

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark, 2, N. J.

BULLETIN 629

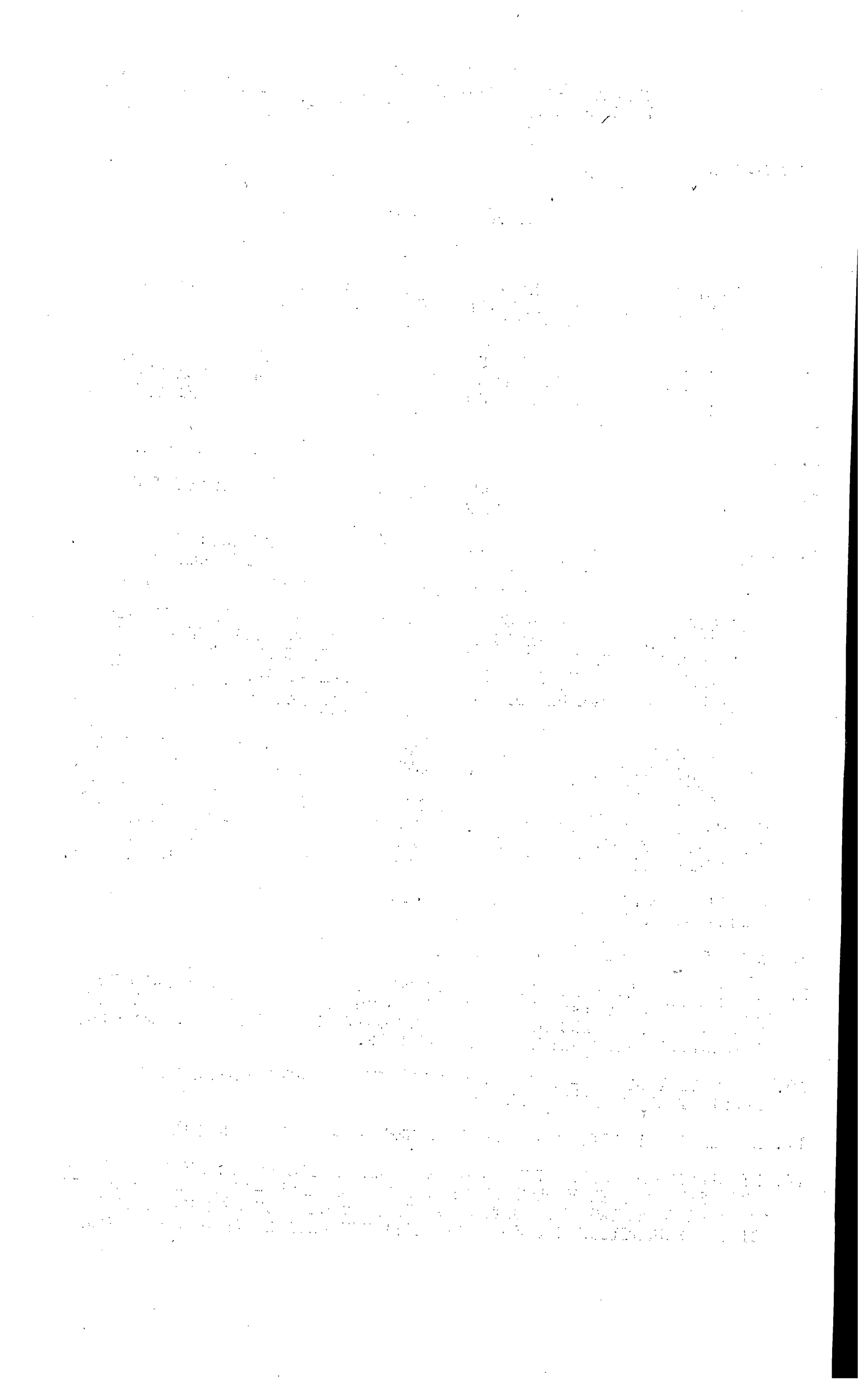
JULY 21, 1944.

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS - STORAGE OF ALCOHOLIC BEVERAGES OFF LICENSED PREMISES, IN VIOLATION OF R. S. 33:1-2 - 30 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.
2. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY HOLDER OF SOLICITOR'S PERMIT, CONTRARY TO THE TERMS OF THE PERMIT - APPLICATION FOR RENEWAL OF SOLICITOR'S PERMIT FOR THE FISCAL YEAR 1944-45 DENIED.
3. APPELLATE DECISIONS - ALPINE VILLAGE TAVERN, INC. v. NEWARK.
4. RETAIL LICENSEES - HEREIN OF MUNICIPAL REGULATIONS REQUIRING LICENSED PREMISES TO BE "CLOSED."
5. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 20 DAYS' SUSPENSION, LESS 5 FOR PLEA.
6. MILITARY FORCES - LICENSED NEW JERSEY MANUFACTURERS, WHOLESALERS AND OUT-OF-STATE MANUFACTURERS AND WHOLESALERS MAY SELL AND SHIP DISTILLED SPIRITS TO ANY CAMP, POST OR REGIMENTAL EXCHANGE DULY ORGANIZED UNDER THE REGULATIONS OF THE U. S. NAVY OR TO ANYONE LOCATED ON A NAVAL RESERVATION IN THIS STATE, JURISDICTION OVER WHICH HAS BEEN CEDED TO THE FEDERAL GOVERNMENT.

