

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

BULLETIN 354

OCTOBER 24, 1939.

1. LICENSEES - EMPLOYEES - BOROUGH CLERK MAY NOT BE EMPLOYED
AS PART-TIME BARTENDER.

Dear Commissioner Burnett:

Will you kindly advise me whether there is any objection to the appointment of one employed part time as a bartender, as a Borough Clerk.

The Clerk of a Borough is appointed by the Mayor, with the advice and consent of a majority of the Council.

Very truly yours,
Frank Pascarella

October 16, 1939

Frank Pascarella, Esq.,
New York City.

My dear Mr. Pascarella:

Members of municipal governing bodies or license issuing authorities, who hold licenses or are employed by licensees, may not participate in any matters concerning alcoholic beverages coming before their Boards. The rulings are collected and the reasons restated in Re Kerner, Bulletin 298, Item 9.

It is true that a municipal clerk is not a member of the governing body or license issuing authority. His duties, nevertheless, are intrinsically bound up with the administration of the Alcoholic Beverage Laws. As I said in Re Quinn, Bulletin 309, Item 10, ruling that Solicitors' Permits were not issuable to municipal clerks:

"It is the Clerk with whom applications for licenses and transfers are filed, who makes prorations, collects the fees, and generally guides the applications through the devious procedures, and who handles charges, serves notices, and in a ministerial way participates generally in disciplinary proceedings. While his duties are ministerial, nevertheless, many of them involve the exercise of considerable discretion. Furthermore, it is the Clerk who often serves as intermediary between this Department and the retailers within his municipality. He is called upon, at times, to serve notices on municipal licensees. It is also his duty to apprise licensees, upon request, as to municipal regulations governing their conduct."

The reason for the rule applies to employment by a retailer, as well as to employment by a wholesaler. The clerk cannot step aside, as does the member of the municipal governing body, when alcoholic beverage matters come up. There is only one clerk, and he must be qualified to discharge his duties on any occasion and at any time.

It is therefore ruled that licensees and employees of licensees may not hold office as municipal clerk.

New Jersey State Library

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

2. RULES AND REGULATIONS - REVISION.

October 17, 1939

The Rules and Regulations have been revised and are hereby promulgated, effective immediately, as set forth in pamphlet dated "September 1939."

All previous Rules and Regulations, in so far as they are inconsistent with those contained in the pamphlet aforesaid, are superseded.

A copy of the new pamphlet will be sent to all licensees and Municipal Clerks shortly. All other persons may obtain it by written request to the Department.

D. FREDERICK BURNETT,
Commissioner.

3. COURT DECISIONS - NEW JERSEY COURT OF ERRORS AND APPEALS - JOHN GAINÉ v. D. FREDERICK BURNETT, COMMISSIONER.

NEW JERSEY COURT OF ERRORS AND APPEALS
No. 27 May Term 1939

John Gainé,)
Prosecutor-Appellant,)
-vs-)
D. Frederick Burnett, Commis-)
sioner of Alcoholic Beverage)
Control of the State of New)
Jersey,)
Defendant-Respondent)

Submitted May Term 1939. Decided Oct. 16, 1939.

On appeal from a judgment of the Supreme Court whose opinion is reported in 122 N. J. L. 39.

For prosecutor-appellant, John J. Quinn; Quinn & Doremus, William F. Hanlon.

For defendant-respondent, Nathan L. Jacobs.

PER CURIAM:

We consider that it was within the authority of the State Commissioner of Alcoholic Beverage Control to impose the regulation under review and to suspend the license of a violating

licensee. Having in mind that this is the extent of the holding we affirm for the reasons stated by Mr. Justice Bodine in the Supreme Court.

COMMENT BY COMMISSIONER

Affirmance of the Fair Trade principle marks a milestone in liquor control. It stabilizes the industry, bolsters morale and respect and makes a tangible of earned good will. As regards the consumer: I have long since concluded that bargains in liquor are not in the public interest.

