





BY THE COMMISSIONER:

Notice was served upon the licensee alleging that, on October 7, 1938 and November 23, 1938, he possessed chilled brewed malt alcoholic beverages on his licensed premises, contrary to Rule 21 of State Regulations No. 20, and that, on November 23, 1938, he allowed, permitted and suffered on his licensed premises a device or apparatus designed for gambling purposes, contrary to Rule 7 of State Regulations No. 20.

Investigators Hendrickson and Hull, of this Department, testified that, on October 7, 1938, they found twenty-two quart containers of various brands of beer in an ice-box located in licensee's store and that, on November 23, 1938, they found nineteen twelve-ounce containers of beer in an ice-box located in a store-room in the rear of appellant's store.

At the time of the first violation, the licensee's wife was in charge of the licensed premises and was warned that the possession of chilled beer was a violation of the State Regulations. At the time of the second visit, the licensee himself was present in his store.

There is some slight question as to whether the store-room is part of the licensed premises. In his application for his license, Mr. Cohen describes his premises as being located at 435 Hudson Avenue, West New York, and described in detail the floors, rooms and grounds where alcoholic beverages are to be sold, served or stored, as follows:

"Only stock in store premises cellar."

Where the licensee describes his licensed premises as being located at a certain address he may, of course, limit the portion of said premises which are to be licensed but where, as here, he fails to clearly limit the extent of the premises, the situation must be governed by the street address in proceedings against the licensee. In any event, licensee herein admitted that he considered the storeroom as part of his licensed premises and, in fact, had stored beer therein.

Licensee contends that the beer was not intended for sale but was to be used in his own home.

While there was no evidence of sale, licensee admitted in his statement given to the Investigators that he has been selling chilled beer "off and on for over two years."

The licensee is guilty of possessing chilled brewed malt alcoholic beverages on his licensed premises on October 7 and November 23.

Licensee admits that, on November 23, 1938, he possessed on his licensed premises a wooden box with eight compartments, on which was mounted a wooden arrow which could be spun. He explained that each compartment contained candy, the value of which varied from one cent to five cents, and that on the payment of one cent the player would obtain the candy located in the compartment at which the arrow stopped. The box is a device or apparatus designed for gambling purposes within the meaning of Rule 7 of State Regulations No. 20, despite the fact that every player obtains something of value. Re Hutchins, Bulletin 56, Item 11.

The licensee is guilty of a violation of said Rule 7 of State Regulations No. 20.

The license will be suspended for twenty-five days.

Accordingly, it is on this 22nd day of January, 1939

ORDERED that Limited Retail Distribution License No. DL-5, heretofore issued to George Cohen by the Board of Commissioners of the Town of West New York, be and the same is hereby suspended for a period of twenty-five (25) days, commencing on January 26, 1939 at 3:00 A. M.

D. FREDERICK BURNETT  
Commissioner

4. DISCIPLINARY PROCEEDINGS - LIMITED DISTRIBUTION LICENSEES - POSSESSION OF CHILLED BEER.

In the Matter of Disciplinary Proceedings against  
ALEX ALTER,  
592 Bergenline Avenue,  
West New York, New Jersey,  
Holder of Limited Retail Distribution License No. DL-3, issued by the Board of Commissioners of the Town of West New York.

CONCLUSIONS  
AND  
ORDER

.....

Alex Alter, Pro se.

Charles Basile, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Notice was served upon the licensee alleging that, on December 7, 1938 and December 15, 1938, he possessed chilled brewed malt alcoholic beverages on his licensed premises, contrary to Rule 21 of State Regulations No. 20.

Investigators Hendrickson and Hull, of this Department, testified that, on December 7, 1938, they found one hundred one twelve-ounce containers of various brands of beer in an electric ice-box on the licensed premises; that, on December 15, 1938, they found nine twelve-ounce containers of beer in the same electric ice-box.

On the occasion of their first visit the licensee was not on the licensed premises, but the Investigators warned the licensee's wife, who was then in charge, that the possession of chilled beer was a violation of the State Regulations. The licensee himself was present on the licensed premises on December 15, 1938. He testified that the beer found in the refrigerator on December 7th was intended for a party, and that the beer found in the refrigerator on December 15th was intended for the use of his family.

The licensee is guilty as charged.

Our records show that, prior to the date of promulgation of Rule 21 of State Regulations No. 20, the licensee was

warned on three separate occasions to remove beer which had been found on ice.