MANUFACTURERS AND WHOLESALERS - THE SALE OF DISTILLED SPIRITS TO VOLUNTARY UNINCORPORATED ORGANIZATIONS OF NAVY PERSONNEL OPERATING A PLACE FOR THE SALE OF GOODS PURSUANT TO REGULATIONS PROMULGATED BY THE SECRETARY OF NAVY WHERE SUCH ORGANIZATIONS DO NOT CONSTITUTE AN EXCHANGE OR ARE NOT LOCATED ON A RESERVATION CEDED TO THE FEDERAL GOVERNMENT MAY NOT BE MADE BY OTHER THAN THE HOLDER OF A NEW JERSEY MANUFACTURER'S OR WHOLESALER'S LICENSE.
7. RETAIL LICENSEES - DISTRIBUTION LICENSEES MAY BUY GRENADINE AND RESELL THE SAME TO THE PUBLIC.
8. ACTIVITY REPORT FOR JUNE, 1944.
9. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1st, 1943 TO JUNE 30th, 1944, AS REPORTED TO THE COMMISSIONER OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R. S. 33:1-19.
10. DISQUALIFICATION - APPLICATION TO LIFT - FACTS RE-EXAMINED - APPLICATION TO LIFT GRANTED.
11. APPELLATE DECISIONS - LEVINE v. NEWARK - ORDER REMANDING.
12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A WOMAN OVER THE BAR, IN VIOLATION OF LOCAL ORDINANCE - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - 20 DAYS' SUSPENSION, LESS 5 FOR PLEA.



STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark, 2, N. J.

BULLETIN 629

JULY 21, 1944

1. DISCIPLINARY PROCEEDINGS - STORAGE OF ALCOHOLIC BEVERAGES OFF LICENSED PREMISES, IN VIOLATION OF R. S. 33:1-2 - 30 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against

WILLIAM PELLINGTON,
Route 17
Ramsey, New Jersey,

Holder of Plenary Retail Consumption License C-9 (for the 1943-44 and 1944-45 fiscal years), issued by the Borough Council of the Borough of Ramsey.

CONCLUSIONS

AND

ORDER

James M. Muth, Esq., Attorney for Defendant-licensee.
Harry Castelbaum, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded guilty to a charge alleging that he violated R.S. 33:1-2 by storing alcoholic beverages off his licensed premises.

On November 20, 1943, the defendant, whose inventory of liquor was at a low ebb because of its then current scarcity, purchased six cases of whiskey from William Oper, a duly licensed solicitor for a wholesale licensee, at prices which exceeded the fixed ceilings. It was admittedly a "black market" transaction, the over-payment approximating some twenty dollars per case. The obvious reason for the delivery and storage of the liquor at the defendant's residence was the lack of any accompanying invoice and the mutilation of the serial numbers on the cartons containing the liquor.

A more detailed account of the incident is included in the decision rendered by me in the proceedings resulting from the seizure of the six cases of whiskey. See Bulletin 628, Item 1, in which the defendant's request for return of the whiskey was denied.

This is the first decided case involving disciplinary proceedings against a retail licensee where the violation reflects itself against the pernicious background of "black market" activities. Apart from its unpatriotic aspect, the seriousness of this type of offense becomes manifest upon a mere consideration of its disruptive effect upon the orderly flow of alcoholic beverages within lawful channels. Any attempt at a fair distribution of alcoholic beverages among the retailers of this State by a voluntarily regulated system of rationing is largely nullified, as in this case, by conduct such as was exhibited by this defendant in purchasing merchandise in defiance of the established ceiling prices.

A thirty-day penalty will, I believe, demonstrate that my oft-repeated warning that "black market" activities will not be tolerated in the State of New Jersey, was not merely idle banter. This suspension, when added to the forfeiture of the six cases of whiskey as aforesaid, should have a sufficiently cautionary effect not only upon this defendant but, as well, upon the industry in general. If not the desired effect will be reached by an appropriate increase in the penalty.

Five days will be remitted because of the guilty plea, leaving a net suspension of twenty-five days.

For the proceedings against the solicitor see Bulletin 629, Item 2, decided simultaneously herewith.

Accordingly, it is, on this 7th day of July, 1944,

ORDERED that Plenary Retail Consumption License C-9 heretofore issued for the fiscal year 1944-45 by the Borough Council of the Borough of Ramsey to William Pellington, for premises on Route 17, Ramsey, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 A.M. July 13, 1944, and terminating at 2:00 A.M. August 7, 1944.

ALFRED E. DRISCOLL
Commissioner

2. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY HOLDER OF SOLICITOR'S PERMIT, CONTRARY TO THE TERMS OF THE PERMIT - APPLICATION FOR RENEWAL OF SOLICITOR'S PERMIT FOR THE FISCAL YEAR 1944-45 DENIED.

In the Matter of Disciplinary Proceedings against

WILLIAM OPER
385 East 29th Street,
Paterson, New Jersey,

Holder of Solicitor's Permit No. 258, for the fiscal year 1943-44, issued by the State Commissioner of Alcoholic Beverage Control.

CONCLUSIONS
AND
ORDER

William Oper, Pro Se.
Harry Castelbaum, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant, holder of a solicitor's permit for the last fiscal year expiring June 30, 1944, has pleaded non vult to a charge alleging that he sold alcoholic beverages not pursuant to and within the terms of his permit.