D. FREDERICK BURNETT,
Commissioner.

4. SEIZURES - CONFISCATION PROCEEDINGS - LIQUOR FORFEITED,
CAR RESTORED.

In the Matter of the Seizure)	Case No. 5174
on December 20, 1938, of a)	
Dodge Sedan and approximately)	
10 gallons of alcoholic beverages)	ON HEARING
contained therein at the inter-)	CONCLUSIONS AND ORDER
section of Bramhall Avenue and)	
Grant Street, in the City of)	
Jersey City, County of Hudson and)	
State of New Jersey.)	

Lester Sandles, Esq., Attorney for Moe Melkin and Isadore Gabloff.
Harry Castelbaum, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

On December 20, 1938, Sergeant Steinle and Detective Elkins of the Jersey City Police seized a Dodge sedan described in Schedule "A" annexed hereto, in which were being transported ten gallons of alcoholic beverages, in various sized containers. The seizure was adopted by this Department.

Moe Melkin was the owner of the alcoholic beverages and was riding in the seized car. He has been engaged in the cooperage business for more than twenty-five years, and conducted that business in Jersey City for the past four years. He frankly admitted that, during all the time he has been in business, he has been in the habit of draining supposedly empty barrels which he purchased in the conduct of his cooperage business and obtaining small quantities of whiskey from each barrel. He testified that he used the whiskey thus obtained for his own consumption and that he never sold any whiskey. I am satisfied that the whiskey found in the car, which had been trailed by the police from the cooperage plant, was thus obtained by Moe Melkin.

Regardless of the origin of the whiskey, the amount found in the sedan was in excess of the amount which may be transported for personal consumption in any vehicle from a point within this State, under the provisions of R. S. 33:1-2. Accordingly, the alcoholic beverages, together with the vehicle containing the same, are unlawful property and subject to forfeiture.

Under the provisions of R. S. 33:1-66(f), I have the power to recognize the validity of an interest in the seized property where

it appears to my satisfaction that a person having a valid interest in said property has acted in good faith and had no knowledge of the unlawful use to which the property was put or of such facts as would have led a person of ordinary prudence to discover such use.

The Dodge sedan was owned by Isadore Gabloff, who testified at the hearing herein but who, I am informed, has died since the date of the hearing. Mr. Gabloff was the father-in-law of Moe Melkin. He testified that he bought the car in 1936, making a down payment of \$125.00 and monthly payments of \$45.00 for the next eighteen months; that he was engaged in business as a tailor, knew that his son-in-law was in the cooperage business, but had no knowledge that he was obtaining any whiskey from empty barrels.

It appears that the sedan was kept in Moe Melkin's private garage and that Melkin had the privilege of using the car when he wished. It further appears that the owner used the car only on Saturdays and Sundays, at which time Melkin drove the car because the owner did not know how to drive. If this were an ordinary bootleg case, the evidence would be sufficient to show that the owner of the car had permitted the car to be used for unlawful purposes and relief would be denied to said owner. However, in the present case, it appears that the illegal activities conducted by Melkin were a mere side-line to the cooperage business and there is nothing to show that Gabloff, the owner of the car, knew or had reason to know that his son-in-law was engaged in such activities. I shall, therefore, return the Dodge sedan to the personal representative of Isadore Gabloff, deceased, upon payment of the costs incurred in connection with the seizure. The alcoholic beverages, as described in Schedule "A", will be forfeited.

Accordingly, it is, on this 17th day of October, 1939,

ORDERED, that the Dodge sedan be returned to the personal representative of Isadore Gabloff, deceased, upon presentation of proper proof by the person claiming the car that he is the duly authorized personal representative of Isadore Gabloff, deceased, and upon payment of the costs of the seizure; and it is further

ORDERED, that the alcoholic beverages be destroyed.

D. FREDERICK BURNETT,
Commissioner.

SCHEDULE "A"

Approximately 10 gallons of alcoholic beverages

- 1 - Dodge Sedan, Serial number 4148854,
Engine #D2-137273, New York
1938 Registration 5N31-82.

