

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

BULLETIN 352

OCTOBER 13, 1939.

1. DISCIPLINARY PROCEEDINGS - LEWD BUSINESS CARDS - FIFTEEN DAYS ON CONFESSION OF GUILT - CHARGE OF EMPLOYING DISQUALIFIED PERSON DISMISSED.

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

RALPH DE DOMINICO,
trading as Mush's
Hilltop Cafe,
581 - 18th St.,
West New York, N.J.

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) CONCLUSIONS AND ORDER
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Holder of Plenary Retail Consumption
License C-50 for the fiscal year
1938-1939, issued by the Board of
Commissioners of the Town of West
New York.

Ralph De Dominico, Pro Se.

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

BY THE COMMISSIONER:

Licensee pleads guilty to Charge (1), which alleges that on May 2, 1939 he possessed and distributed at his licensed premises advertising cards containing an obscene, lewd and indecent picture, contrary to Rule 17 of State Regulations No. 20, and not guilty as to Charge (2), which alleges that he knowingly employed Charles Taft, who could not qualify as a licensee by reason of lack of five years' residence in the State of New Jersey, contrary to the provisions of R.S. 33:1-26.

As to Charge (1): Investigators King and Flynn visited the licensed premises on May 2, 1939. They asked the bartender for a business card and after the bartender took one from a closet in the back bar, he gave it to the investigators. The trade name and address of the licensed premises are on one side of the card and on the reverse side, captioned: "We won't soak you", is a three-quarters front view picture of a woman, whose stark nudity from the knees up is emphasized by black slippers and stockings, hanging her clothes on a hickory limb.

Licensee testified that he had purchased the cards in the latter part of 1938 and had distributed about one hundred to patrons at his place. A box containing about five hundred of said cards was seized by the investigators at the time of their visit to the tavern.

In Re Roxy Bar & Grill, Bulletin #247, Item #5, I suspended a license for thirty days where it appeared that the licensee possessed and distributed cards containing filthy and disgusting written matter.

Without attempting to measure smut in degrees, the violation here is crudely obvious and provokes a sneer and is not of the insinuating self-imaginative type as the written words in the Roxy case, and hence, while obscene, not so serious and so I shall suspend the license for twenty days, with five days off for the guilty plea, making a net suspension of fifteen days on this charge.

As to Charge (2): The bartender, Charles Taft, gave a statement to the investigators wherein he said that he had lived in West New York about three years and that he previously lived in Spring Valley, New York, for eight years. Licensee gave a statement to the investigators wherein he said that he did not know that the bartender had lived out of the State. At the hearing, licensee testified that when Taft left the navy at the close of the World War, he took up his residence on Seventeenth Street, North Bergen; that he has known him since that time and thought that he spent his summers in Spring Valley. The bartender testified that he usually spent his summers in Spring Valley and came back to North Bergen in the Fall, although he admitted that he voted on two occasions in Spring Valley, New York. As soon as the alleged violation was discovered, licensee arranged to obtain the necessary permit for the bartender from this Department. There is a grave doubt as to whether the evidence is sufficient to show that licensee knowingly employed an unqualified person and I shall give him the benefit of the doubt. The second charge is therefore dismissed.

Subsequent to the institution of these proceedings, the license held at that time expired and has been renewed by the issuance of license C-7.

Accordingly, it is, on this 9th day of October, 1939,

ORDERED that plenary retail consumption license C-7, heretofore issued to Ralph De Dominico, trading as Mush's Hilltop Cafe, by the Board of Commissioners of the Town of West New York, be and the same is hereby suspended for a period of fifteen (15) days, effective October 13, 1939, at 4:00 A.M.

D. FREDERICK BURNETT,
Commissioner.

2. APPELLATE DECISIONS - ORSI v. NEWARK.

PETER ORSI,

Appellant,

ON APPEAL

vs.

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF NEWARK,

Respondent.

CONCLUSIONS

George R. Sommer, Esq., Attorney for Appellant.

