

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

BULLETIN 323

JUNE 16, 1939.

1. LICENSES - PUBLICATION OF NOTICES OF INTENTION - VALIDITY OF PUBLICATION.

Dear Sir:

I am desirous of some information from your office on rulings regarding the legal publication of "Notices of Intention."

The other local newspaper in this borough ceased publication last fall and was reentered as second class matter as of December 8, 1938. Thus it appears to me that this publication is not a legal newspaper until two years of consecutive publication.

The owner at that time discontinued publication. A few weeks later it was sold to another party, and publication anew.

It was my understanding that all Notices of Intention had to carry the price charged in the ad. I am enclosing a tear-out from last week's issue.

Will you kindly advise me as to this paper's legality to carry Notices of Intention.

Yours truly,  
Sussex Independent  
W. H. Brophy,  
Ad Mgr.

June 9, 1939

Sussex Independent,  
Sussex, N. J.

Gentlemen:

Although the Alcoholic Beverage Law does not expressly require that a notice of intention to apply for liquor license be published in a legal newspaper, it is clear that since they are legal notices, they must be published in such newspapers. Re Facts of Bayonne, Bulletin 35, Item 2. The one-year period of publication mentioned in that ruling has since been increased to two. Re Legal Newspapers, Bulletin 264, Item 6.

Whether a newspaper is legally qualified to publish such notices is a matter, in the first instance, for the determination of the municipal issuing authority. I cannot pass upon it, except in the course of an appeal, when all pertinent facts are before me. Re Municipal Board, Bulletin 79, Item 12. The effect of temporary cessation of publication is discussed in Players Boat Club, Inc., Bulletin 190, Item 8, and Re Legal Newspapers, Bulletin 246, Item 11.

The absence of a fee line in a notice of application does not invalidate the advertising for the purpose of an application for a liquor license. Re Hackensack Chamber of Commerce, Bulletin 290, Item 5.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

2. LICENSES - PUBLICATION OF NOTICES OF INTENTION - PRINTING OF NEWSPAPER DISTINGUISHED FROM ITS PUBLICATION - HEREIN THAT NOTICES REQUIRED BY CONTROL ACT MAY NOT LAWFULLY BE MADE IN A NEWSPAPER PUBLISHED IN ANOTHER MUNICIPALITY UNLESS THERE IS NO LEGAL NEWS-PAPER PUBLISHED AND CIRCULATED IN THE MUNICIPALITY IN WHICH THE LICENSES ARE TO BE ISSUED AND THIS IS TRUE DESPITE THE FACT THAT SUCH NEWSPAPER PUBLISHED ELSEWHERE HAS BEEN DESIGNATED BY THE MUNICIPALITY AS THE OFFICIAL PAPER FOR THE PUBLISHING OF ALL LEGAL NOTICES AND ORDINANCES.

June 5, 1939

Dear Commissioner:

I would like your disposition of a vitally important matter which has arisen regarding the publishing of "Notices of Intention" for liquor licenses.

It seems that the "Raritan Valley News", a newspaper having its office in the Town of Raritan, but which is printed in Neshanic, N. J., a distance of nine miles away, has notified our Clerk, Mr. Vincent Minetti, that "Notices of Intention" published in any paper other than the Raritan Valley News are null and void. They base their claim upon paragraph 5 of Regulations No. 2 of Rules applicable to all Municipal licenses for advertising notice of application for license.

However, this Board went on record at a regular meeting held on February 28th of this year, by a majority vote, to designate the Messenger Gazette, a County newspaper published in Somerville, N. J., as our official newspaper for the publishing of all legal notices and ordinances, etc. I believe it was the belief of this Board at the time that this paper carried a larger circulation in Raritan and for this reason adopted it for our legal purposes.

There has been quite some discussion already regarding the printing of said "Notices of Intention" and the writer, in an effort to be fair in this matter, would like your opinion. As you know, the time is growing very short, and I would therefore appreciate a very early reply to this letter.

Very truly yours,  
Angelo J. Soriano

June 9, 1939

Angelo J. Soriano, Sec'y-Treasurer,  
Raritan Board of Commissioners,  
Raritan, N. J.