While there was no evidence of a sale, the testimony discloses two violations of State Regulations and three warnings which apparently were ineffective.

I shall suspend the license for thirty days.

Accordingly, it is on this 22nd day of January, 1939

ORDERED that Limited Retail Distribution License No. DL-3, heretofore issued to Alex Alter by the Board of Commissioners of the Town of West New York, be and the same is hereby suspended for a period of thirty (30) days, commencing on January 26, 1939 at 3:00 A. M.

D. FREDERICK BURNETT  
Commissioner

5. ADVERTISING - ADVERTISING AGENCIES MAY NOT CARRY ALCOHOLIC BEVERAGES OR SOLICIT ORDERS FOR SAME WHILE DISTRIBUTING LITERATURE ADVERTISING ALCOHOLIC BEVERAGES TO CONSUMERS.

Dear Sir:

Our merchandising department works with advertisers who might want some cooperative service in addition to their advertising display, which in our case is Transportation Advertising.

These men have done such work in connection with Esslinger Beer and Valley Forge Beer in Pennsylvania, Griffin Floor Wax, Freihofer's Bakery.

Their job is to go out and aid these merchants in every way possible, such as distributing literature, asking merchants to give space to counter displays, and in some cases, going so far as to carry the actual packages and asking for orders after the merchant becomes interested.

We would like your opinion as to whether we can carry on such a service for a wine company which has in mind using some of our advertising and asking for the cooperation of this Department.

Very truly yours,

Barron G. Collier, Inc.

January 23, 1939.

Barron G. Collier, Inc.,  
Newark, N. J.

Gentlemen:

You may, within the limits of ruling in Re Advertising Distributors of America, Inc., Bulletin 173, Item 17, distribute advertising literature for your clients, provided, of course, the copy is proper and conforms in all respects with the Rules.

But you may not, under any circumstances, carry any alcoholic beverages or solicit orders for same. The former re-

quires a license. The latter requires solicitors' permits, and such permits are not issuable except to bona fide employees of duly licensed manufacturers or wholesalers.

Very truly yours,

D. FREDERICK BURNETT  
Commissioner

6. DISCIPLINARY PROCEEDINGS -- SALES OUT OF HOURS -- HEREIN OF A LITTLE DRINK ON CHRISTMAS EVE AFTER 3 A.M.

In the Matter of Disciplinary )  
Proceedings against )

ANTHONY GAGLIARDI )  
723 Frelinghuysen Ave., )  
Newark, New Jersey, )

Holder of Plenary Retail Con- )  
sumption License #C-313, )  
issued by the Municipal Board )  
of Alcoholic Beverage Control )  
of the City of Newark. )

CONCLUSIONS  
AND  
ORDER

.....

Richard E. Silberman, Esq., Attorney for the State Department of Alcoholic Beverage Control,

Defendant-Licensee, Pro se.

BY THE COMMISSIONER:

The defendant pleaded guilty to the charge of selling and serving liquor on his licensed premises after 3:00 a. m., on Saturday, December 24, 1938, in violation of Newark Ordinance #3930 which forbids such sale or service after that hour.

The facts, briefly, are as follows:

At 3:45 a.m. of the day in question, Investigators Arts and Thievon of this Department entered the defendant's premises, which are operated primarily as a restaurant. About 30 persons were on the premises. The investigators seated themselves at a table and, after being served food, asked the licensee for a bottle of wine, but were refused, the licensee stating that "the bar is closed." Later, at about 4:40 a.m., they saw a waitress serve a drink of liquor to two persons at a nearby table where a party of five were seated. They then identified themselves and caused the defendant's arrest by the Newark police. The defendant was subsequently convicted and fined \$25.00 in Police Court for violation of the ordinance.

The defendant explains the sale and service by stating that the party of five were friends who dropped in to say "Merry Christmas"; that one of them asked, "How about a little drink for New Year's and Christmas?"; that he (the licensee), knowing this man for many years, said "All right", which, obviously, did not make it so or in anywise excuse the service of liquor during prohibited hours.

His license will be suspended for five (5) days.

Accordingly, it is on this 22nd day of January, 1939, ORDERED that plenary retail consumption license C-313, heretofore issued to Anthony Gagliardi, by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of five (5) days, commencing on January 26, 1939 at 3:00 a.m.