Joseph B. Sugrue, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant appeals from respondent's refusal to renew his license because of the misconduct of which he was found guilty during the previous fiscal year.

Orsi was found guilty of permitting female impersonators at his tavern and his license was suspended for thirty days. Re Orsi, Bulletin #326, Item 1.

The situation, therefore, is substantially on all fours with Kaplan vs. Newark, Bulletin #269, Item 6, where I sustained the action of the respondent in denying renewal licenses to those who had been guilty of misconduct, saying:

"It is essential to sound control of the liquor traffic that issuing authorities shall have full right to deny renewals to those who violate the rules,"

and citing case after case where denial of renewal had been upheld on appeal because of previous misconduct.

What better test is there for determining personal fitness than behavior in the past!

Appellant contends that respondent was unreasonable in refusing to renew his license while granting renewals to other licensees who had been found guilty of misconduct.

The comparative worthiness of persons applying for a license, whether guilty or innocent of past misconduct, is a question lying within the sound discretion of the issuing authority.

It certainly was not unreasonable for the respondent to put its foot down on boy shows or reviews or places where these denizens of Sodom, politely called "female impersonators", congregate. Such offenses are particularly abhorrent.

The action of respondent is, therefore, affirmed.

D. FREDERICK BURNETT,
Commissioner.

Dated: October 10, 1939.

3. ALIENS - RECIPROCAL TRADE TREATIES - POLAND STILL LIVES.

October 9, 1939.

Eugene Zimmerman, Esq.,
New York, N. Y.

My dear Mr. Zimmerman:

A citizen of Poland is entitled to the same privileges as United States citizens because of the reciprocal trade treaty heretofore made. The fact that the government of Poland has moved to Paris and is exercised extra territorially is immaterial. The Secretary of State has so declared. The treaty is therefore in full force and effect. Poland still lives!

Your client, however, is ineligible to hold a retail liquor license here not because of lack of citizenship but because he has not been a resident of the State of New Jersey for five years. R. S. 33:1-25.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

4. APPELLATE DECISIONS - HAINO v. NEWARK.

JULIUS HAINO,)
Appellant,)
-vs-)
MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY)
OF NEWARK,)
Respondent)

ON APPEAL
CONCLUSIONS

Morris Klein, Esq. and John J. Meehan, Esq., Attorneys for Appellant.
Joseph B. Sugrue, Esq. and William S. Cantalupo, Esq., Attorneys for Respondent.

BY THE COMMISSIONER:

Appellant appeals from respondent's refusal to renew his license because of the misconduct of which he was found guilty during the previous fiscal year.

Haino was convicted on December 12, 1938 in Criminal Court for selling liquor at his tavern to a minor, a seventeen year old girl. The conviction resulted in automatic suspension of his license. (R. S. 33:1-31.1). On his promise to be good, I lifted the automatic suspension but not until forty days after his license had been picked up because I found him guilty, not only of selling to the seventeen year old girl but also of employing her to sell liquor in the tavern and of employing a woman to tend bar and sell and serve liquor contrary to local regulations. Re Haino, Bulletin 295, Item 7. Less than two months thereafter, Haino was caught violating the Sunday regulation of

Newark by selling liquor at his tavern, keeping it open and failing to provide a free view into it from the street, whereupon I suspended his license from May 4, 1939 through the balance of its term. Re Haino, Bulletin 313, Item 13.

The situation, therefore, is on principle on all fours with Kaplan v. Newark, Bulletin 269, Item 6 and Orsi v. Newark, Bulletin 352, Item 2, where I sustained the action of the respondent in denying renewal licenses to those who had been guilty of misconduct.

It is true that Haino's offenses are not as repellent as in the Orsi case. But saying that is a far cry to declaring that there was any abuse of discretion by respondent. Less than two months after the automatic suspension of Haino's license was lifted as an act of grace, he deliberately committed further violations. As I said in Re Haino, Bulletin 313, Item 13:

"The defendant apparently has failed to learn his lesson. If I had thought that he would continue to be a violator, I would not have lifted the suspension. To insure respect for the law, his license will now be suspended for the balance of its term."