My dear Mr. Soriano:

R. S. 33:1-25 (Control Act, Section 22) provides that notices of intention must be published in a newspaper, printed in the English language, published and circulated in the municipality in which the licensed premises are located; provided, however, that if there shall be no such newspaper, then such notice shall be published in a newspaper, printed in the English language, published and circulated in the county in which the licensed premises are located.

R. S. 35:1-2.2 provides that legal newspapers shall be printed entirely in the English language, shall have been published continuously for not less than two years and shall have been entered as second-class mail matter under the postal laws and regulations of the United States.

If the "Raritan Valley News" is a duly qualified legal newspaper published and circulated in your municipality, then notices of intention concerning applications for liquor licenses in your municipality published in this paper are valid.

A newspaper is considered "published" where it is first issued for public distribution; the fact that it is printed elsewhere is not controlling. Re Facts of Bayonne, Bulletin 35, Item 2.

Hence, if the Raritan Valley News has its Editorial and Business Departments located in the Town of Raritan, and it is there first issued for public distribution, the fact that it is actually printed at Neshanic is immaterial.

As regards the Messenger Gazette: If it is published, as you say, in Somerville, then notices required by the Alcoholic Beverage Control Act may not lawfully be published in such newspaper in respect to licenses to be issued by the Town of Raritan unless there is no legal newspaper published and circulated in your town.

The fact that the Messenger Gazette has been designated by your Board of Commissioners as the official paper for the publishing of all legal notices and ordinances is beside the present point because of the specific requirements for publication concerning liquor licenses set forth in the Control Act, as above mentioned.

I reserve opinion as to the validity of ordinances and other notices so far as they concern liquor control published in that paper, as this point is not involved in the instant correspondence.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

3. DISCIPLINARY PROCEEDINGS - NEWARK LICENSEES - SALES TO MINORS -  
HEREIN OF A TAVERNKEEPER'S COOPERATION WITH THE POLICE.

In the Matter of Disciplinary Proceedings against )

STEVE'S, INC., )  
92-94 West Street, )  
Newark, New Jersey, )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-931, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )  
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Samuel B. Helfand, Esq., Attorney for the State Department of Alcoholic Beverage Control.  
Stephen Zadoyko, President of Steve's, Inc., for the Defendant-Licensee.

BY THE COMMISSIONER:

The defendant pleads guilty to the charges of selling and serving liquor to two minors on Saturday, December 10, 1938, in violation of statute and State rule.

At 9:30 P.M. on that day, Claretta Gill (then 16 years 4 months old) and Phyllis Carter (then 20 years 11 months old) entered the defendant's tavern and remained there, seated at a table, for about fifteen minutes. During their stay, the defendant's managing president sold and served two glasses of beer to Claretta and one to Phyllis. The girls later returned to the tavern at 10:45 o'clock that night and were sold and served a round of Tom Collins by the defendant's bartender. They left the tavern at 3:00 A.M. in the company of a man whom they had met there.

The Hearer reports that Phyllis, the elder of the two girls, could reasonably be mistaken to be at least twenty-one years of age, but that Claretta, the younger, could not reasonably be taken to be more than nineteen or thereabouts.

In fairness to the defendant, the way in which its violation came to the attention of the Newark police (through the voluntary action of the defendant's president) should be related.

When the girls and their male companion left the tavern at 3:00 A.M., they, together with a man whom they met outside, visited a speakeasy in Newark. There at 5:00 A.M. one of the men declared that Claretta had robbed him of a dollar. In the scuffle which ensued, the girl's foot was injured.

Claretta Gill's attorney subsequently wrote a letter to the defendant claiming that her injury occurred at its tavern and further declaring that the defendant had sold liquor to a minor and that he (the attorney) would report this fact to the State Commissioner unless the defendant communicated with the attorney at once about Claretta's case. The defendant's president brought this letter, despite the charge of sale to a minor made therein, to Deputy Police Chief Sebold of the Newark Police Department and asserted that he "hadn't the slightest idea" who Claretta Gill was. Notwithstanding that he did not sell to any minors, the president nevertheless frankly recognized Phyllis as having been in his tavern when the Deputy Chief later confronted him with the two girls and, upon being asked what he had served to her, stated, "I don't remember what it was.....If she said it was beer or liquor, it must have been."