5. DISCIPLINARY PROCEEDINGS - FARMING OUT LICENSES AND PERMITTING MINORS TO MAKE SALES OF LIQUOR - UNJUSTIFIED DISMISSALS.

October 19, 1939

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

My dear Mr. Jamouneau:

I have before me staff report and transcript of proceedings of the June 13th and July 25th meetings of the Board of Commissioners, at which times disciplinary proceedings were conducted against

1. Celeste Auth
371 Nye Avenue
Rev. 1664
2. Irvin G. Hubschman
744 Chancellor Ave.
Rev. 1626

I note that Auth was charged with renting out her license to a so-called "manager", and Hubschman with permitting a minor employee to sell alcoholic beverages, but that both charges were dismissed.

In the Auth case, my men obtained the original agreement between Mrs. Auth and her "manager" from which it appeared that her only interest in the business was the receipt of \$200. a month, he to have full charge of the business, to pay all bills and retain all profits over and above the expenses of the business. True, the agreement recited that the profits he was to retain were his "salary". But, calling it that is no reason for blinding one's eyes to the facts. In a similar case, Re Business Men's Associates, Inc., Bulletin 348, item 6, I revoked a license in Newark stating:

"A licensee who deliberately farms out his license to others for financial gain . . . perpetrates a serious fraud upon the state which strikes at the very root of the liquor licensing system."

The dismissal in no wise validates any illegal arrangement. I am therefore directing that investigation be made forthwith with a view to institute appropriate proceedings myself if it appears that a non-licensee is in fact exercising rights and privileges which have been granted to another person.

In the Hubschman case both the licensee and his minor employee gave statements in which they admitted that the minor had accepted payment for a gallon of wine and had wrapped the jug for a customer. At the hearing both recanted and the licensee produced the customer, who testified that he had merely asked for a bag in which to put the jug he had picked up and that he had placed the money in payment on the soda fountain which cash the boy clerk picked up and gave to the licensee.

If that was not a sale, what was it? The customer got the wine and the boss got the money!

Regards to Pollyanna.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

6. DISCIPLINARY PROCEEDINGS - LEWD SHOWS - INADEQUATE PENALTIES -
REVOCATION URGED TO DRIVE DIRTY SHOWS OUT OF NEW JERSEY.

October 19, 1939

Arthur Lozier
Paramus Borough Clerk
Hackensack, R.D.1, N.J.

My dear Mr. Lozier:

I have before me staff report and resolution and order adopted by the Borough Council on October 11th in disciplinary proceedings against Gabriel Jouvin, charged with permitting a lewd dance on his licensed premises, and note that the license was suspended for ten days.

Please express to the members of the Council my appreciation for their conduct of these proceedings. They did fairly well in shutting the place down for ten days, but, if the report that comes to me is true, they might better have closed it down for good.

As I get it, there was a stag party at which a female entertainer danced in the nude except for a lace cape draped from her shoulders but otherwise completely exposed -- not even a "G" string! As if this were not enough, the "slow coach" that she performed so inflamed one of the spectators that he seized her and fondled her breasts and body without any objection.

Performances on licensed premises such as this give the whole industry a bad name. I am wholly sympathetic with the objective of the resolution of the New Jersey Licensed Beverage Association in convention assembled this very month, deploring complaisance in matters which rot moral fibre and seeking to eradicate vicious and lewd conduct from licensed establishments which gives the better element an undeserved black eye.

It can be done if your Council and every other licensing authority will join in imposing rigorous penalties whenever rotten shows are permitted.

That means that there be no mawkish sympathy for licensees who, when caught, profess ignorance of what happened. The point is that they are bound to know and they are obliged to control their own places twenty-four hours every day.

If a tavern keeper accepts the licensed privilege then he must shoulder full responsibility for whatever happens on licensed premises.

I urge that hereafter licenses be revoked outright whenever a dirty show is pulled off.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

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

October 19, 1939

Re: Case No. 297

Investigation by this Department of an alleged brawl on licensed premises disclosed that a bartender there employed had been convicted on a larceny charge. Hearing was accordingly held to determine whether the bartender, the respondent herein, is disqualified from being employed by a liquor licensee in this state by reason of conviction of a crime involving moral turpitude.