D. FREDERICK BURNETT,  
Commissioner

7. STATUTORY AUTOMATIC SUSPENSION -- LIFTED AFTER 40 DAYS' SUSPENSION--  
HEREIN THAT COMPENSATION IS NOT A NECESSARY INGREDIENT OF EMPLOY-  
MENT AND OF THE SPECIAL DUTY OF TAVERN OWNERS TO KNOW THAT 17  
YEAR OLD GIRLS ARE NOT OF AGE.

In the Matter of Disciplinary )  
Proceedings against )  
 )  
 JULIUS HAINO, )  
 20 Hermon St., )  
 Newark, N. J. )

Holder of Plenary Retail Con- )  
sumption License No. C-658, )  
issued by the Municipal Board of )  
Alcoholic Beverage Control )  
of the City of Newark. )

CONCLUSIONS  
AND  
ORDER

----- )  
In the Matter of a Petition by )  
 JULIUS HAINO )  
to lift the Automatic Suspension )  
of Plenary Retail Consumption )  
License No. C-658, issued by the )  
Municipal Board of Alcoholic )  
Beverage Control of the City of )  
Newark. )

----- )  
Samuel B. Helfand, Esq., Attorney for the State Department of )  
Alcoholic Beverage Control. )  
Stone & Kleinberg, Esqs., by Benjamin Kleinberg, Esq., Attorneys )  
for the Licensee. )

BY THE COMMISSIONER:

The licensee is charged with selling and serving liquor to a minor, contrary to R. S. 33:1-77 (Control Act, Sec. 77) and Rule 1 of State Regulations #20; knowingly employing that minor, contrary to R. S. 33:1-26 (Control Act, Sec. 23); and employing a female to tend bar and to sell and serve liquor at his tavern, contrary to resolution of the Newark Municipal Board of Alcoholic Beverage Control, adopted August 29, 1934.

At 11:00 o'clock on Saturday night, December 10, 1938, Evelyn Tittel, a 17 year old girl, entered the licensee's tavern after having visited with his daughter upstairs (a 16 year old girl of whom she was a friend). Evelyn testified that she came into the tavern to say good-night to the licensee's wife; that, when she entered, a young fellow whom she had previously met there asked her to have a drink; that she sat down with him and his companion at a

table where all three were served a round of drinks by the licensee; that the licensee later took off his apron to play the accordion; that she voluntarily donned the apron and waited on table to help out; that she took various orders for liquor (including the table at which she was seated), went to the bar, and there obtained the ordered drinks from either the licensee or his wife. Investigators Arts and Thievon of this Department, when they entered the tavern at about 1:00 o'clock on Sunday morning, observed the girl waiting on various tables and at one time observed her consuming a drink at her own table. The girl testified that she had four drinks during her stay at the tavern.

Throughout the later hours of Saturday night and the early hours of Sunday morning the licensee's wife tended bar. The investigators themselves were there served liquor by her.

As to sale and service to a minor, there is no doubt. The licensee admittedly himself served a drink to Evelyn and her two companions, and his wife knowingly gave her drinks which were to be consumed by the three.

As to knowingly employing a minor, the licensee, although denying knowledge that Evelyn was but seventeen years old, admits that he believed she was twenty. The very fact that he did know that the girl was an intimate friend of his own daughter of the tender age of 16 years put an additional responsibility on the licensee to make sure as to what Evelyn's age really was. Nothing appears as to inquiries made or as to precautions taken or any facts elicited on which to base a judgment by the licensee.

He contends, however, that he committed no violation of the statute since the girl volunteered her services without any agreement for compensation. Salary or compensation, however, is not a requisite to "employment." 20 C.J. 1238; 39 C.J. 36. The Alcoholic Beverage Control Law, in prohibiting a licensee from knowingly employing a minor or other disqualified person on his licensed premises, seeks to prevent, not the payment of wages to disqualified persons, but rather their action in service on licensed premises. It is enough that the licensee accepted and utilized Evelyn's services as a waitress. As I said in Re Vlamincck, Bulletin 147, Item 4:

"The foregoing rulings apply irrespective of whether any salary or wage or compensation whatsoever is paid either Mrs. Vlamincck or the children. The operative words of the statute are: 'shall be knowingly employed by or connected in any business capacity whatsoever with the licensee.' To employ means to make use of the services of another; to have or keep at work; to entrust with some duty. The Statute does not say 'hire'. 'Employ' emphasizes the idea of services to be rendered, whereas 'hire' places the accent on wages to be paid. The Statute clinches the case by the alternative 'or connected in any business capacity whatsoever with the licensee'."