The Deputy Chief caused immediate investigation to be made into the question of sale to the minors, operation of the speakeasy which they visited after leaving the defendant's tavern, and the threatening letter of the attorney. Pending this investigation, the defendant's president brought the Deputy Chief two newly received letters from the attorney, one offering to lodge no complaint with the State Commissioner if the defendant paid \$200.00 in settlement of Claretta's claim.

As a result of the Deputy Chief's investigation, the whole matter was presented to the Grand Jury and the attorney was indicted for violating R. S. 2:127-3 by sending letters threatening, for the purpose of extorting money, to accuse the receiver of an indictable offense. As yet the case has not been tried. With reference to the indictment, the Deputy Chief testified:

"It was due solely to his (the president's) efforts, and to his frankness in coming forward. He knew if he had sold to minors it would be disastrous, yet in spite of it he came forward and told us about this affair, to curb a lawyer from doing it on other saloon keepers. I think he

deserves a lot of credit. He went into this thing with his eyes wide open. If we had more like him we would have a much better class of saloon keepers than we have today."

The defendant's license will be suspended for ten days. Were it not for the fact that the defendant's president brought this matter to the attention of the police and cooperated with them, and the further fact that the defendant, frankly pleading guilty in this case, has a record heretofore clear, I would, in view of Claretta's being but a 16-year old girl, impose more than the minimum penalty.

Accordingly, it is on this 10th day of June, 1939, ORDERED that Plenary Retail Consumption License C-931, heretofore issued to Steve's, Inc. by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of ten (10) days, commencing June 15, 1939, at 3:00 A.M. (Daylight Saving Time).

D. FREDERICK BURNETT,  
Commissioner.

4. DISCIPLINARY PROCEEDINGS - FAIR TRADE, BINGO AND DOOR PRIZES - 15 DAYS.

In the Matter of Disciplinary Proceedings against  
HUBERT RYAN and  
ARNOLD A. NUNNINK,  
991 Madison Ave.,  
Paterson, N. J.,

CONCLUSIONS  
AND ORDER

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Holders of Plenary Retail Consumption License C-18, issued by the Board of Aldermen of the City of Paterson.

Stanton J. MacIntosh, Esq., Attorney for the State Department of Alcoholic Beverage Control.  
Hubert Ryan and Arnold A. Nunnink, Pro Se.

BY THE COMMISSIONER:

The defendants pleaded guilty to the charges (1) of selling, on January 10, 1939, a pint of Calvert's "Special" Blended Whiskey below the Fair Trade price, in violation of Rule 6 of State Regulations No. 30; (2) of allowing, on that date, a game of Bingo to be conducted at their licensed premises in a room where alcoholic beverages were then being sold, served, delivered, or consumed, in violation of Rule 16 of State Regulations No. 20; and (3) of permitting on that same date, a lottery to be conducted at their licensed premises, in violation of Rule 6 of State Regulations No. 20.

On the evening of January 10, 1939, Investigators Hulin and Tognio of this Department attended a 25-game Bingo which was being played in a hall or sitting room at the defendants' licensed premises. The general admission price was 25¢, and 200 persons were in attendance. During a 10-minute intermission after the 15th

game, the investigators observed "ten or fifteen, possibly twenty" persons go into the barroom, of which four carried drinks back into the Bingo room with them, one carrying a tray with four glasses of beer on it. Just before play was resumed, an usher removed the empty liquor glasses and returned them to the barroom. Every fifth game was a "special game" - that is, a game calling for a special fee from the participants and not covered by the general admission charge. The participants in these special games wrote their names on the back of their tickets, which were collected and deposited in a box. Two drawings were later made from these tickets, and a so-called "attendance prize" of \$2.00 was given to each of the two persons whose tickets were thus drawn. During the course of the evening, a drawing was also held of the tickets of participants at the Bingo held the previous week, and the person whose ticket was drawn was given a so-called "door prize" of \$1.00.