This is a companion case to the seizure and disciplinary cases involving the retail licensee to whom this defendant sold six cases of whiskey at "black market" prices. See Bulletin 628, Item 1, and Bulletin 629, Item 1.

The charge herein is substantiated by the defendant's admission that, without the knowledge of his employer, a wholesale licensee, he arranged the sale of the whiskey at an advanced price of some twenty dollars per case and accounted to his employer only for the regularly established price. In effect, therefore, the transaction was made on the defendant's personal behalf and not on behalf of the wholesaler.

A thirty-day suspension of license was imposed against the retail licensee. Re Pellington, Bulletin 629, Item 1. Although not to be condoned, the impelling force of the shortage of alcoholic beverages, which motivated the retailer's purchase at "black market" prices, lends a somewhat sympathetic understanding to his offense. No such consideration, however, may be attributed to the solicitor. The

latter was spurred by pure greed and avarice. He neither deserves, nor will he be granted, any leniency. His permit will not be renewed.

Accordingly, it is, on this 7th day of July, 1944,

ORDERED that the application of William Oper for a solicitor's permit for the fiscal year 1944-45 be and the same is hereby denied.

ALFRED E. DRISCOLL
Commissioner

3. APPELLATE DECISIONS - ALPINE VILLAGE TAVERN, INC. v. NEWARK.

ALPINE VILLAGE TAVERN, INC.,)
Appellant,)
-vs-)
MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY)
OF NEWARK,)
Respondent.)
(Cases No. 1 and No. 2))
- - - - -)

ON APPEAL
CONCLUSIONS AND ORDER

Anthony P. Bianco, Esq. and Hyman Halpern, Esq., Attorneys for Appellant in Case No. 1.
Hyman Halpern, Esq., Attorney for Appellant in Case No. 2.
Raymond Schroeder, Esq., by Louis A. Fast, Esq., Attorney for Respondent in Cases No. 1 and No. 2.

BY THE COMMISSIONER:

Appellant appeals (1) from the revocation of its Plenary Retail Consumption License No. C-157, issued for premises 1000 Broad Street, Newark, and (2) from the refusal of the respondent to renew its license for the license year 1943-1944.

Respondent revoked appellant's license, effective March 10, 1943, after it had found appellant guilty of the following charges:

"On or about January 14, 1943, it allowed, permitted and suffered in or upon the licensed premises known prostitutes and persons of ill repute, in violation of Rule #4, State Regulations #20.

"On or about January 14, 1943, it allowed, permitted and suffered, in or upon the licensed premises, immoral activities, and allowed, permitted and suffered the licensed place of business to be conducted in such manner as to become a nuisance, in violation of Rule #5, State Regulations #20."

On March 29, 1943 I entered an order staying the revocation pending the determination of the appeal. R. S. 33:1-31.

The case involves the activities of Mary _____ and Rose _____ on appellant's premises on the evening of January 14, 1943. At that time these women had a small apartment consisting of a kitchen and bedroom in a building located on Orchard Street, Newark, a few blocks from appellant's premises. Mary had formerly worked as a waitress for a reputable company, but, for a period prior to January 14, 1943, had been unemployed. Rose had formerly worked in a thread mill, but had been out of work for two months prior to January 14, 1943. Mary

had visited appellant's premises three or four times a week during a period of about two years and Rose had visited appellant's premises frequently during a period of about two months prior to January 14, 1943.

On the evening of January 14, 1943, Officers Dreher and Zillmier, of the Newark Police Department, who were then acting as night plainclothesmen, were present in appellant's premises. Both officers testified that they heard an American sailor tell the bartender that he would like to speak to the "girl in red" on the opposite side of the bar; that the bartender turned to Mary and told her that the sailor wanted to speak to her. It is apparent that, as a result of a conversation which Mary subsequently had with the American sailor, he obtained her Orchard Street address. At about 2:00 A. M. on the following morning, these police officers followed Mary and a soldier from the licensed premises to the Orchard Street address and observed that Mary entered the house alone. Shortly thereafter, Rose and a British sailor, whom she had met at Alpine Village Tavern, entered the Orchard Street address. Other police officers were then called. They entered the house, placed Mary, Rose and the British sailor under arrest and, as they were leaving, the American sailor, to whom Mary had given her address, entered the Orchard Street house and was also placed under arrest. Officer Dreher testified that on seven or eight occasions during a ten-day period prior to January 14, 1943, he had seen men offer to buy drinks for Mary and Rose in appellant's premises. Mary admitted that in December 1942 she was introduced to a man in appellant's premises and subsequently took him to her apartment and there engaged in immoral activities.

The sole question is whether there is sufficient evidence to show that the two girls were "known" prostitutes within the meaning of the rule.

In Re Foster and Clauss, Bulletin 248, Item 4, Commissioner Burnett said:

"Mere proof that a prostitute was present on the licensees' premises is insufficient to establish the offense charged. There must, in addition, be adequate proof that the licensees knew that she was a prostitute and nevertheless acquiesced in her presence at the premises."