As to the last charge (viz., employment of a female to tend bar and serve liquor in the tavern), admittedly the licensee's wife tended bar and served drinks on the occasion in question. The fact that she was paid no salary for such employment is, as aforesaid, immaterial. The licensee contends, however, that the Newark regulation does not include a licensee's wife within its ban. To the contrary, the regulation includes all females without exception. Cf. Re DuPree, Bulletin 286, Item 14. In addition, Evelyn's waiting

on table constituted a violation of this local regulation insofar as she served liquor.

I find the licensee guilty as charged.

This licensee was convicted in criminal court on December 12, 1938 for selling liquor to Evelyn Tittel on the above occasion, and fined \$150.00. His license was automatically suspended on such conviction (R. S. 33:1-31.1; Control Act, Sec. \*82) and his tavern has been closed since December 13, 1938 (when his license was picked up), which is forty days to date. That period is hereby fixed as constituting the penalty in the present disciplinary proceedings.

That, however, is enough. The suspension is, therefore, lifted effective immediately.

D. FREDERICK BURNETT,  
Commissioner.

Dated: January 22, 1939.

8. DISCIPLINARY PROCEEDINGS - LIMITED DISTRIBUTION LICENSEES -  
POSSESSION OF CHILLED BEER.

January 23, 1939

Walter Beisch, Secretary,  
Municipal Board of Alcoholic Beverage Control,  
North Bergen, N. J.

My dear Mr. Beisch:

I have before me staff report and your letter of January 13th re disciplinary proceedings conducted by the Municipal Board on the same date against Harry Klatte, 999 Bergenline Avenue, the holder of a limited retail distribution license, charged with possession of chilled beer, and note that his license was suspended for ten days.

Please express to the members of the Board my appreciation for their prompt conduct of these proceedings and the appropriate penalty that was imposed. A few suspensions of this sort will stamp out the abuse of their license privileges by limited retail distribution licensees.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

9. TWO HUNDRED FEET RULE - PROCEEDINGS TO CANCEL LICENSE BECAUSE ISSUED FOR PREMISES WITHIN TWO HUNDRED FEET OF A SCHOOL.

In the Matter of Proceedings to )  
revoke or cancel Plenary Retail )  
Consumption License #C-6, issued )  
to )

CONCLUSIONS  
AND ORDER

JAMES JOSEPH HENRY, )  
42 North Center St., )  
Orange, N. J., )

by the Municipal Board of Alco- )  
holic Beverage Control of the )  
City of Orange. )

-----)

Richard E. Silberman, Esq., Attorney for the State Department of  
Alcoholic Beverage Control.

Larry Burns, Esq., Attorney for the Licensee.

BY THE COMMISSIONER:

It is charged (1) that the defendant's tavern is within 200 feet of a school contrary to R. S. 33:1-76 (Control Act, Sec. 76), and (2) that the defendant falsely denied this fact in his application for his current plenary retail consumption license.

The defendant pleaded guilty as to the first charge and not guilty as to the second.

It is stipulated that the defendant's tavern is within 200 feet of a public school for delinquent pupils known as the North Center Street School, in Orange. The distance between the tavern entrance and the school entrance is but 50 feet.

The fact that prior licenses were issued for these premises despite the proximity of the school, is immaterial. Such past licenses - which should never have been issued in the first instance - are no warrant for continued disregard of the statute. Nor is it material that the Orange Board of Education lodged no protest against either the current or past licenses. Premises subject to the statutory ban of R. S. 33:1-76 (Control Act, Sec. 76) by reason of being within 200 feet of a public school are mandatorily disqualified from a retail license unless the governing authority of the school expressly waives this restriction. Cf. Memorial Presbyterian Church v. Newark and Vicari and Scavone, Bulletin 191, Item 8; Haines v. Burlington and Zekis, Bulletin 223, Item 3.

Since the defendant has obtained no such waiver, it follows that the defendant's license is outstanding in violation of R. S. 33:1-76 (Control Act, Sec. 76).

However, the defendant, although admitting that he made false answer when stating in his application for his current license that his premises are not within 200 feet of any school, denies that he intentionally made such false answer, and requests opportunity to seek a transfer of his license to premises located elsewhere.