When the Bingo was over, the investigators went into the barroom and observed that a pint bottle of Calvert's "Special Blended Whiskey (the Fair Trade price of which was \$1.16) had a price tag marked "New low price, \$1.14". The bartender sold the bottle to one of the investigators at the advertised price. Fifteen other items at the bar were tagged with the correct Fair Trade prices.

Nunnink, one of the defendants, testified that his only explanation for the \$1.14 price tag on the bottle of Calvert's is that the bartender, in cleaning, must have knocked that tag off one of the bottles in the bar room and carelessly and erroneously placed it on the Calvert's; that he (the defendant) was one of the persons who went down to Trenton to fight for passage of Laws 1938, c. 208, which specifically empowered the Commissioner to adopt the Fair Trade regulations.

He further testified that he had not known of any prohibition against liquor being consumed in the Bingo room during the intermission (Re Luthenauer, Bulletin 207, Item 5), or against the distribution of the attendance and door prizes through the drawings (Re Kohn, Bulletin 233, Item 1); that the defendants, upon learning that these were prohibited, freely admitted guilt of their offenses.

Ryan, the other defendant, though present at the hearing, stated that he had nothing to add to the testimony of his partner.

The defendants are responsible for the Fair Trade violation, even though it may have resulted from the carelessness of their bartender. So, too, they are responsible for the Bingo and lottery violations, even though they were unaware of their being offenses. Licensees must know the rules and scrupulously adhere to them.

The defendants' license will be suspended for ten (10) days for the Fair Trade violation. It will be suspended for an additional five (5) days for permitting Bingo to be conducted at their licensed premises in a room where liquor was consumed, and for an additional five (5) days more for permitting a lottery, viz., the giving away of the attendance and door prizes by means of the drawings. However, five (5) days will be remitted from the latter two penalties because of the defendants' frank confession of guilt, without any alibis, on the last two charges.

Accordingly, it is on this 10th day of June 1939, ORDERED; that Plenary Retail Consumption License C-18, heretofore issued to Hubert Ryan and Arnold A. Nunnink by the Board of Aldermen of the City of Paterson, be and the same is hereby suspended for a period of five (5) days, commencing June 15, 1939 at midnight (Daylight Saving Time) for the violations of Rules 16 and 6 of State Regulations No. 20, as set forth in the second and third charges, respectively, herein; and

It is further ORDERED, that said license be and the same is hereby suspended for a further period of ten (10) days for the violation of Rule 6 of State Regulations No. 30, as set forth in the first charge herein. Pursuant to notice of December 17, 1938, Bulletin 289, Item 1, the effective date of the 10-day suspension is reserved for future determination.

D. FREDERICK BURNETT,  
Commissioner.

5. LICENSES - EFFECT OF STATUTE INCORPORATING BOROUGH UPON LICENSES ISSUED BY A TOWNSHIP, A PORTION OF WHICH IS INCLUDED WITHIN THE NEWLY CREATED MUNICIPALITY - HEREIN OF THE CONTINUITY OF THE LICENSED PRIVILEGE NOTWITHSTANDING THE LICENSED PREMISES ARE IN A NEWLY CREATED BOROUGH.

Dear Commissioner:

Our client, John J. McGarrity, now has and has had for a number of years a plenary retail consumption license for premises known as the Log Cabin Lodge, Medford Lakes, N. J. Until recently the Log Cabin Lodge has been located in the Township of Medford, Burlington County. By a recent act of the Legislature, Medford Township was divided and the portion of said Township in which the Lodge is located is now a new municipality known as the Borough of Medford Lakes.

Although there has been a legal division of the Township, as yet there is no governing body for the Borough, inasmuch as an election of officers for said Borough will be held on June 27th next. They will not take office until July 3rd next.

Our client has made an application to the issuing authority of the Township and has, in all ways, complied with the requirements of the act on said application. The Act in question has only been approved by the Legislature in the last few days and I believe some parts of the requirements on application were commenced prior to the passage of the Act.