And again in Re Kass, Bulletin 239, Item 1, Commissioner Burnett, in commenting on the same subject, stated:

"Unless the offense can be tied in and brought home to the licensees by their knowledge or by acquiescence, which implies knowledge, I cannot, in fairness, hold them responsible. Such a thing might happen in the best regulated club. The mere presence of a prostitute or other person of ill repute on licensed premises does not make out a case."

In a proper case, I have not hesitated to find a licensee guilty where the notoriety of the conditions on his premises and the continuity of the conduct of the women charged the licensee with knowledge that he was permitting prostitutes on the licensed premises. Cf. Bilowith v. Passaic, Bulletin 527, Item 3. In the instant case, I have searched the record in vain for any affirmative evidence establishing that the officers or agents of the licensee knew of the character of Mary or Rose. There is no evidence of solicitation on

the premises. The officers and agents of the licensee deny any knowledge of the character of these two girls and they further state that they saw no evidence of misbehavior.

The girls themselves, while admitting that they did occasionally meet male patrons on the premises, deny any misconduct in the tavern and, in particular, they deny that they made any solicitation for any improper or immoral purpose.

The inferences to be drawn from the testimony in this case do not charge the licensee with knowledge of the conduct of the girls off the licensed premises.

The decision of the respondent on the first charge must be reversed.

The testimony does disclose that the licensee was derelict in its duty to adequately control the conduct of those who visit the barroom. Unescorted girls (their status when they entered) were permitted to mingle with American and British soldiers and sailors and other male patrons and accept alcoholic beverages at their expense. These promiscuous engagements lead to more serious and less desirable adventures, as in the case of Mary and her companion on the night in question. The "pick ups" were permitted despite the presence of a special policeman employed by appellant for the purpose of maintaining order.

The State regulations prescribe rules of conduct which licensees are duty bound to observe. The word "nuisance" as it is used in Rule 5 of State Regulations No. 20 is not to be restricted by technical definitions applicable in criminal cases. One readily apparent reason for this distinction is that the licensee is engaged in the exercise of a privilege, not a property right. Accordingly, in defining the word "nuisance", I am not unmindful of its everyday usage. The word "nuisance" has been defined as "an offensive, annoying, unpleasant or obnoxious thing, practice or person; a cause or source of annoyance." Webster's New International Dictionary.

Further elaboration of the testimony would serve no useful purpose.

The decision of the respondent on the second charge will be affirmed.

In view of my finding as to the first charge and the limited character of the testimony with respect to the second charge, I am of the opinion that the order of revocation should be modified. Allowing reasonable latitude for differences of opinion as to the proper suspension to be imposed in this case in view of the appellant's record, and taking into consideration the fact that respondent will have full opportunity, when the licensee applies for renewal of its license, to determine whether it should be permitted to continue in business, I have reached the conclusion that thirty days is a sufficient suspension.

With respect to the second appeal: Counsel stipulated that this appeal was to be heard upon the testimony presented in the prior case. I am satisfied that the respondent refused to renew the license solely because of its order of revocation which, unless reversed or modified, automatically disqualified the licensee for a period of two years. In view of the modification of the order of revocation, respondent should be given a further opportunity to pass upon the qualifications of the licensee. The second appeal will, therefore, be remanded to the Municipal Board of Alcoholic Beverage Control of the City of Newark for further consideration.

Accordingly, it is, on this 30th day of June, 1944,

ORDERED, that the order of revocation of Plenary Retail Consumption License C-157, issued to Alpine Village Tavern, Inc. for premises 1000 Broad Street, Newark, be and the same is hereby modified to a suspension for a period of thirty (30) days; and it is further

ORDERED, that if any license be issued to this licensee or any other person for the premises in question for the license year 1944-45, such license is hereby suspended for a period of thirty (30) days, from which will be deducted nineteen (19) days, the time that the appellant's premises were closed under the order of revocation prior to the entry of the stay, said suspension to commence at 2:00 A. M. July 3, 1944, and to terminate at 2:00 A.M. on July 14, 1944; and it is further

ORDERED, that the appeal from the action of respondent refusing to renew appellant's license for the fiscal year 1943-44 is hereby remanded to respondent for further consideration.

ALFRED E. DRISCOLL
Commissioner.

4. RETAIL LICENSEES - HEREIN OF MUNICIPAL REGULATIONS REQUIRING LICENSED PREMISES TO BE "CLOSED."

June 30, 1944

Dear _____: Re East Paterson

I have your letter of June 28th relating to the hour when your licensed premises in East Paterson must be closed.

You state that on June 28th an East Paterson policeman warned you that "all people and all lights at (your licensed premises) must be out at 3:00 A.M. any day." You ask whether or not this is correct and continue:

"The reason I am asking for your opinion is, my help, after stopping sales behind the Bar at 2.45 A.M. Saturday nights only, sit up and are served a drink, necessitating lights being on after 3 A. M. If this is prohibited will you write me to this effect, so I will know how to cope with this situation."

The policeman's warning was entirely correct.

The closing hour in East Paterson was formerly 5:00 A. M. On August 18, 1943, however, the Borough Council adopted an ordinance reading in part:

"1. No plenary retail consumption licensee shall sell, serve, deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, or allow the consumption of any alcoholic beverage on licensed premises, on Christmas Day or New Year's Day when said days are weekdays, between the hours of 5:00 A.M. and 7:00 A. M.; on Christmas Day or New Year's Day, when said days are Sundays, between the hours of 5:00 A. M. and 11:00 A. M.; on other weekdays, between the hours of 3:00 A. M. and 7:00 A.M.; on other Sundays, between the hours of 3:00 A. M. and 11:00 A. M.