The respondent Board has taken a highly commendable step to insure continued respect for the law.

The action of respondent is, therefore, affirmed.

D. FREDERICK BURNETT,
Commissioner.

Dated: October 10, 1939.

5. APPELLATE DECISIONS - FREELAND v. ROSELLE.

ANTHONY S. FREELAND,)
Appellant,)
-vs-)
BOROUGH COUNCIL OF THE)
BOROUGH OF ROSELLE,)
Respondent)
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ON APPEAL
CONCLUSIONS

John J. Frank, Esq., Attorney for Appellant.
Guy W. Gordon, Esq., Attorney for Respondent.
Harry Wolf, Esq., Attorney for Objectors.

BY THE COMMISSIONER:

This is an appeal from the denial of renewal of appellant's plenary retail consumption license for premises located at 1137 St. George Avenue, Borough of Roselle.

Respondent contends that its action was proper because appellant "conducted his business in a disorderly manner and in such a way as to bring about disorderly and illegal acts of persons

frequenting his place of business, both at his place of business and on the street and in the adjoining alley and in the immediate neighborhood."

Five witnesses testified on behalf of respondent. Two reside at 1143 St. George Avenue in a building which adjoins the licensed premises and is separated therefrom by a small alley. Another is employed in a bakery located at 1143 St. George Avenue; another is a Lieutenant of Police; and another lives four and one-half blocks away.

As to conditions inside the tavern: None of the witnesses were ever inside the licensed premises. The three witnesses who reside or are employed at 1143 St. George Avenue testified that in February 1939 and March 1939 several fights took place upon the licensed premises; that on numerous occasions they have seen drunken people leave appellant's place of business; that music and noises on the licensed premises continue until 2:00 A.M. and frequently make it impossible for next door neighbors to sleep. Lieutenant Grandorf of the Roselle Police Department testified that the records of the Police Department disclose that visits were made to the licensed premises by the police on January 10, 1939, February 5, 1939, and February 26, 1939; that on each of these dates the police found that fights had occurred between patrons in the licensed premises.

As to conditions outside the tavern: The witnesses who reside or are employed at 1143 St. George Avenue testified that they object because a large number of persons have been permitted to congregate on the sidewalk in front of the licensed premises and in the adjoining alley, both before and after the place closes, particularly on Saturday night and Sunday morning; that these patrons sing, use loud and vile language and leave broken bottles on the sidewalk and in the street and alleyway. One objector testified that he has seen drunken people walking on the sidewalk until five or six o'clock in the morning.

Lieutenant Grandorf testified from the police records that the police have answered calls on the average of two or three a week in regard to people congregating outside; that the radio cars responded to said calls and broke up the crowd. He testified that a nearby lunch room also attracts a crowd; that he has spoken to Mr. Freeland about the crowd in front of his place and that Mr. Freeland has told him he tried to break it up. Lieutenant Grandorf further testified that he is having the radio cars patrol there and keep the crowd on the move; that there have been no complaints about this condition since the latter part of June 1939.

Appellant testified that he had called the police to his premises on January 10, 1939, when a fight between patrons occurred on his premises, and that one of his patrons had summoned the police on February 5, 1939, when the second fight occurred; that he knew nothing about the visit to his place by the police on February 26, 1939.

Appellant further testified that he employs a special officer on Thursday, Friday, Saturday and Sunday nights to keep order inside and outside the premises. He alleged that persons who come from other taverns stand in front of his place and create disturbances; that he had reported these conditions to the police; that the crowd does not congregate in front of his place as much as they did. He further testified that intoxicated people come

from other taverns and are immediately put out; that the broken bottles were not purchased in his place of business but in a licensed premises across the street in the City of Linden. Appellant admits that he has a music box and that he hires an orchestra about once a month during the winter.

Appellant has conducted his place of business since June 1938. The records of this Department show that no disciplinary proceedings have ever been instituted against him.