Our client has asked us for instructions as to the procedure from this point. In view of the unusualness of the situation we think it advisable to have your view of the situation before definitely advising him. The Log Cabin Lodge caters almost exclusively to summer residents, and any loss of business during the summer months by reason of failure to obtain license, or any hold up in the granting of the license, would result in a great loss to the applicant.

The Township of Medford has not, as yet, passed upon the application, but we have no doubt that they will approve the same, inasmuch as the applicant has had a license continuously since repeal, and as far as we know there is no reason for the Township Committee to now advise that a license would be objectionable.

The thing that is worrying us most is whether or not, in view of the change in the municipal governing body affecting the licensed premises, an application must be made to the new governing body, and if such an application must be made, what arrangement can be worked out during the interim between the expiration of his present license on June 30th and the time when the new municipality may grant a license. As you will note, the officers of the new municipality are not to be installed until July 3rd, and the probabilities are that they would not be in a position to act upon the application for at least a few days thereafter, which time is very valuable to our client.

There will, of course, be the usual division of assets, liabilities, etc. between the two municipalities, and we assume that insofar as any license fee to the Township on the present application is concerned, it will be divided accordingly.

The above facts should be sufficient for you to grasp the situation, and we would appreciate an early reply as to your recommended course.

Very truly yours,  
Powell & Parker

June 10, 1939

Powell and Parker, Esqs.,  
Mount Holly, N. J.

Gentlemen:

The Borough of Medford Lakes was created by Chapter 60, P. L. 1939, which defines the boundary of the Borough and declares that it shall be governed by the general laws of this State relating to boroughs. The Act became effective May 17th, 1939.

R. S. 40:43-11 provides:

"The officers of any municipality, any portion of which shall be included within the newly created municipality, who shall hold office at the time of such creation or incorporation, shall, until the organization of the governing body of such newly created municipality, continue to perform the duties and possess the powers imposed upon or given to them by law within their respective municipalities, notwithstanding the creation or incorporation of such new municipality. \*\*\*"

Under the facts set forth in your letter, the election of officers for the new borough will take place on June 27th, and the officers will not take office until July 3rd.

Under these circumstances, the Township Committee, of the Township of Medford, possesses all its previous powers in the section of the Township now known as Borough of Medford Lakes until July 3rd. The Township Committee of the Township of Medford may, therefore, pass upon the application for the liquor license filed by your client and may issue said license to take effect July 1, 1939. Since your client's application is now pending before the Township Committee, said application may be acted upon by that body.

Your client may continue to operate under his present license until June 30, 1939 and may continue to operate for the coming fiscal year in the Borough of Medford Lakes if the Township Committee of the Township of Medford issues a license to him for the coming year. Re Nelson, Bulletin 291, Item 1.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

6. ADVERTISING. - COOPERATIVE ADVERTISING PERMISSIBLE.

June 10, 1939

Ventnor Crier,  
Atlantic City, N. J.

Gentlemen:

I have before me tear sheet from the May 19th edition of the Ventnor Crier containing a single liquor advertisement sponsored and paid for by the eight Ventnor City retailers whose names and addresses appear at the bottom of the ad.

There is nothing in the Alcoholic Beverage Law or the State Regulations which would prohibit cooperative advertising of this nature.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

7. REFERENDA - SUNDAY SALES - A NEGATIVE VOTE ON THE QUESTION OF SUNDAY SALES BARS ALL SUCH SALES UNTIL SUPERSEDED BY A SUBSEQUENT REFERENDUM.

June 8, 1939

Mr. Samuel Muskovitz,  
Camden, N. J.

My dear Mr. Muskovitz:

My records indicate that on November 2, 1937, referendum was held in the Township of Gloucester on the question "Shall the sale of alcoholic beverages be permitted in the Township of Gloucester on Sundays after 1:00 P.M." and that a majority voted in the negative. The statute provides (R. S. 33:1-47.1) that where a majority shall vote on such question in the negative, the hours between which the sale of alcoholic beverages at retail may be made may be regulated as theretofore in said municipality.