In support of his claim of innocence, the defendant testified that, in his application for license for the 1937-38 term, he admitted that his premises were within 200 feet of the North Center

Street School; that, however, it was his understanding from certain city officials that the school was but temporary; that, since his application "went through", he "surmised everything was all right" and therefore in his application for his current license, denied that he was within 200 feet of any school; that there was "no intentional thought of disobeying the law" in his mind.

I cannot agree with the defendant's contention of innocence. The school is but fifty feet from his tavern.

I find the defendant guilty of knowingly and falsely denying that his premises were within 200 feet of a school, thereby violating R. S. 33:1-25 (Control Act, Sec. 22), which forbids applicants for license from knowingly making misleading or false statements in their applications.

Accordingly, it is on this 25th day of January, 1939,

ORDERED that plenary retail consumption license #C-6, heretofore issued to James Joseph Henry by the Municipal Board of Alcoholic Beverage Control of the City of Orange, be and the same is hereby suspended for the balance of its term, effective immediately, with leave reserved to the licensee to file application with the Municipal Board of Alcoholic Beverage Control of the City of Orange to transfer the said license to satisfactory premises in the City of Orange, and if the application be granted, to apply to me for an order lifting the suspension herein imposed so that the license may be effectively transferred. In view of the adjudication of guilt on the second count, as aforesaid, no order will be made in any event to lift the suspension until at least 30 days shall have elapsed from the date of this order.

D. FREDERICK BURNETT,  
Commissioner.

10. TWO HUNDRED FEET RULE - PROCEEDINGS TO CANCEL LICENSE BECAUSE ISSUED FOR PREMISES WITHIN TWO HUNDRED FEET OF A SCHOOL.

In the Matter of Proceedings to )  
revoke or cancel Plenary Retail )  
Consumption License #C-53 issued )  
to )

THOMAS A. McCAULEY, )  
50 North Center St., )  
Orange, N. J., )

CONCLUSIONS  
AND ORDER

by the Municipal Board of Alco- )  
holic Beverage Control of the )  
City of Orange. )  
- - - - - )

Richard E. Silberman, Esq., Attorney for the State Department of )  
Alcoholic Beverage Control. )  
Larry Burns, Esq., Attorney for the Licensee. )

BY THE COMMISSIONER:

It is charged (1) that the defendant's tavern is within 200 feet of a school contrary to R. S. 33:1-76 (Control Act, Sec. 76), and (2) that the defendant falsely denied this fact in his application for his current plenary retail consumption license.

The defendant pleaded guilty as to the first charge and not guilty as to the second.

It is stipulated that defendant's tavern is within 200 feet of a public school for delinquent pupils known as the North Center Street School, in Orange, and that the distance between the nearest entrance to the tavern and the school entrance, measuring along the building lines (which are flush with the sidewalk), is 186 feet 9 inches.

The fact that prior licenses were issued for these premises despite the proximity of the school, is immaterial. Such past licenses - themselves issued erroneously - are no warrant for continued disregard of the statute. Re Henry, Bulletin 295, Item 9.

Since the defendant has obtained no waiver, it follows that the defendant's license is outstanding in violation of R. S. 33:1-76 (Control Act, Sec. 76).

Defendant admits that his answer was not true when he stated in his application for his current license that his premises are not within 200 feet of any school, but denies that he intentionally made such false answer.

In support of his protest of innocence, the defendant testified that, when making his application for license for the 1937-38 term, he believed that the nearest entrance to his premises was more than 200 feet from the entrance to the North Center Street School; that the Orange Board of Alcoholic Beverage Control, after causing measurement to be made, concluded that the entrances were more than 200 feet apart and therefore granted the application; that, in reliance upon such measurement, he continued to state, in his application for license for the current term, that his tavern was beyond 200 feet of any schoolhouse.

Apparently, the local Board's measurement was made from the middle of the school entrance to the middle of the sidewalk, thence down the sidewalk to a point opposite the middle of the entrance to the defendant's tavern, and thence to the middle of that entrance-way. This mode of measurement, which reaches a figure in excess of 200 feet, has been squarely and emphatically condemned in Aldarelli v. Asbury Park, Bulletin 186, Item 12, decided June 12, 1937, and in subsequent decisions.

There is nothing to indicate that the defendant was aware of the fact that the local Board had adopted an incorrect mode of measurement or that, under the correct method, his tavern was within the forbidden distance of the North Center Street School.