On November 17, 1936, respondent pleaded non vult to an indictment for larceny and receiving in the Essex County Court of Quarter Sessions, whereupon the Court ordered that the execution of the sentence be suspended and respondent placed upon probation for three years, to pay the sum of One Dollar weekly.

At the hearing, respondent admitted that while employed by a large manufacturing concern, over a period of a month he stole about a thousand electric light and automobile bulbs and sold them for a penny apiece, receiving ten dollars for them. Under pressure he finally admitted that he stole about four or five thousand over a period of three months, receiving about \$100.00 for them, and that when arrested he had at his home about two thousand. His evasiveness and reluctance to make a clean breast of the whole affair induce belief that the true version of the affair is as reported by the police, viz., that over a period of seven months he stole between 30,000 and 50,000 automobile bulbs valued at \$3,500.00, and that 4,100 bulbs were recovered in his home at the time of his arrest.

Larceny and receiving stolen goods are crimes which ordinarily involve moral turpitude. Re Case No. 242, Bulletin 292, Item 2; Re Case No. 184, Bulletin 209, Item 8. Respondent admitted the theft of at least some of the bulbs. His self-serving explanation that he did it because "things started to get tough home; my mother died and left debts; I had two sisters to support" carries no conviction in the light of his evasiveness and unwillingness to tell the truth.

It is recommended that respondent and the licensee by whom he is presently employed be advised that he is not eligible to be employed by a liquor licensee in the State of New Jersey.

Emerson A. Tschupp,
Attorney.

APPROVED:

D. FREDERICK BURNETT,
Commissioner.

8. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED BUT PADLOCK DENIED.

In the Matter of the Seizure)	Case 5415
on May 22, 1939, of a still at)	
581 Bergenline Avenue, in the)	ON HEARING
City of Union City, County of)	CONCLUSIONS AND ORDER
Hudson and State of New Jersey.)	

Margaret M. Buckey, Pro Se.
 Harry Castelbaum, Esq., for the State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Investigators of this Department discovered an unregistered alcohol still being operated by Lucy Khandonian in the third floor apartment of a dwelling located at 581 Bergenline Avenue, Union City. They seized the still equipment and a quantity of illicit alcohol (described in Schedule "A" annexed hereto) as unlawful property under the provisions of R. S. Title 33, Chapter 2.

At a hearing held to determine whether the seized property should be confiscated and the premises padlocked, Margaret M. Buckey, one of the owners of the realty, appeared and sought to avoid padlocking of the premises. Forfeiture of the seized articles was not contested.

Mrs. Buckey testified that she rented the apartment in the early part of 1938 to Lucy Khandonian, who had been recommended to her by another tenant; that thereafter she visited the apartment only once, namely, a week before the seizure, in connection with certain repairs which were to be made, and that she did not observe any suspicious activities to indicate that there was a still on the premises. The evidence further shows that Mrs. Buckey has resided for many years in Union City, and her demeanor and conduct at the hearing tend to support her claim that she was innocent of any wrongdoing. It further appears that after the seizure she evicted Lucy Khandonian from the premises. In view of the foregoing, good cause has been shown why a padlocking penalty should not be imposed.

No cause has been shown why confiscation of the seized articles should not result in the instant case.

Accordingly, it is determined that the seized property constitutes unlawful property, and it is Ordered that the same be and hereby is forfeited in accordance with the provisions of R. S. 33:2-5, and that it be retained for the use of hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,
 Commissioner.

Dated: October 19, 1939.