Prior to the 1937 referendum, sales of alcoholic beverages in Gloucester Township were prohibited at any time on Sundays by virtue of referendum held November 6, 1934 on the question "Shall the sale of alcoholic beverages be permitted on Sundays in this municipality?" on which a majority also voted in the negative.

The negative vote on the 1937 referendum continues in effect the referendum of 1934.

As a result of the referendum of 1934, no sales of alcoholic beverages may be made at any time on Sunday until it is superseded by a subsequent referendum bringing about a different result. Any ordinance, resolution or regulation of the Township Committee inconsistent with the result of the referendum will be of no effect.

As the matter now stands, the Township Committee has no power to permit sales until 2:00 A.M., or at any other time, on Sunday.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

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

In the Matter of Disciplinary Proceedings against  
BROADWAY LIQUOR STORE, INC.,  
2½ E. State Street,  
Trenton, New Jersey,  
Holder of Plenary Retail Distribution License D-3, issued by the City Council of the City of Trenton.

CONCLUSIONS  
AND ORDER

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Ellamarye H. Failor, Esq., Attorney for the Department of Alcoholic Beverage Control.  
Broadway Liquor Store, Inc., by Charles J. Tattory, Treasurer.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling liquor at its licensed premises on April 24, 1939, in violation of Rule 6 of State Regulations No. 30.

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

Accordingly, it is, on this 12th day of June, 1939, ORDERED, that Plenary Retail Distribution License D-3, heretofore issued to Broadway Liquor Store, Inc. by the City Council of the City of Trenton, 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. RETAIL CONSUMPTION LICENSEES - TECHNOLOGICAL PROGRESS IN BARTENDING - MECHANICAL COCKTAIL MIXER PERMISSIBLE.

June 13, 1939

DeLaval Separator Co.,  
New York, N. Y.

Gentlemen:

I have before me yours of May 29th and enclosures illustrating the DeLaval Twin Mixer, a mechanical device which automatically measures and blends the liquid ingredients of cocktails.

It appears to leave to the barkeeps only the doubtful honor of adding the ice and the cherry. It is problematic if technocracy's gain is compensated by the remaining prerogative of decision whether to stir or to shake. Ancient pride in artistry and precision still has its human appeal.

As the Mixer merely does by mechanical means what the bartender would do manually, there is no objection to its use by retail licensees in New Jersey.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

10. REGULATIONS 17 - RULES GOVERNING THE TRANSPORTATION OF ALCOHOLIC BEVERAGES INTO NEW JERSEY - NEW RULE 7.

Regulations 17 are hereby supplemented by adding Rule 7, viz.:

"Where the amount of alcoholic beverages imported by individuals into the State for personal consumption is not in excess of the quantity set forth in Rule 4, no Special Permit is requisite whether imported in vehicles under their control or in vehicles belonging to a licensed transporter."

The foregoing rule is effective immediately.

Dated: June 13, 1939.

D. FREDERICK BURNETT,  
Commissioner.

11. DISCIPLINARY PROCEEDINGS - NEWARK LICENSEES - EMPLOYMENT OF FEMALE TO TEND BAR.

In the Matter of Disciplinary Proceedings against  
 MORRIS ROSENBERG,  
 598 West Market Street,  
 Newark, New Jersey,  
 Holder of Plenary Retail Consumption License C-399, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.  
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CONCLUSIONS AND ORDER

Irving J. Rosenberg, Esq., Attorney for the Defendant-Licensee.  
 Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee has pleaded guilty to charge of employing a female to tend bar and sell and serve alcoholic beverages to patrons on his licensed premises, contrary to municipal resolution.

The usual penalty for this violation is five days.

By entering this plea in ample time before the day fixed for hearing, the Department has been saved the time and expense of proving its case. The license will, therefore, be suspended for three days, instead of five days.

Accordingly, it is, on this 13th day of June, 1939,

ORDERED that plenary retail consumption license C-399, heretofore issued to Morris Rosenberg by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of three (3) days, commencing June 19, 1939, at 3:00 A.M. (Daylight Saving Time).