Aside from the question of music and noise upon the licensed premises, which is hereafter considered, the evidence as to conditions inside the licensed premises is not sufficient to sustain denial of renewal of the license. While there is some evidence that a few fights occurred some months ago, licensee appears to have taken prompt action in calling the police. While there is some evidence from which it might be inferred that sales were made to intoxicated persons, there is no direct evidence of any such sales and there is a direct denial by appellant that any such sales were made.

The condition on the outside has been extremely unsatisfactory. However, it appears that these conditions were due, in part at least, to the existence of the nearby lunch room and the licensed premises located in Linden on the opposite side of St. George Avenue. The licensee apparently has made efforts to correct this condition and the police department seems to have that situation under its control. A licensee is responsible for conditions outside of his licensed premises which are caused by his patrons. Conte v. Princeton, Bulletin 139, Item 8; Repici v. Hamilton, Bulletin 201, Item 8. However, where it appears that the conditions on the outside result from other factors which are not within the control of the licensee, such evidence would not be sufficient to warrant denial of the renewal. Cf. Hand v. Woodstown, Bulletin 219, Item 4.

The conclusions which I have reached herein apply merely to the renewal for the present fiscal year. Appellant will be given one more opportunity to demonstrate his worthiness to hold a license. The objectors may request respondent to institute disciplinary proceedings at any time and object to renewal for the next fiscal year if unsatisfactory conditions result from the further operation of appellant's place of business.

As to music and noise: The objectors, under the facts of this case, are entitled to relief. Persons are entitled to rest and quiet during the sleeping hours of the night.

The action of respondent, Borough Council of the Borough of Roselle, in denying renewal of license to appellant, is, therefore, reversed, but said license is hereby modified by subjecting it to the following special condition hereby imposed, which condition shall be inserted in the license, viz.:

"That all music, furnished either by any form of mechanical device or by an orchestra or otherwise, shall cease at 11:00 P.M. on every day of the week."

D. FREDERICK BURNETT,
Commissioner.

Dated: October 9, 1939.

6. DISCIPLINARY PROCEEDINGS - GAMBLING - 10 DAYS FOR CRAP.

October 9, 1939

Hon. Percy Camp,
Judge, Court of Common Pleas, Ocean County,
Toms River, N. J.

Dear Judge Camp:

I have before me your letter of September 29th re disciplinary proceedings conducted on your own initiative against Louis Shaw, t/a Riverside Bar, 2 Main Street, Toms River, charged with permitting gambling in a crap game on his licensed premises, and note that his license was suspended for ten days.

Please accept my thanks both for the institution and the conduct of these proceedings and the penalty imposed. I understand that the licensee had previously been warned against permitting gambling on licensed premises. In view of the previous warning the ten-day suspension seems proper and adequate.

Thank you for your continuing cooperation.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

7. MISLEADING TRADE NAMES - USE OF THE NAME "COUNTY TAVERN" PROHIBITED.

October 9, 1939

Mr. Thomas A. Garis,
T/a County Tavern,
Flemington, N. J.

My dear Mr. Garis:

It is reported to me that you hold a plenary retail consumption license for premises 40 Main Street, Flemington, and that you are operating under the trade name of County Tavern, which name you advertise on the exterior of your premises by means of a substantial neon sign.

The Regulations Prohibit licensees from using any name or sign which may convey the false impression that the licensee is owned or operated by or enjoys some special or official sanction from the United States Government, the State of New Jersey, or any municipality thereof. Regulations No. 26, Pamphlet Rules, page 67.

Neither the State of New Jersey nor any subdivision thereof is in the liquor business. Our law provides for the licensing of private individuals who may operate subject to the law and policing by the State. If they disobey the law, they will be disciplined, but the State cannot guarantee their conduct or the products that they sell, and hence cannot permit the use of any name that conveys such an impression or creates any inference of enjoying some kind of official sanction.

Regulations No. 26 do not, in so many words, include the term "County" among the prohibited appellations. But the reason for the rule applies with equal force, and hence I now rule, pursuant to the power conferred by R. S. 33:1-39 to make special rulings and findings, that the use of the term "County" is likewise prohibited.