SCHEDULE "A"

- 1 - 25 gallon combination copper cooker and cooler
- 2 - 2 plate gas burners
- 4 - containers alcoholic beverages
- 1 - 25 lb. box raisins
- 1 - 25 gallon barrel raisin mash

9. DISCIPLINARY PROCEEDINGS - FAIR TRADE - CASE DISMISSED BECAUSE OF ERRORS BY PRICE LISTER.

In the Matter of Disciplinary Proceedings against)

CASTLE WINES & LIQUORS, INC.,)
410 Washington Street,)
Hoboken, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-4 (fiscal year 1938-1939) issued by Board of Commissioners of the City of Hoboken.)
-----)

Samuel Moskowitz, Esq., Attorney for Licensee.
Richard E. Silberman, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Charge was served upon the licensee alleging that on March 27, 1939, it sold one gallon of Mission Bell Red Dry Wine below the minimum retail price, contrary to State Regulations No. 30.

On March 27, 1939, Investigators Flynn and King purchased one gallon of Mission Bell Red Dry Wine at the licensed premises for \$1.25; the Fair Trade price was then \$1.39 per gallon.

In Bulletin 275, issued October 26, 1938, prices were listed by K. Arakelian, Inc. as follows:

"MISSION BELL WINES	

Dry Types (Red)	Gallons \$1.25
	*** **
Dry Types (White)	Gallons 1.39
	*** **

But in Bulletin 297, issued February 1, 1939, and in force at the time of the "buy", prices of red and white wine were reversed, and listed by K. Arakelian, Inc. as follows:

"MISSION BELL	

White Dry Wines	Gallons (Jugs) \$1.25
	*** **
Red Dry Wines	Gallons (Jugs) 1.39
	*** **

From correspondence on file with this Department, it appears that this reversal in prices was due solely to an error of a clerk of K. Arakelian, Inc., which error was called to the attention of the Department immediately after Bulletin 297 was issued. It was then too late, however, to correct the clerk's error without subjecting the firm to the heavy expense of printing and mailing corrected prices to every retailer in New Jersey.

The clerk's error, however, was corrected in Bulletin 306 (issued on March 29, 1939, two days after the alleged violation occurred), by restoring the prices of these items as originally fixed in Bulletin 275.

The secretary of the licensee testified that he received and examined Bulletin 297; that he saw the same prices - \$1.25 and \$1.39 - and "didn't notice the red or the white"; that there had been no changes, during the period in question, in the wholesale prices of the items; and that the price tag on the bottles in the window of the licensee's store displayed the price at which the item was sold to the investigators.

It is apparent from testimony given by a representative of K. Arakelian, Inc. and a representative of the New Jersey wholesaler which handles its products that there was a great deal of confusion caused in the retail trade by reason of the clerk's error.

It would be unfair to penalize the licensee because of the error made by the representative of K. Arakelian, Inc. I am satisfied that the licensee was misled and had no intention of "chiseling" on prices.

The proceedings are dismissed.

D. FREDERICK BURNETT,
Commissioner.

Dated: October 19, 1939.

10. DISCIPLINARY PROCEEDINGS - SALE BY CLUB ON SUNDAY MORNING DURING PROHIBITED HOURS - HEREIN A DESERVED WARNING THAT UNLESS CLUBS OBEY THE LAW, CLUB LICENSES MAY NOT BE ISSUED IN THE FUTURE.

October 20, 1939

Patrick F. Keelan, Clerk,
Municipal Board of Alcoholic Beverage Control,
Elizabeth, N. J.

My dear Mr. Keelan:

I have before me staff report and minutes of the October 10th meeting of the Municipal Board, at which time, among other things, it conducted disciplinary proceedings against Eintracht Singing Society, 630 - First Ave., charged with sale of alcoholic beverages on Sunday morning during prohibited hours, and note that its license was suspended for five days.

Please express to the members of the Board my appreciation for their conduct of these proceedings and the penalty imposed. Chairman McBride was exactly right in reprimanding the licensee and pointing out that at the time when club licenses were first issued there had been a serious question as to the desirability of such licenses; that unless clubs cooperated wholeheartedly in observing the municipal regulations it was entirely possible that club licenses would not be issued in the future.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

11. FAIR TRADE - NOTICE OF NEXT PUBLICATION.

October 20, 1939

The next official publication of minimum resale prices, pursuant to the fair trade rules (Regulations No. 30), will be made on or about Friday, November 10, 1939. New items and changes in old items must be filed at the offices of this Department not later than Monday, October 30, 1939.