"During the hours sales are prohibited by the first paragraph of this section, the entire licensed premises shall also be closed, but this closing requirement shall not apply to hotels, restaurants as defined in R.S. 33:1-11, or clubs as set forth in paragraph 5 of R. S. 33:1-12, and State Regulations No. 7.

"2. Any person who shall violate this ordinance shall be subject, upon conviction, to a fine of not more than two hundred dollars or imprisonment for not more than ninety days, or both such fine and imprisonment in the discretion of the court."

Under the ordinance, the stop hour for sale, service, delivery, and consumption on the licensed premises, on all days of the year except Christmas and New Year's Day, is 3:00 A. M. Note, particularly, that consumption on the premises is prohibited after 3:00 A.M. This means that allowing anyone, including you or your employees, to consume alcoholic beverages on the licensed premises after 3:00 A. M. is a violation of the ordinance.

The closing of premises requirement contained in Section 1, paragraph 2 of the ordinance does not apply to hotels, bona fide restaurants or clubs. Representatives of this Department have recently inspected your licensed premises. Their report indicates that your principal business is that of a tavern -- that the _____ is not a restaurant. Thus, it appears that your premises do not come within the exceptions provided in the ordinance and, therefore, your licensed premises must be closed by 3:00 A. M.

The East Paterson ordinance provision requiring that licensed premises must be closed during hours of prohibited sale does not define the word "closed." The State Commissioner, however, has wholly approved the following definition for closed premises: "one where all doors are locked, the lights are out and no patrons are in the place or on the premises connected therewith." (Re Scudder, Bulletin 108, Item 1 (1936)). In Malaga v. Clark Township, Bulletin 622, Item 8 (June 1944), I specifically approved the above quoted definition and pointed out that it "is clear-cut and should be understandable to enforcement officers and licensees alike." Similarly, East Paterson's strict and vigorous enforcement of its closing of premises regulation is altogether desirable and has my definite approval.

I must stress the fact that a licensee who violates a municipal ordinance subjects his license to suspension or revocation (Revised Statutes, 33:1-30, item h); and, further, that a violation of East Paterson's "hours" regulations is punishable by fine or imprisonment, or both (Section 2 of the East Paterson ordinance hereinabove quoted).

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

5. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 20 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ALPINE VILLAGE TAVERN, INC.)
1000 Broad Street)
Newark, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-157 issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)
- - - - -)

Hyman Halpern, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult to charges alleging that on May 30, 1943 it sold and delivered alcoholic beverages to and permitted the consumption of alcoholic beverages by Private Tillman ----, a minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

In mitigation, defendant alleges that the minor was twenty years and two months of age, appeared to be much older, and that he was accompanied by a soldier of full age when the drinks were served by defendant's bartender. It is not contended that defendant obtained any written statement of age from the minor, and hence defendant did not comply with the provisions of R. S. 33:1-77.

There do not appear to be any aggravating circumstances in this case. The usual penalty for sale of alcoholic beverages to a minor where there are no aggravating circumstances, and where the defendant has no prior record, is ten days. Re Abrams, Bulletin 562, Item 8.

The defendant has a previous record. In 1938 it entered a plea of non vult to a charge of permitting a lottery on the licensed premises. As a result thereof its license was suspended for a period of five days commencing June 11, 1938. See also Alpine Village Tavern v. Newark, Bulletin 629, Item 3, decided herewith. Under all the circumstances, I shall suspend the defendant's license for the violation herein for a period of twenty days, less five days for the guilty plea, or a net suspension of fifteen days.

Accordingly, it is, on this 30th day of June, 1944,

ORDERED, that if any license be issued to this licensee or to any other person for the premises in question, for the license year 1944-45, such license is hereby suspended for a period of fifteen (15) days, commencing at 2:00 A. M. July 14, 1944 and terminating at 2:00 A. M. July 29, 1944.

ALFRED E. DRISCOLL
Commissioner.

6. MILITARY FORCES - LICENSED NEW JERSEY MANUFACTURERS, WHOLESALERS AND OUT-OF-STATE MANUFACTURERS AND WHOLESALERS MAY SELL AND SHIP DISTILLED SPIRITS TO ANY CAMP, POST OR REGIMENTAL EXCHANGE DULY ORGANIZED UNDER THE REGULATIONS OF THE U. S. NAVY OR TO ANYONE LOCATED ON A NAVAL RESERVATION IN THIS STATE, JURISDICTION OVER WHICH HAS BEEN CEDED TO THE FEDERAL GOVERNMENT.

MANUFACTURERS AND WHOLESALERS - THE SALE OF DISTILLED SPIRITS TO VOLUNTARY UNINCORPORATED ORGANIZATIONS OF NAVY PERSONNEL OPERATING A PLACE FOR THE SALE OF GOODS PURSUANT TO REGULATIONS PROMULGATED BY THE SECRETARY OF NAVY WHERE SUCH ORGANIZATIONS DO NOT CONSTITUTE AN EXCHANGE OR ARE NOT LOCATED ON A RESERVATION CEDED TO THE FEDERAL GOVERNMENT MAY NOT BE MADE BY OTHER THAN THE HOLDER OF A NEW JERSEY MANUFACTURER'S OR WHOLESALER'S LICENSE.