You may change it to "Country" if you wish. But you will kindly remove "County" from your trade name and from your sign at once. I shall expect your written assurance by return mail.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

8. LICENSES - VALID NOTWITHSTANDING NON-USER.

LIMITATION OF LICENSES - COUNTIES OF THE SIXTH CLASS - TEMPORARY DISCONTINUANCE OF BUSINESS DOES NOT PREVENT RENEWAL UNDER SAVING CLAUSE IN BEHALF OF RENEWAL LICENSES.

Dear Mr. Burnett:

Inasmuch as my husband is on Reserve Duty and subject to call at any time, will you please advise me if I could temporarily suspend business without losing my license due to the limitations now in effect.

Yours truly,
Regina Galloway

October 9, 1939

Mrs. Regina Galloway,
Lakehurst, N. J.

My dear Mrs. Galloway:

There is nothing in the law that requires a licensee to engage actively in the alcoholic beverage business in order to keep his license. So long as the license is outstanding, it may be renewed within the terms of the limitation, whether the limitation is imposed by municipal regulation or, as in Cape May and Ocean Counties, by Chapter 61, P. L. 1939, and notwithstanding that the license is not being exercised. A copy of Chapter 61, P. L. 1939 (Bulletin 325, Item 8), is enclosed).

A temporary discontinuance of your business because of the absence of your husband would not prevent the renewal of your license under this chapter, provided the application was filed in time and all the other requisites properly completed.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

9. DISCIPLINARY PROCEEDINGS - HOSTESSES - 30 DAYS.

In the Matter of Disciplinary Proceedings against)

JACOB SILIDKER, T/a JAKE'S TAVERN, 166 Plane Street, Newark, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License No. C-585 for the term expiring June 30, 1939, and now holder of Plenary Retail Consumption License No. C-290 for the current term, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Morris Masor, Esq., Attorney for Defendant-Licensee. Richard E. Silberman, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant is charged with:

- (1) Permitting the sale of lottery tickets at his tavern, in violation of Rule 6 of State Regulations No. 20;
(2) Permitting "pay-offs" on a bagatelle machine at his tavern, in violation of Rule 7 of the same State Regulations; and
(3) Permitting known prostitutes at his tavern, in violation of Rule 4 of the same Regulations.

This proceeding, though instituted last term, does not abate but remains effective against the renewal license issued to the defendant for the current term. State Regulations No. 15; Re Laurence Brook Country Club, Inc., Bulletin 335, Item 6.

As to (1): The defendant pleaded guilty. During the course of a series of visits to the tavern, Investigator Gold of this Department, on June 1, 2 and 3, bought a 25¢ lottery slip from a "numbers" writer there in the defendant's presence.

As to (2): The defendant again pleaded guilty. Investigator Gold on May 31, and Investigator Anderson on June 2, played a bagatelle machine at the tavern and received a "pay-off" of 15¢ and 20¢ respectively from the defendant for winning scores.

As to (3): The defendant pleaded not guilty.

Investigator Gold was in the tavern on the afternoon of May 31 from 12:30 until 2:30. During that time a woman patron called "Sue" (who then lived in the same building) was in the tavern drinking and talking with the Investigator, the defendant, and her "boy friend John."

Gold was in the tavern on the next afternoon (June 1) from 12:15 until 2:15. At 1:30 a woman called "Dolly" (with a police record as a prostitute) entered, apparently drunk, and asked the investigator for a drink. About ten minutes later "Sue" entered and was served a glass of milk by the defendant. Gold testified that, when he remarked to the defendant that it "was odd for a girl to be drinking milk in a tavern", the defendant replied that both women were prostitutes and that "Sue" was the better of the two.

Gold returned the next afternoon (June 2) with Investigator Anderson. Gold testified that he asked the defendant in Jewish whether a woman patron at the bar called "Natalie" or "Nattie" was a prostitute and received the answer, "Sure, what do you think?" Gold further testified that he asked the defendant to arrange a rendezvous with "Sue" at the tavern for one o'clock the next afternoon, and the defendant agreed.