Notification of the proportionate share of the aggregate expense involved will be made to participating companies as soon as the pamphlet price list is mailed to retail licensees.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

12. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED.

In the Matter of the Seizure on) Seizure No. 5536
August 7, 1939, of a still, in a)
tract of woodland in the rear of) ON HEARING
premises occupied by Charles B.) CONCLUSIONS AND ORDER
Hand, located in Elk Township,)
County of Gloucester and State of)
New Jersey.)
-----)

Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

On August 7, 1939, investigators seized an unregistered still and equipment described in Schedule "A" annexed hereto in a section of woodland in the rear of premises occupied by Charles B. Hand, in Elk Township, County of Gloucester. Thereafter, Leonard Bean was arrested and charged with operating the still.

At a hearing to determine whether the seized articles should be confiscated, no one appeared to contest the seizure.

Accordingly, it is determined that the seized property set forth in Schedule "A" annexed hereto constitutes unlawful property, and it is ordered that the same be and hereby is forfeited in accordance with the provisions of R. S. 33:2-5 and that it be retained for the use of hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,
Commissioner.

Dated: October 21, 1939.

SCHEDULE "A"

- | | |
|---|-------------------------------------|
| 3 - copper preheaters | 3 - empty steel drums |
| 2 - steel cookers | 1 - 30 gallon drum of molasses |
| 2 - sets of copper coils | Approximately 50 gallons of alcohol |
| 2 - Gould Hand Force Pumps | 48 - empty 5 gallon cans |
| 1 - Red Jacket Pitcher Pump | 2 - 5 gallon cans of molasses |
| 2 - goosenecks | 1 - sleeping cot |
| 7 - wooden tanks | 1 - canvas tent |
| 2 - 250 gallon hogsheads with mash | |
| 2 - tons of coke | |
| Small quantities of corn, charcoal, urea, yeast and miscellaneous pipes, hose and fittings. | |

13. DISCRIMINATORY PRICES AND DISCOUNTS - NOTICE OF PROPOSED REGULATIONS 32.

October 21, 1939.

A public hearing to consider proposed Regulations 32 will be held on Wednesday, November 1, 1939, at 2:30 P.M., at the Department offices.

Members of the liquor industry and the public generally are cordially invited to attend and be heard.

The proposed rules are submitted in the hope that, if adopted, they will break up discriminatory prices and discounts which it was the design of P.L. 1939, Chap. 87 to abrogate.

Criticisms and counter-suggestions will be welcomed.

REGULATIONS NO. 32

Rules Governing Wholesale Prices and Maximum Discounts, Rebates, Free Goods, Allowances and other Inducements to Retailers.

1. Manufacturers and wholesalers engaged in the sale to retailers of alcoholic beverages other than malt beverages shall file at the offices of the Department of Alcoholic Beverage Control (a) a complete price list, duly authenticated, of all such alcoholic beverages which shall contain, with respect to each item, the exact brand or trade name, size of package, nature of contents, age and proof where stated on label, and the wholesale bottle and standard case prices, which prices shall be individual for each item and not in combination with any other item; (b) a statement of discounts, duly authenticated, allowed for quantity purchases within the permissible limits set forth in Rule 5 hereof; and (c) an affidavit establishing that true copies of the price list and discount statement have been served personally or by mail upon all of its retail customers.

2. Such price lists and discount statements shall be and remain in force and be maintained until a statement of changes is filed and becomes effective in accordance herewith. Changes in price list or discount statement may be made by filing at the offices of the Department of Alcoholic Beverage Control, a statement thereof, which shall take effect on a date specified therein, which shall not be less than fifteen (15) days from the date of filing thereof, together with an affidavit establishing that a true copy of the statement of changes has been served personally or by mail upon all of its retail customers.