Lieutenant W. M. Teem,
Headquarters of the Commandant
Third Naval District
New York, 7, N. Y.

July 3, 1944

Dear Lieutenant Teem:

I have before me your letter of June 14th with reference to the purchase of distilled spirits by the Commandant of each Naval District for Naval officers' messes and clubs.

I take it that, since the offices of the Commandant of the Third and Fourth Naval Districts are both located outside New Jersey, viz., in New York and Philadelphia respectively, the actual purchases of the liquor will be consummated in those cities and that shipments thereof will be made to the various officers' clubs and messes located in New Jersey.

At the outset I wish to point out that, under our Law, every delivery of an alcoholic beverage otherwise than by purely gratuitous title, including deliveries from without this State, constitutes a sale and, further, that it is unlawful to sell or transport alcoholic beverages in this State except pursuant to and within the terms of a license or as otherwise expressly authorized under such law. The only pertinent provisions therein with reference to the purchase and sale of alcoholic beverages by Navy personnel are:

- (1) R. S. 33:1-27, which provides that no license shall be required and no fee charged in connection with the sale of alcoholic beverages for consumption on the premises where sold, when sold at any camp, post or regimental exchange duly organized under the regulations of the U. S. Navy, and,
- (2) R. S. 33:1-11.1, which provides that licensed New Jersey manufacturers and wholesalers may distribute and sell alcoholic beverages within the limits of their licenses to any voluntary unincorporated organization of Navy personnel operating a place for the sale of goods pursuant to regulations promulgated by the Secretary of the Navy.

In addition to the above, it has heretofore been ruled that no license or permit is required from this Department for the shipment of alcoholic beverages to camp, post or regimental exchanges duly organized under the regulations of the U. S. Navy or to anyone located on a Naval reservation in this State, jurisdiction over which has been ceded to the Federal Government by State legislation.

It follows, therefore, that:

1. Manufacturers and wholesalers of alcoholic beverages who are not licensed in this State may sell and ship alcoholic beverages to a camp, post or regimental exchange duly organized under the regulations of the U. S. Navy or to anyone on a Naval reservation in this State, jurisdiction over which has been ceded as indicated above.

2. Only licensed New Jersey manufacturers and wholesalers may sell and ship alcoholic beverages to voluntary unincorporated organizations of Navy personnel operating a place for the sale of goods pursuant to regulations promulgated by the Secretary of the Navy where such organizations do not either constitute an exchange or are not located on a reservation ceded to the Federal Government.

Thus, in the instant case, distilled spirits may be shipped by both licensed New Jersey manufacturers and wholesalers and out of state distillers and importers who are not licensed in New Jersey to Naval officers' messes and clubs which constitute an exchange duly organized under the regulations of the U. S. Navy, or which are located on a reservation ceded to the Federal Government. On the other hand, shipments of distilled spirits to Naval officers' messes and clubs which do not constitute the aforesaid type of exchange or are not located on ceded property must be confined to licensed New Jersey manufacturers and wholesalers.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

7. RETAIL LICENSEES - DISTRIBUTION LICENSEES MAY BUY GRENADINE AND RESELL THE SAME TO THE PUBLIC.

July 6, 1944

Beham Products Company
New York, 16, N. Y.

Gentlemen:

As I understand it, you are inquiring whether it is permissible to sell grenadine, non-alcoholic, in 8 oz. bottles to package store licensees in New Jersey for resale by them to the general public.

There is nothing in the liquor laws or regulations in New Jersey to bar this. See Re Original Julius Marcus Lab., Bulletin 203, Item 7, ruling that grenadine does not come within the State regulation prohibiting cordial extracts and similar items on retail licensed premises. Also see Re Gold's Drug Stores, Bulletin 265, Item 4, ruling that sale of grenadine does not come within local ordinances prohibiting any "other mercantile business" at package stores.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

8. ACTIVITY REPORT FOR JUNE, 1944

To: Alfred E. Driscoll, Commissioner

<u>ARRESTS:</u>	Licensees and employees - - - -	9	Bootleggers - - - - -	6
	Total number of persons arrested - - - - -			15
<u>SEIZURES:</u>	Still - 1 to 50 gallons daily capacity- - - - -			0
	50 gallons and more daily capacity - - - - -			3
	Total number of stills seized- - - - -			3
	Mash - gallons - - - - -			3,163
	Motor vehicles - Trucks- - - - -			0
	Passenger cars- - - - -			0
	Total number of motor vehicles seized- - - - -			0
	Beverage alcohol - gallons - - - - -			101
	Brewed malt alcoholic beverages (beer, ale, etc.) - gallons- - -			21.03
	Wine - gallons - - - - -			70
	Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons-			280.50

RETAIL LICENSEES:

Total number of premises inspected - - - - -	1,432
Total number of bottles gauged - - - - -	10,074
Total number of premises where violations were found - - - - -	76
Total number of violations found - - - - -	78
Type of violations found:	
Illicit (bootleg) liquor- - - - -	11 Improper beer tap markers - - - - - 1
Gambling devices- - - - -	4 Stock disposal permits necessary- - - 4
Prohibited signs- - - - -	0 No sign denoting legal sale hours -
Unqualified employees - - - - -	26 off-premises consumption- - - - - 13
"Fronts" (concealed ownership)-	2 Other types of violations - - - - - 17