However, when both investigators returned to the tavern the next day (June 3) at 1:00 P.M., "Sue" was not there. The investigators pursued the affair no further since their identity became known when the Newark Police (by prearrangement) entered the tavern and arrested the "numbers" writer who was selling lottery tickets there.

Gold admitted that the women, so far as he knows, solicited no one for immoral purposes, and that neither their actions nor their speech suggested that they were prostitutes.

The defendant testified that the neighborhood is a "downtown" rooming section in Newark, catering to persons of low class. While admitting that "Dolly" has been a patron at the tavern for four or five years and "Sue" for about a year, he denied knowledge of any woman patron called "Natalie" or "Nattie." He further testified that he could not recall telling Gold that any of the women were prostitutes or assenting to arranging a rendezvous for him with "Sue"; that he probably told him that the women were not "one hundred per cent", meaning that they led a "wild life." However, he admits that he knew "Dolly" had been in trouble with the police, and that the room occupied by "Sue" in the tavern-building had been rented by him to her "boy friend."

I see no reason for disbelieving Investigator Gold's testimony. He has no axe to grind with the defendant and is not given to hallucinations or weaving fat stories out of thin air. I find that the conversations to which the investigator testified actually took place.

In those conversations the defendant himself characterized "Sue," "Natalie," and "Dolly" as prostitutes. While it may perhaps be argued that his mere "say-so" did not constitute them such, there is, in the instance of "Dolly", the independent fact of her police record as a prostitute. The defendant's remarks to Gold show that he knew of her character.

I find the defendant guilty on charge (3).

The license will be suspended for fifteen days on the first charge, less five days for the plea; for ten days on the second charge, less five for the plea; for thirty days on the third charge, making a total suspension of forty-five days.

Taverns will be cleansed of prostitutes as fast as I can catch up with them. Had I found evidence that the prostitutes plied their profession there, I would revoke the license outright as in Re Snyder, Bulletin 247, Item 9; Re Travisano, Bulletin 277, Item 13; Re Sengebush, Bulletin 311, Item 8.

Accordingly, it is, on this 9th day of October, 1939,

ORDERED, that Plenary Retail Consumption License No. C-290, for the current term, heretofore issued to Jacob Silidker, t/a Jake's Tavern, for premises at 166 Plane Street, Newark, by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of forty-five (45) days, effective October 12, 1939 at 3:00 A.M.

D. FREDERICK BURNETT,
Commissioner.

10. STATE BEVERAGE DISTRIBUTORS - MAY SELL TO ANOTHER LICENSEE OF THIS CLASS BUT MAY NOT DELIVER TO HIS CUSTOMERS - DELIVERY BY SUCH A LICENSEE IS CONFINED TO THE COURSE OF HIS OWN BUSINESS.

Dear Sir:

Will you please advise me if it is within the law for me, a holder of a State Beverage Distributor license, to deliver beer to a retail licensee for another wholesaler. I mean, another holder of a State Beverage Distributor license buys beer from me but asks that I deliver it to one of his retail customers for him instead of delivering it to his place of business. The beer would be delivered to a retailer but charged to the wholesaler, the idea being to save the handling of the beer by the other wholesaler, thereby cutting down his cost of delivery.

Very truly yours,
James W. Shannon.

October 9, 1939

Mr. James W. Shannon,
Atlantic Highlands, N. J.

Dear Sir:

Under the terms of your State beverage distributor's license, you may sell alcoholic beverages to another State beverage distributor, but if such sale is made, he must make delivery to the retailer of the beer you sold to him. The reason is because R. S. 33:1-28 (Control Act, Section 25) provides that you may deliver alcoholic beverages in your own vehicles, solely, however, for your own business. A delivery by you of beer which you have sold to another State beverage distributor would not be a delivery made in the course of your own business, but, rather, a delivery on behalf of another licensee which you could not make unless you held a transportation license.