3. Notice of the filing of such price lists and discount statements, or changes therein, shall be open to public inspection and shall be published in the official bulletins issued by the Department of Alcoholic Beverage Control and all licensees shall be chargeable with notice of the contents of such price lists and discount statements or changes therein.

4. No manufacturer or wholesaler engaged in the sale to retailers of any alcoholic beverages other than malt beverages shall sell any such alcoholic beverages except at the wholesale price, less permissible discount, then in force; all other discounts, rebates, allowances and inducements, including "free goods", "deals", "combination sales", and similar transactions, are prohibited.

5. Manufacturers and wholesalers engaged in the sale to retailers of any alcoholic beverages other than malt beverages may grant discounts to retailers for quantity purchases as follows and not otherwise, provided, however, the full purchase price is paid within thirty (30) days of the date of delivery:

- (a) Single purchase aggregating \$50.00 to \$250.00 - 2% discount;
- (b) Single purchase aggregating \$250.00 to \$500.00 - 3% discount;
- (c) Single purchase aggregating \$500.00 or over - 5% discount.

6. No manufacturer or wholesaler engaged in the sale to retailers of alcoholic beverages other than malt beverages shall, directly or indirectly, make any gifts of money or other things of value to any retailer, provided, however, that such manufacturer or wholesaler may, as heretofore, furnish advertising matter and accessories to retailers within the limitations and restrictions embodied in Regulations No. 21.

7. Whenever any manufacturer or wholesaler has filed a price list or discount statement and thereafter sells any of the alcoholic beverages described therein to a new retail customer, it shall furnish such customer with copies of the price list and discount statement then in force and shall, upon demand by the Department of Alcoholic Beverage Control, file proof of such service at the offices of the Department.

8. No retailer shall, directly or indirectly, take, receive, or accept any price, discount, rebate, free goods, allowance, or other inducement, or participate in any transaction, contrary to any of the preceding rules.

9. Violation of any of the foregoing rules by any manufacturer, wholesaler or retailer, directly or indirectly, shall constitute ground for revocation or suspension of license.

D. FREDERICK BURNETT,
Commissioner.

14. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED.

In the Matter of Seizure of)	Case 5525
still parts, on premises)	
occupied by George Dotts on)	ON HEARING
Cologne Road, Cologne, Town-)	CONCLUSIONS AND ORDER
ship of Galloway, County of)	
Atlantic and State of New)	
Jersey.)	

Harry Castelbaum, Esq., Attorney for the Department of
 Alcoholic Beverage Control.

No other appearances.

BY THE COMMISSIONER:

On July 31, 1939 Inspector Lippman and Investigator Wagner, accompanied by Constable Cocarro of Atlantic County, visited a twenty acre farm on Cologne Road in Galloway Township. There, on searching the premises with the consent and assistance of George Dotts, the tenant, they found various unregistered still parts in a small outbuilding, viz., a copper cooker, a set of copper coils and a galvanized cooling tank.

The officers seized these articles and arrested Dotts, who is being held over for the Grand Jury on charge of possessing the unregistered still parts in violation of R. S. 33:2-10.

No one appeared at the hearing before this Department.

As to the still parts: They, not being registered with the Department, are unlawful property. R. S. 33:2-2. No reason appears why they should not be forfeited. R. S. 33:2-5.

As to padlock: The owner of the premises, the Egg Harbor Building and Loan Association of Egg Harbor, N. J., although not appearing at the hearing, has submitted an affidavit stating that it acquired title on or about March 31, 1939, at which time Dotts was already a tenant through lease with the former owner; that none of the officers or directors of the Building and Loan knew of any unlawful activity by Dotts at the premises; that Dotts works for the "W.P.A.", has a large family to support and would, because of the scarcity of available homes "in the vicinity of Egg Harbor City", be under hardship if forced to vacate.

It is ORDERED that the property seized in this case, and more specifically detailed in Schedule "A" annexed hereto, be and the same is hereby forfeited, in accordance with the provisions of R. S. 33:2-5, and that it be retained for the use of hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner; and it is further

ORDERED, that the proceeding as to padlock of the premises in this case be and the same is hereby dismissed.