D. FREDERICK BURNETT,  
Commissioner.

12. DISCIPLINARY PROCEEDINGS - DOOR PRIZES - CHARITABLE PURPOSE DOES NOT EXCUSE VIOLATION - HEREIN OF THE CANDID AND COOPERATIVE STATEMENT BY THE ELKS.

June 13, 1939

Dear Commissioner:

This is to advise that Newark Lodge 21, B.P.O. Elks, holder of Plenary Retail Consumption License C-21, premises 929-935 Broad Street, Newark, New Jersey, does herewith acknowledge receipt of charges preferred by you against us in violation of Rule 6 of State Regulations 20.

May I apprise you of the circumstances in connection with the violation as charged? Not being familiar with the law regarding the above, the Charity Committee of Newark Lodge 21, B.P.O. Elks, gave away as door prizes one hundred pounds of candy in commemoration of Mother's Day.

Upon investigation we found we were in violation of Rule 6 of State Regulations 20. We fully realize our mistake and are in sympathy with your Department in the proper administration of the law. We, therefore, must acknowledge the violation as preferred by you as being true. As an American Organization, the Officers and members of Newark Lodge 21 have always been desirous of co-operating and assisting with all law enforcement agencies in administering their duties.

As the affair on May 12, 1939 was one of our activities in connection with our charitable endeavors and the violation was not intentional, may I ask that you, in your usual judicious manner, give us consideration so that the penalty will not be too severe?

I will assure you that, in the future, if any doubtful circumstances exist concerning the operation of our licensed premises, I will communicate with you for your advice and opinion.

Sincerely yours,  
Edward A. Reilly, Secretary,  
Newark Lodge 21, B.P.O. Elks.

June 14, 1939

Newark Lodge 21, B.P.O. Elks,  
Newark, N. J.

Att: Att: Edward A. Reilly, Secretary.

Gentlemen:

I have yours of the 13th.

It is against the rules for a licensee to permit the award of prizes by means of a drawing. That means NO DOOR PRIZES.

I have pondered, in view of your candid admission and the minor character of the violation, whether I could not in conscience dismiss the proceedings entirely. That, however, would not be square to other licensees throughout the State who are being taught that the law was made to be obeyed and that a charitable purpose does not excuse its violation. The fair American way is to treat everyone alike.

Consequently, while I am wholly satisfied that the instant drawing was an innocent mistake, I can do no more than apply the same principles as in other cases where the error may have been of the head rather than of the heart.

Hence, in accordance with established practice in cases where a plea dispenses with the time and expense of a hearing, the license will be suspended for three days instead of the usual five.

I hope there never will be any more against the Elks than giving away candy to commemorate Mother's Day.

Fraternally yours,  
D. FREDERICK BURNETT,  
Commissioner.

In the Matter of Disciplinary Proceedings against )  
 )  
 NEWARK LODGE 21, B.P.O.E., )  
 929-935 Broad St., )  
 Newark, N. J., )  
 )  
 Holder of Plenary Retail Consumption License C-21, issued by )  
 the Municipal Board of Alcoholic Beverage Control of the City of )  
 Newark. )  
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CONCLUSIONS AND ORDER

Richard E. Silberman, Esq., Attorney for the State Department of Alcoholic Beverage Control.  
 Giuliano & Giuliano, Esqs., by Anthony Giuliano, Esq., Attorney for Licensee.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of permitting a lottery to be conducted on its licensed premises by allowing the award of prizes by means of a drawing, contrary to Rule 6 of State Regulations 20.

The usual penalty for this violation is five days.

By entering this plea in ample time before the day fixed for hearing, the Department has been saved the time and expense of proving its case. The license will, therefore, be suspended for three days instead of the usual five.

Accordingly, it is, on this 14th day of June, 1939,

ORDERED, that Plenary Retail Consumption License C-21, heretofore issued to Newark Lodge 21, B.P.O.E., by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of three (3) days, commencing Monday, June 19, 1939, at 3:00 A.M. (Daylight Saving Time).