The plan outlined by you is, therefore, disapproved.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

11. LIMITATION OF LICENSES - COUNTIES OF THE SIXTH CLASS - HOTELS COMING WITHIN THE STATUTORY DEFINITION ARE EXEMPT AND HENCE IT IS IMMATERIAL WHETHER THE LICENSE SOUGHT IS NEW OR A RENEWAL.

Dear Mr. Burnett:

I write in view of obtaining from you an opinion on the recent legislation known as Senate Bill 166.

I represent the Stanley Operating Corporation, which operates the Hotel Stanley in Lakewood. They are, and have been, the holders for several years past of a liquor license. Their custom has been to permit the license to expire on June 30 of each year and to make application for and have granted to them a new license on or about the 15th day of November.

Since the enactment of Senate Bill 166 heretofore mentioned, and in view of paragraph 8 of said Bill, Mr. Dodd and I are wondering whether paragraph 8 of the Bill referring to hotels of 30 rooms (and the Hotel Stanley has many rooms in excess of 30) would permit the Stanley Operating Corporation to continue the practice heretofore followed by them or whether paragraph 8 only refers to applicants operating or owning an hotel never before possessing a retail plenary consumption license.

You can readily see that your opinion and interpretation of Senate Bill 166 is highly important to my client. The licensed premises are not in operation between the middle of May and the first of December. However, they do not wish to be precluded from having a license issued to them.

Respectfully yours,
Charles J. Berkowitz

October 9, 1939

Charles J. Berkowitz, Esq.,
Lakewood, N. J.

My dear Mr. Berkowitz:

The only limitations in Chapter 61, P. L. 1939 (for text, see Bulletin 325, Item 8) affecting either plenary or seasonal consumption licenses are Sections 1 and 3.

Section 8, however, declares that the provisions of Sections 1 and 3 shall not apply to "hotels having at least thirty rooms and beds for the accommodation of guests, boarders, transients and travelers."

If the Hotel Stanley comes within the definition just quoted, it follows that it is exempt from the operative limitations entirely and hence it is immaterial whether its license is a new one or a renewal.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

12. DISQUALIFICATION - APPLICATION TO LIFT - GRANTED.

In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, Pursuant)
to R. S. 33:1-31.2 (as amended by)
Chapter 350, P. L. 1938))

CONCLUSIONS
AND ORDER

Case No. 64)
-----)

Petitioner Pro Se.

BY THE COMMISSIONER:

In 1925 petitioner, then 12 years old, was apparently convicted of trespassing and given a suspended sentence. In 1926, when 13, he was convicted as a juvenile delinquent for breaking into, entering and stealing \$2.00 from a store and was sent to the State Home for Boys in Jamesburg, where he remained for 11 months. In 1932, when 19, he was convicted of robbing a storekeeper at gun point of \$7.00, sentenced to Annandale Reformatory for an indeterminate period and was, after remaining there a year, paroled in 1933.

Petitioner, now almost 27, testified that, since his release in 1933, his home has continuously been in the same New Jersey township; that, 3 weeks after his release, he went to a Civilian Conservation Camp in this State and there remained for 15 months until his "time" ran out; that he then worked for 2 years for an ice and coal dealer as helper and driver of a truck; that thereafter, and until 3 months before the hearing in this case, he worked in the freight department of a New Jersey branch of the General Motors Corporation, when he was "laid off."

At the hearing petitioner produced three character witnesses - his parole officer; the ice and coal dealer by whom he was formerly employed; and a State Beverage Distributor licensee who plans to hire petitioner if the disqualification resulting from his convictions is removed.

The parole officer testified that petitioner has, since his release in 1933, made a "satisfactory adjustment" and has been conducting himself in an honest and law-abiding manner. The other two witnesses, who reside in petitioner's township and have known him for many years, confirmed the parole officer's testimony and further stated that petitioner's reputation in the community is good.

In response to inquiry by this Department, the Civilian Conservation Camp authorities state that petitioner's service at the Camp was "entirely creditable" and the Chief of Police in the Township where petitioner resides states that "he is married and seems to be doing well." Petitioner's fingerprint record shows no conviction or arrest on any occasion since his release in 1933.

