it -- should be the first to practice what we preach.

I don't like, any more than you, to see a swastika stuck under the nose of George Washington. The swastika is not a substitute for the Stars and Stripes -- there isn't room for both.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

11. ADVERTISING - MISLEADING COMPARISONS SEEKING TO PROMOTE ONE PRODUCT AT THE EXPENSE OF ANOTHER - DISAPPROVED.

July 6, 1939

M. E. Blatt Co.,
Atlantic City, N. J.

Gentlemen:

There has come to my attention your advertisement in the June 16th issue of the Atlantic City Evening Union, in which, among other things, you offer for sale:

"Bottled in Bond!
STRAIGHT KENTUCKY
BOURBON
full
\$1.98 fifth

Made by the well known
Bardstown Distillery.
This Whisky is the same
type as Old Grand Dad that
sells for \$2.90 a Fifth."

While the statement in the last sentence may possibly be true, it is, nevertheless, objectionable. It leads the average reader to believe that the advertised product is of same kind and quality as that of the more expensive product named therein. It is, therefore, misleading.

It would appear that the reference to Old Grand Dad is nothing more or less than an obvious attempt to promote the sale of the offered product at the expense and to the detriment of a product which is nationally advertised and known. Else why the reference to Old Grand Dad and its selling price? Why not some cheaper liquor which is not so well known? The ostensible purpose is to cash in on the fame of another product, and that is decidedly unfair.

In future advertisements, you will refrain from mentioning the name of any product in comparison with that advertised.

I desire such assurance by return mail.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

12. TRANSPORTATION - FOR OTHER PERSONS FOR HIRE - NOT PERMISSIBLE
EXCEPT PURSUANT TO A TRANSPORTATION LICENSE.

July 6, 1939

Mr. Charles F. Spanarkel,
Jersey City, N. J.

Dear Sir:

You ask if it is permissible "for an ice and coal dealer to transport beer in or out of the City on ice trucks for someone else."

No one may, in this State, transport beer or any other liquor for hire for another unless he holds a transportation license from this Department (which costs Two Hundred Dollars).

For the "ice and coal dealer", or anyone else, to so transport without that license is a misdemeanor, and is also cause for seizure and forfeiture both of the liquor and the truck. R.S.33:1-2, 50, 68.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

13. LICENSE FEES - FEE RAISED AFTER APPLICATION FILED - SPECIAL CONDITION REQUIRING SUBSEQUENT PAYMENT APPROVED.

July 8, 1939

August J. Stahl,
Borough Clerk,
Kenilworth, N. J.

My dear Mr. Stahl:

I have before me yours of June 29th and resolution adopted by the Council on the same date, reading:

" * * * * *

"WHEREAS, by the terms of the ordinance adopted on June 27, 1939, the fee of plenary retail consumption license was increased from \$365.00 to \$500.00 per year, the fee for plenary retail distribution license was increased from \$200.00 to \$250.00 per year, the fee for a seasonal retail consumption license was increased from \$273.75 to \$375.00 per year, and

"WHEREAS, certain licensees find it impossible to raise the amount of the increased fees before July 1, 1939.

"THEREFORE, BE IT RESOLVED by the Common Council of the Borough of Kenilworth that the Borough Clerk be and he is hereby authorized, empowered and directed to issue renewal licenses to all persons who have deposited the fee as prescribed by the ordinance in effect before June 27th, 1939, upon condition that the excess be paid on or before September 1, 1939.

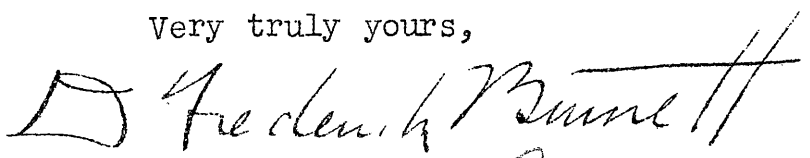
"BE IT ALSO RESOLVED that the further condition upon which the Borough Clerk is authorized, empowered and directed to issue said licenses for the Borough of Kenilworth, is further subject to the approval of the Commissioner of the Alcoholic Beverage Control Commission of the State of New Jersey."

In pursuance of the special ruling made in Re McDermott, Bulletin 194, Item 7, I am approving the condition as submitted.

Failure to pay the balance of the fee on or before September 1st next will be cause for the revocation of the license.

Kindly give me report at earliest moment of those who have already paid in full, and of those who subsequently complete their payments as each is made.

Very truly yours,


Commissioner.

New Jersey State Library