MILITARY AREA PATROL INSPECTIONS:

523

STATE LICENSEES:

Premises inspected - - - - -	12
License applications investigated- - - - -	600

COMPLAINTS:

Investigated, reviewed and closed- - - - -	396
Investigation assigned, not yet completed- - - - -	331

LABORATORY:

Analyses made- - - - -	141
"Shake-up" cases (alcohol, water and artificial coloring)- - - - -	4
Liquor found to be not genuine as labeled- - - - -	11

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made- - - - -	67
Persons fingerprinted for non-criminal purposes- - - - -	422
Identification contacts with other enforcement agencies- - - - -	601
Motor vehicle identifications via N. J. State Police Teletype- - - -	9

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities- - - - -	24
Cases instituted at Department - - - - -	13

HEARINGS HELD AT DEPARTMENT:

Total number of hearings held - - - - -	48		
Appeals- - - - -	5	Seizures- - - - -	3
Disciplinary proceedings - - - - -	19	Tax revocations - - - - -	4
Eligibility- - - - -	14	Applications for licenses	
		or permits - - - - -	3

PERMITS ISSUED:

Total number of permits issued - - - - -	942
Unqualified employees- - - - -	163
Solicitors - - - - -	22
Social affairs - - - - -	191
Home manufacture of wine - - - - -	1
Disposal of alcoholic beverages- - - - -	108
Miscellaneous permits- - - - -	457

Respectfully submitted,
 Sydney B. White
 Chief Inspector.

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 BROAD STREET NEWARK, 2, N. J.

9. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1ST, 1943 TO JUNE 30TH, 1944
AS REPORTED TO THE COMMISSIONER OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19.

C L A S S I F I C A T I O N O F L I C E N S E S

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Surrendered Expired	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	421	\$ 160,534.41	58	\$ 19,965.90	8	\$ 750.00					1	486	\$ 181,250.31
Bergen	779	257,230.88	232	55,897.11	45	4,299.73	24	\$ 1,091.78	9	\$ 1,743.06	7	1082	320,262.56
Burlington	179	57,443.45	16	3,750.00	30	3,675.00	1	25.00			2	224	64,893.45
Camden	433	185,332.92	54	18,970.89	58	5,143.84	1	2.31			4	542	209,449.96
Cape May	120	52,254.63	10	2,900.00	9	773.10					1	138	55,927.73
Cumberland	78	22,963.02	8	1,785.27	26	2,750.00					1	111	27,498.29
Essex	1365	684,195.57	337	158,158.59	77	10,193.84	15	750.00			6	1788	853,298.00
Gloucester	106	29,992.00	10	1,600.00	5	300.00						121	31,892.00
Hudson	1527	628,317.72	265	105,287.35	48	6,062.32	44	1,686.76			7	1877	741,354.15
Hunterdon	69	17,902.80	1	300.00	1	150.00						71	18,352.80
Mercer	420	176,214.73	44	11,200.00	38	4,831.66			1	88.02	3	500	192,334.41
Middlesex	582	227,641.67	43	11,844.34	32	2,725.58	1	25.00			3	655	242,236.59
Morrmouth	475	186,806.61	71	19,998.00	21	2,362.41	6	200.00	40	13,561.14	24	590	222,923.16
Morris	308	89,993.70	65	16,100.00	25	2,138.31	1	25.00	16	2,355.47	11	404	110,612.48
Ocean	162	71,239.56	22	8,575.00	7	619.45					1	190	80,434.01
Passaic	862	331,299.22	115	32,530.04	27	3,200.00	9	400.00	1	125.00	4	1010	367,554.26
Salem	50	15,750.00	4	550.00	10	875.00					3	61	17,175.00
Somerset	177	58,585.79	24	5,575.00	8	800.00						209	64,960.79
Sussex	133	28,531.26	11	1,550.00	3	160.00			6	814.95	3	150	31,056.21
Union	537	264,532.07	124	41,877.98	54	6,239.79	12	550.00			1	726	313,199.84
Warren	133	34,782.80	12	2,182.50	17	1,830.00			2	300.00	2	162	39,095.30
TOTALS	8917	\$3,581,544.81	1526	\$520,597.97	549	\$59,880.03	114	\$4,755.85	75	\$18,987.64	84	11097	\$4,185,766.30

Alfred E. Driscoll
ALFRED E. DRISCOLL, Commissioner.

Respectfully submitted,

ERWIN B. HOWE
Deputy Commissioner.

10. DISQUALIFICATION - APPLICATION TO LIFT - FACTS RE-EXAMINED - 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.)

ON REQUEST FOR RECONSIDERATION
CONCLUSIONS AND ORDER

Case No. 304.
-----)

BY THE COMMISSIONER:

On January 7, 1944 I denied petition for relief herein because I concluded that petitioner had deliberately concealed the fact of an arrest made only three months prior to the hearing. Re Case No. 304, Bulletin 602, Item 5. Petitioner has requested me to reconsider my previous decision herein and has forwarded to me a report from the Judge of the Recorder's Court in which he was arraigned on the charge of larceny. The Judge advises me that the arrest was "due to an error or misunderstanding on the part of the complainant" and that the latter appeared in Court on August 10, 1943 and withdrew the charge. The charge of larceny was preferred by the manager of a grocery store after petitioner had stumbled over a crate of eggs and destroyed almost the entire contents of the crate. The complaint was withdrawn in Recorder's Court after petitioner herein had paid for the damage he had caused. On the facts stated, there was, of course, no question of larceny involved.