D. FREDERICK BURNETT,  
 Commissioner.

13. MUNICIPAL REGULATIONS - HOURS OF SALE - APPLICATION TO RETAILERS LICENSED IN OTHER MUNICIPALITIES.

June 13, 1939

Grover F. Kipsey, Esq.,  
 Attorney, Borough of South Bound Brook,  
 Somerville, N. J.

My dear Mr. Kipsey:

I have before me yours of June 9th and proposed ordinance for the Borough of South Bound Brook, which appears to be in proper form and, upon final adoption, will be approved as submitted.

I note the interesting provision in the ordinance by which the regulations pertaining to the hours alcoholic beverages may be sold, served or delivered in the Borough of South Bound Brook are made applicable to all retail licensees, whether licensed by the Borough or by another municipality. I see no reason why licensees from other municipalities coming into the Borough of South Bound Brook in the furtherance of their alcoholic beverage business, should not conform to the same rules imposed on such licensees in the Borough.

The approvals herein given are subject, as with all ex parte approvals, to review on appeal. See Re Hauck & Felter, Bulletin 130, Item 3, and the items cited therein.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

14. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - SALES TO NON-MEMBERS AND EMPLOYMENT OF CHILDREN AS ENTERTAINERS.

In the Matter of Disciplinary Proceedings against )

TRENTON YACHT CLUB, INC., )  
1171 Lambertson Street, )  
Trenton, New Jersey, )

CONCLUSIONS AND ORDER

Holder of Club License No. CB-85, issued by the State Commissioner of Alcoholic Beverage Control. )  
----- )

Samuel B. Helfand, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleads guilty, with an explanation, to charges alleging that, on March 4, 1939, it sold alcoholic beverages to persons who were neither bona fide members nor guests of members of said club, in violation of R. S. 33:1-12(5) and, further, that, on the same day, it knowingly employed as entertainers three children, aged respectively eight years, seven years and seven years, contrary to R. S. 33:1-26.

On March 4, 1939 Inspector Murray and Investigator Perry, of this Department, entered the licensed premises and were served with alcoholic beverages. Neither is a member of the Trenton Yacht Club, Inc. and neither was a guest of any member of said club.

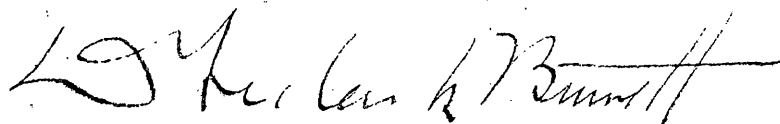
The only explanation on the part of the licensee was given by Mr. Matthew Becker, Vice-President of the club, who testified that, on March 4, 1939, a man was stationed at the door but that the doorman neglected his duty by being absent from his post at the time the agents of this Department entered the premises. There is evidence that, on a prior date, the same agents were excluded because they were not members or guests of members.

While the agents of this Department were in the licensed premises on March 4, 1939, the three children were permitted to do a dance number as part of a floor show. The Vice-President of the club testified that the children's act had been arranged by the secretary of the club, who is a friend of the father of one of the children, and that no payment had been made for the service of the children. However, the Control Act, in prohibiting a licensee from knowingly employing a minor on his licensed premises, seeks to prevent, not the payment of wages to disqualified persons, but, rather, their action and service on licensed premises. Re Haino, Bulletin 295, Item 7. It is enough that the licensee accepted and utilized the children's services as entertainers. The employment of children of such tender age on licensed premises is entirely out of place.

Under all the circumstances, I shall suspend the license for five days for selling to non-members, and five additional days for employing the children as entertainers, making a total of ten days, less five days for pleading guilty.

Accordingly, it is, on this 15th day of June, 1939,

ORDERED, that Club License No. CB-85, heretofore issued to Trenton Yacht Club, Inc. by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for a period of five (5) days, effective June 18, 1939 at 2:00 A.M. (Daylight Saving Time).

A handwritten signature in cursive script, appearing to read "L. M. ...", is written over a horizontal line.

Commissioner.