Dated: October 21, 1939. D. FREDERICK BURNETT,
Commissioner.

SCHEDULE "A"

- 1 - copper cooker
- 1 - set copper coils
- 1 - galvanized cooler

15. ADVERTISING - PACKAGING - BREWERS AND WHOLESALERS MAY FURNISH CARDBOARD CARRYING PACKAGES FOR BEER - WHOLESALERS AND RETAILERS MAY FILL SUCH PACKAGES.

Dear Sir:

Many brewers are becoming interested in the use of cardboard carrying packages, such as are being used by various soft drink manufacturers, made to hold six twelve ounce bottles or cans. These packages are of an extremely low value per unit.

Will you kindly advise us of the answers to the following questions concerning their use in your state:

1. May a brewer furnish to wholesale licensees, free of charge, special cardboard carrying packages to hold six 12 ounce cans or bottles of beer, which cardboard packages are printed with the advertisement and brand name of the brewer?
2. May a wholesaler fill such packages with tax-paid canned or bottled beer?
3. If a retailer purchases from a wholesaler in cases of 24-12 oz. bottles or cans, may he repack the beer in this carrying package, the package being furnished free of charge by the brewer or wholesaler?

Yours very truly,
C. D. Williams,
Secretary.

October 21, 1939

United States Brewers' Association,
New York, N. Y.

Gentlemen:

It is permissible, so far as the New Jersey Alcoholic Beverage Law and Regulations are concerned, for brewers and wholesalers to furnish such cartons to retailers provided the advertising matter is acceptable and further provided it does not cause the aggregate cost or reasonable value of all advertising matter furnished each retailer by the manufacturer or wholesaler to exceed the allowable \$50.00 per year. Regulations No. 21, Rule 1(a). There is no such limit on the advertising matter a brewer may furnish to a wholesaler.

It is also permissible, under the New Jersey Law, for the wholesaler or the retailer to fill such packages with canned or bottled beer.

As regards the advertising matter, I can give you no blanket approval. Whether it will be acceptable or not depends on what it says. I suggest that before the breweries proceed with any printing, they first submit the copy and layout and have them expressly approved. A great many special rulings have been made concerning advertising. It is the only safe course to follow.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

16. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - INADEQUATE PENALTY.

October 19, 1939

William B. Ross,
Town Clerk,
Kearny, N. J.

My dear Mr. Ross:

I have before me staff report and your letter of October 11th re disciplinary proceedings conducted by the Town Council against Frank Conn, 202 Kearny Avenue, charged with and found guilty of possession of a bottle of under-proof whiskey, and note that his license was suspended for ten days.

Please express to the Mayor and Council my appreciation for their conduct of these proceedings.

The penalty imposed, however, is not in accord with the recommended minimum thirty-day suspension for the possession of illicit alcoholic beverages. The reasons warranting the thirty-day suspension are set forth at length in Re Jacobs, Bulletin 315, Item 8, and Re Tumen, Bulletin 316, Item 8.

I have sent you, under separate cover, nine copies of each. Please distribute them to the Mayor and the eight Councilmen and request that they read them with care so that they will understand the imperative necessity of the recommended minimum thirty-day suspension.

I shall expect just that in future cases of possession of illicit alcoholic beverages.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

17. DISCIPLINARY PROCEEDINGS - ELECTION DAY RULE - A JOB WELL DONE.

October 19, 1939

J. Cory Johnson,
Town Clerk,
Bloomfield, N. J.

My dear Mr. Johnson:

I have before me staff report and your letter of October 13th re disciplinary proceedings conducted by the Town Council against Patty Principe, 69 Park Avenue, charged with sale of alcoholic beverages on Primary Election Day just past, and note that his license was suspended for ten days.

Please express to the Mayor and Council my appreciation for their conduct of these proceedings and the penalty imposed.

Bloomfield is again the first municipality to report a suspension for an Election Day violation.

Good work!

Very truly yours,

New Jersey State Library

Commissioner.