At the hearing held herein, petitioner was examined at length as to his criminal record. He admitted his two convictions. He admitted also that in his youth he had been arrested several times for fighting and motor vehicle violations, but stated that none of these arrests had resulted in a conviction. He denied that he had been arrested since he got out of jail in 1935. The answer to the last question was incorrect because, as appears above, he was arrested in August 1943. However, the petitioner was asked no questions referring specifically to this last arrest and, in view of the facts explained above, there appears to be no reason why he should have deliberately concealed the fact of the arrest. On reconsideration, I shall accept the explanation that the failure to disclose the arrest was due to an oversight and not to a deliberate attempt to deceive.

Petitioner filed his original petition herein in October 1943. It does not appear that any definite ruling had been made as to his eligibility to be employed on licensed premises prior to the decision rendered on January 7, 1944. Petitioner's employment on licensed premises prior to January 7, 1944 should not, under the circumstances, bar him from relief herein.

Petitioner has been deprived of the privilege of working in licensed premises since January 7, 1944 primarily because of the false answer given at the hearing. I think that is sufficient punishment for the false answer in view of the conclusion that there was no deliberate intent to deceive. Petitioner has not been convicted of any crime since his release from the penitentiary in October 1935 and, upon reconsideration, I conclude that his connection with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 7th day of July, 1944,

ORDERED, that the order heretofore entered herein be vacated, and, in lieu thereof, it is

ORDERED, that petitioner's statutory disqualification because of the convictions mentioned in the original Conclusions and Order be and the same is hereby lifted, in accordance with the provisions of R. S. 33:1-31.2.

ALFRED E. DRISCOLL
Commissioner.

11. APPELLATE DECISIONS - LEVINE v. NEWARK - ORDER REMANDING.

Cases #1 and 2

LOUIS LEVINE,

Appellant,

-vs-

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

Respondent

ON APPEAL
CONCLUSIONS AND ORDER

Harold Simandl, Esq., Attorney for Appellant.
Louis A. Fast, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

These two appeals were filed as a result of the actions of respondent in first revoking appellant's plenary retail distribution license for the fiscal year 1942-43, after finding him guilty of selling alcoholic beverages to a minor, and thereafter, denying his application for renewal of said license for the fiscal year 1943-44.

Both parties have consented to the entry of an order remanding both appeals to respondent for reconsideration. No reason appearing why the cases should not be so remanded,

It is, on this 6th day of July, 1944,

ORDERED, that the above cases be and the same are hereby remanded to respondent for reconsideration.

ALFRED E. DRISCOLL
Commissioner.

12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A WOMAN OVER THE BAR, IN VIOLATION OF LOCAL ORDINANCE - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - 20 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MARTIN SEGAL)
T/a MARTY'S OLD TAPPE HOUSE)
1990 Federal Street)
Camden, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-138 for the fiscal year 1943-44, and now holder of Plenary Retail Consumption License C-36 for the current (1944-45) year, both issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)
-----)

Martin Segal, Pro Se.
Edward F. Hodges, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee pleads non vult to serving alcoholic beverages on June 3, 1944 to a woman over the bar, in violation of Section 10 of a local ordinance; and to selling and delivering, on the same date, alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

Agents of the Alcoholic Beverage Control Department, on June 3, 1944, while making an investigation at the licensed premises, observed a woman served twice over the bar with what appeared to be alcoholic beverages, in violation of Section 10 of the local ordinance. This happened at about 10:43 P. M. and again at 10:45 P. M. Shortly thereafter the agents observed a customer enter the premises carrying two empty one-quart beer bottles which he gave to the bartender, who gave him a full one-quart bottle of beer with which the customer left the premises. He was stopped outside and readily admitted the purchase. The bartender likewise admitted the aforesaid sales. Shortly thereafter the licensee came to the premises and, after talking to the bartender, likewise admitted the violations.

The licensee offers as an explanation that the woman who was served occasionally helped out when he was busy and that the bartender probably thought he was giving her the drinks to serve customers; and, as to the off-premises violation, the beer was ordered before 10:00 P. M. and that the bartender evidently forgot to note the time. These explanations, of course, constitute no excuse.

The minimum suspension for a violation of Rule 1 of State Regulations No. 38 is fifteen days. Re Gattuso, Bulletin 587, Item 1. The minimum suspension for serving women over the bar, in violation of a local ordinance, is five days. Re Polato, Bulletin 582, Item 11.

The licensee has no prior record. Therefore, the minimum suspension of twenty days will be imposed, with a remission of five days for the plea, making a net suspension of fifteen days.

Accordingly, it is, on this 12th day of July, 1944,

ORDERED, that plenary Retail Consumption License C-36 for the current fiscal year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Martin Segal, t/a Marty's Old Tappe House, for premises 1990 Federal Street, Camden, be and the same is hereby suspended for fifteen (15) days, effective at 2:00 A.M. July 17, 1944, and terminating at 2:00 A. M. August 1, 1944.

Alfred E. Briscall
Commissioner.