I am satisfied that petitioner has made a good readjustment, and that he has been leading an honest and law-abiding life since his release in 1933.

It is, therefore, on this 10th day of October, 1939,

ORDERED, that petitioner's disqualification from holding a license or being employed by a licensee, because of the convictions referred to herein, be and the same is hereby removed, in accordance with R. S. 33:1-31.2 (as amended by Chapter 350, P. L. 1938).

D. FREDERICK BURNETT,
Commissioner.

13. DISQUALIFICATION - APPLICATION TO LIFT - DENIED.

In the Matter of an Application)
to remove Disqualification be-)
cause of a Conviction pursuant)
to the provisions of R.S.33:1-31.2)
(as amended by Chapter 350, P. L.)
1938).

CONCLUSIONS
AND ORDER

Case No. 59. *Vergaleno*

BY THE COMMISSIONER:

In 1922, when petitioner was 19 years of age, he was arrested on a charge of carnal abuse, accused of having had intercourse with a girl who was under the age of legal consent. Subsequently, he pleaded non vult to an assault and battery count in the indictment found by the Grand Jury and was placed on probation for three years. The crime involved moral turpitude. Re Case 284, Bulletin 343, Item 12. In 1930, petitioner was fined \$10.00 on a charge of loitering. He has never been convicted on any other occasion.

At the hearing herein, a retired builder, a real estate agent, a police detective and a businessman, who have known petitioner respectively for six, seven, ten and eight years, testified as to his good character during the time they have known him. The Chief of Police of the municipality wherein petitioner conducts his business and wherein he previously resided for many years, fails to disclose any pending complaints or investigations against him.

However, in an appeal case decided in March 1939, the evidence showed that appellant therein was a "front" for petitioner and hence the action of the issuing authority in denying the application considered therein was affirmed. Petitioner, who was not a witness in the appeal case, testified in this proceeding that he had merely made a loan of money to the alleged "front", but a review of the testimony given in the appeal case convinces me that petitioner herein was the real party in interest and that he attempted to perpetrate a fraud on the local issuing authorities. Under these circumstances, I find that his association with the alcoholic beverage industry will be contrary to the public interest.

The petition herein is, therefore, denied, with leave to apply after one year from date, at which time petitioner may present further evidence as to his good conduct since the date of hearing herein.

D. FREDERICK BURNETT,
Commissioner.

Dated: October 10, 1939.

14. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED - PADLOCK GRANTED.

In the Matter of the Seizure on)	Case #5498
July 18, 1939 of a still at 167)	
West Kinney Street, in the City)	ON HEARING
of Newark, County of Essex and)	CONCLUSIONS AND ORDER
State of New Jersey.)	
-----)	

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

No other appearances.

BY THE COMMISSIONER:

On July 18, 1939 an investigator of this Department, in cooperation with several officers of the Newark Police Department, discovered an unregistered still in operation on the first floor of premises known as 167 West Kinney Street, Newark, New Jersey. They arrested two persons found on the premises, and seized, pursuant to the provisions of R. S. Title 33, Chapter 2, the property listed in Schedule "A" annexed hereto.

At a hearing duly held to determine whether the seized articles should be confiscated, and the premises padlocked, no one appeared to contest the proceedings.

Accordingly, it is adjudged that the seized property constitutes unlawful property and is hereby forfeited in accordance with the provisions of R. S. 33:2-5, and shall 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.

It is further ORDERED that the premises, located at 167 West Kinney Street, in the City of Newark, County of Essex and State of New Jersey, being the building in which the illicit still was found, shall not be used or occupied for any purpose whatsoever, for a period of six months, commencing the 10th day of November, 1939.

Dated: October 10, 1939.

W

Frederick Bunnell
 Commissioner.

SCHEDULE "A"

- 1 - 5 gallon cooker
- 1 - 15 gallon cooler and coil
- 5 - barrels with mash
- 2 - containers of alcoholic beverages