The charge concerning false answer is, therefore, dismissed.

Accordingly, it is on this 25th day of January, 1939,

ORDERED that plenary retail consumption license #C-53, heretofore issued to Thomas A. McCauley by the Municipal Board of Alcoholic Beverage Control of the City of Orange, be and the same is hereby suspended for the balance of its term, effective immediately, with leave reserved to the licensee to file application with the Municipal Board of Alcoholic Beverage Control of the City of Orange to transfer the said license to satisfactory premises in the City of Orange and, if the application is granted, to apply to me for an order lifting the suspension herein imposed so that the license may be effectively transferred.

D. FREDERICK BURNETT,  
Commissioner.

11. RECTIFIERS AND BLENDERS - WHOLESALERS - THE HOLDER OF A RECTIFIER AND BLENDER'S LICENSE MAY PURCHASE ALCOHOLIC BEVERAGES FROM THE HOLDER OF A WHOLESALE LICENSE, AND THE HOLDER OF A WHOLESALE LICENSE MAY SELL ALCOHOLIC BEVERAGES TO A RECTIFIER AND BLENDER, OF THE TYPE OR TYPES THE WHOLESALE LICENSE ALLOWS.

January 19, 1939

Hon. J. Lindsay deValliere,  
State Tax Department, Beverage Tax Division,  
Trenton, N. J.

My dear Mr. deValliere:

The Alcoholic Beverage Law does not specify from whom rectifiers and blenders, or for that matter any licensed manufacturer or wholesaler, must make his purchases. Such restrictions are derived, instead, by implication from the definition of the licensee's selling privileges. Pursuant to R. S. 33:1-10, all Class A manufacturers, and pursuant to R. S. 33:1-11, all Class B wholesalers may, as regards the particular alcoholic beverages covered by their licenses, sell to wholesalers. The term "wholesalers", however, as so used, does not mean only the holders of Class B wholesale licenses. It means those whose licenses convey wholesale privileges, i.e., those who have the privilege of selling for purposes of resale, as distinguished from those whose privileges permit them to sell only to consumers. Nowhere in the section dealing with Class A manufacturing licenses are there any privileges conferred in so many words to sell to "manufacturers." Yet if we had a plenary distillery licensee in the state, there would be no doubt but that it would have the right to sell to rectifiers and blenders.

Our rectifiers and blenders must purchase neutral spirits. They do this from the large out-of-state distillers who, to enable them to solicit in New Jersey, have taken out wholesale licenses. It is the only license provided for the purpose. The holder of a wholesale license which authorizes sales to retailers and wholesalers may, therefore, sell alcoholic beverages of the type or types the license allows, to a rectifier and blender.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

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

January 25, 1939

Re: Case No. 248

Applicant having admitted that he had been convicted in 1934 on charges of assault and battery and conspiracy, a hearing was duly held to determine whether either of said crimes involved moral turpitude.

Investigation disclosed that applicant had been indicted on a charge of atrocious assault and battery and a separate charge of conspiring with others to commit an atrocious assault and battery that he had been found guilty and sentenced to serve eighteen months on each of said charges, the sentences to run concurrently; that he had actually served about fourteen months in a penitentiary.

At the hearing applicant testified that, during the course of some labor trouble, in which he was not involved, he conspired with a Union delegate and others to damage a truck; that he drove two of the conspirators until they met the truck; that thereupon the other two men damaged the truck and beat up the driver. Applicant admits that he knew that the truck was to be damaged, but denies that he knew that any injury was to be inflicted on the driver. In view of the finding of the jury, the question of his guilt or innocence cannot be redetermined herein. Under the circumstances of this case, I believe that the crimes of which he was convicted involve moral turpitude.

It is recommended that the application for solicitor's permit be denied.

Edward J. Dorton,  
Attorney-in-Chief.

APPROVED:

D. FREDERICK BURNETT,  
Commissioner.

13. RULES GOVERNING CONDUCT OF LICENSEES - RULE 2 - SALES ON ELECTION DAYS - THE RULE DOES NOT APPLY TO SCHOOL AND FIRE DISTRICT ELECTIONS.

January 24, 1939

Nathan Duff, Esq.,  
Flemington, N. J.

My dear Mr. Duff:

Rule 2 of State Regulations No. 20 (Pamphlet Rules, page 61), pertaining to sales on election days, provides:

"2. No licensee shall sell or offer for sale at retail or deliver to any consumer, any alcoholic beverages in any municipality in which a general, municipal, primary or special election is being held, while the polls are open for voting at such election."

The only special elections which come within the contemplation of Rule 2, are those which are held pursuant to, or the procedure for which is governed by, the Election Law (R. S. Title 19). Re Bugnon, Bulletin 106, Item 9.

School elections held pursuant to R. S. Title 18, Chapter 7, which is part of the General School Law, and Fire District Elections held pursuant to R. S. Title 40, Chapter 151, which is part of the General Law pertaining to municipalities and counties, which chapters neither refer to nor incorporate any part of the Election Law, are not held pursuant to the Election Law or governed by any of its procedure. Neither, therefore, is within the purview of Rule 2.

Hence, to answer your question as you put it, there is no procedure which must be followed by the municipality in order to permit retail sales of alcoholic beverages during elections for members of the Board of Education or the Board of Fire Commissioners, if such elections are held pursuant to Title 18, Chapter 7, or Title 40, Chapter 151, because the Rule does not require that during such elections sales must stop.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

14. DISCIPLINARY PROCEEDINGS - WEST NEW YORK LICENSEES - SALES OUT OF HOURS.

In the Matter of Disciplinary Proceedings against )

MARIE BACHMAYER, 490 Bergenline Avenue, West New York, New Jersey, )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License No. C-76, issued by the Board of Commissioners of the Town of West New York. )

Marie Bachmayer, Pro Se. Charles Basile, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleads guilty to charges of conducting her licensed business and permitting persons other than actual employees and agents in the licensed premises between 4:00 A.M. and 1:00 P.M. on Sunday, December 4, 1938, in violation of a resolution adopted by the Board of Commissioners of the Town of West New York.

This is defendant's first offense of record. Her license will be suspended for ten days for conducting her business during prohibited hours, and for permitting persons other than herself and her actual employees and agents on the premises during prohibited hours, less five days for making no alibis.

Accordingly, it is on this 25th day of January, 1939,

ORDERED that Plenary Retail Consumption License No. C-76, heretofore issued to Marie Bachmayer by the Board of Commissioners of the Town of West New York, shall be and the same is hereby suspended for a period of five (5) days, commencing January 28, 1939 at 3:00 A.M.

D. FREDERICK BURNETT, Commissioner.

15. DISCIPLINARY PROCEEDINGS - WEST NEW YORK LICENSEES - SALES OUT OF HOURS.

In the Matter of Disciplinary Proceedings against )

JOSEPH TAYLOR and L. F. CARROLL, 420 Bergenline Avenue, West New York, New Jersey, )

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License No. C-69, issued by the Board of Commissioners of the Town of West New York. )

Joseph Taylor, Esq., for Joseph Taylor and L. F. Carroll. Charles Basile, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

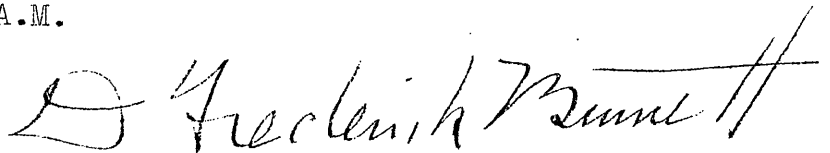
Licensees plead guilty to charges of conducting their licensed business and permitting persons other than actual employees and agents in the licensed premises between 4:00 A.M. and 1:00 P.M. on Sunday, December 4, 1938, in violation of a resolution adopted by the Board of Commissioners of the Town of West New York.

In February 1936 licensee, Joseph Taylor, was found guilty by the Board of Commissioners of the Town of West New York of possessing lottery slips and sentence was suspended with a reprimand.

This is, therefore, defendants' second offense of record. Their license will be suspended for fifteen days for conducting their business during prohibited hours and permitting persons other than themselves and their actual employees and agents on the premises during prohibited hours, less five days for making no alibis.

Accordingly, it is on this 25th day of January, 1939,

ORDERED that Plenary Retail Consumption License No. C-69, heretofore issued to Joseph Taylor and L. F. Carroll by the Board of Commissioners of the Town of West New York, shall be and the same is hereby suspended for a period of ten (10) days, commencing January 28, 1939 at 3:00 A.M.



Commissioner.