

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

BULLETIN NUMBER 178.

MAY 26, 1937

1. THE FARM PROBLEM - AN ATTEMPTED SOLUTION - CONTENTED BEAN AND BERRY PICKERS - HEREIN OF PADRONES, THE CROP PROCESSIONAL AND MINOR BUCOLICS.

Crosswicks, N. J., May 4, 1937

Dear Sir:

Will you please advise if there is any provision made for a beverage license under the following conditions:

Chesterfield Township is a rural township made up of three small communities. The farms grow the following crops - strawberries, beans, tomatoes and potatoes. During harvesting season, the farmers employ a large group of pickers, usually Italians from Philadelphia, who live here until fall. This population will approximate 500 adults and children who are under the direction of one agent.

Many of the farm owners claim it is becoming difficult to get help because the pickers are unable to get beer at all times. Many never leave the farms until taken back to the city in the fall. Since they are so accustomed to the beer, we desire to know if there is any way to give it to them legally. None but regular employees would be served (do not wish to cater to general public) and the time would be just the harvesting season. They will arrive within a couple of weeks for strawberries and remain until September.

Chesterfield Township has two retail consumption licenses (fee \$200.00) and has no provision for seasonal license of any kind. The rule of one consumption license to a community has been in force since repeal. We do not wish to change this plan, nor do we wish this special license to conflict with existing licenses.

I am unable to find a case of this kind covered by your rulings and would appreciate your expressions.

Yours very truly,  
Florence D. Clayton,  
Township Clerk.

May 22, 1937

Mrs. Florence D. Clayton,  
Clerk of Chesterfield Township,  
Crosswicks, New Jersey.

My dear Mrs. Clayton:

I have your interesting letter of the 4th.

The problem, I understand, is how to keep the farm-hands happy, and prevent the trek-urge to urban oases to slake the fierce, hereditary thirsts engendered under broiling suns in Southern Jersey.

I take it that public transportation facilities in Chesterfield Township are meager, and distances long - too long to walk after a hard day's work.

Of course, as to bean and berry pickers housed in the two communities which boast a tavern, or in their immediate outskirts, there is no real problem. The trouble arises, I presume, in respect to the many outlying farms.

A partial solution would be a provision for issuing seasonal consumption licenses at strategic places, but this, I can understand, would hardly pay and, again, it is against the wishes of your Township Committee.

I note that the pickers are all under the direction of one agent. I presume the padrone assigns them to the several farms as the beans and berries ripen and the harvests of tomatoes and potatoes follow in procession. I take it, also, that he acts as banker and commissary and looks after their working conditions and general welfare. If this be so, then he, as such agent, may arrange with the several families at the different farms to give to him their daily requisitions and the cash or credit order so that he may buy for them such beer as they desire from your two regular retail licensees either by the case or, if this be too expensive, then by the quarter or half barrel which is cheaper, readily divisible and if kept in the cool of the cellar needs but little refrigeration. The licensees could then deliver against the orders so placed directly to the respective purchasers according to the daily requisition.

The padrone, of course, cannot buy the beer and then resell it. That would require a license. To do it without, would be a misdemeanor and I should have to visit him shortly. His actions in this respect must not be exploitation but strictly accommodation and without any profit, direct or indirect.

The retail licensees may deliver beer without restriction as to quantity in their own vehicles providing they bear the requisite transportation insignia. If they have any doubt as to the rules, tell them to write me direct.

If the licensees have no vehicles or do not care to make such deliveries, then the farmers themselves could transport the beer for their respective farm-hands without special permit, providing that such transportation was purely gratuitous and not in excess of a half barrel of beer, or two cases containing not in excess of twenty-four quarts in all, during any consecutive twenty-four hour period.

You do not mention wine but knowing somewhat of the tastes of my Latin friends, I thought to mention that whatever was said before about beer applies also to wine except that the maximum quantity transportable without special permit in any twenty-four hour period is five gallons.

If these suggestions do not solve your problem do not hesitate to say so and I will try again.

Cordially yours,  
D. FREDERICK BURNETT,  
Commissioner.

2. DISCIPLINARY PROCEEDINGS - NIPS - TWO DAYS AN ADEQUATE SUSPENSION UNTIL STRONGER MEASURES ARE INDICATED.

May 22, 1937.

Bertram E. Whitman,  
City Clerk,  
Atlantic City, New Jersey

Dear Mr. Whitman:

I have staff report and certification from the Board of Commissioners of the proceeding against Ralph Harris and John Platt, t/a Show Place Bar, charged with having sold "nips" for off-premises consumption in violation of the State Rule.

I note the licensees pleaded guilty and that the license was suspended for a period of two days. This is the first penalty inflicted so far as I know, for a violation of this kind. These undersized containers to fit pocket and purse are a throw-back to the hip flask toting of Prohibition days and are quite out of place in the new regime. Until stronger measures are indicated, I believe the penalty the Board inflicted to be an adequate deterrent.

Please extend to the members of the Board my sincere appreciation for their prompt and effective action in this case.

Cordially yours,

D. FREDERICK BURNETT  
Commissioner

3. LICENSES - FOR "ROADSIDE" STANDS - THUMBS DOWN IN GENERAL

LICENSES - NO LICENSE AVAILABLE FOR SALE FOR ON-PREMISES CONSUMPTION OF BEER ONLY

Dear Sir:

The proprietor of a lunch room and refreshment stand in connection with a Service Station on White Horse Pike in Elm, N. J. (Winslow Twp.) has asked for a license to sell bottled beer with the lunches. Can the Township Committee issue a license of that kind? If so, what is the cost of such a license?

Very truly yours,

C. MacD. LEED  
Twp. Clerk

May 23, 1937.

Mrs. Carrie MacD. Leed,  
Clerk of Winslow Township.

Dear Mrs. Leed:

There is no special beer license for on-premises consumption. See Bulletin 4, Item 3; Bulletin 38, Item 10, and Bulletin 77, Item 2.

There is a limited retail distribution license which permits the sale of malt beverages only (see Bulletin 30, Item 1), but this only applies to unchilled beer, and then only

for consumption off-premises. Hence it has no bearing on your question.

It follows that if Mrs. Kraus desires to sell beer with her lunches, she will have to take out either a plenary or a seasonal retail consumption license, both of which allow sale for on-premises consumption not only of beer and malt beverages but also of all alcoholic beverages.

Since your Township Committee has not yet passed any resolution authorizing the issuance of seasonal licenses it follows that the only license presently available would be a plenary retail consumption license.

Before any license is issued to Mrs. Kraus, I wish the Township Committee would examine carefully my notice to all municipal issuing authorities, set forth in Bulletin 76, Item 1. I look with disfavor upon the licensing of roadstands generally because the usual business they conduct is not appropriate in connection with the sale of alcoholic beverages. Service of alcoholic beverages at the same counters or fountains at which ice-cream, candy and soda "pop" are served to children is not only objectionable as a matter of social policy but is expressly prohibited by the Control Act. Section 13 prohibits the issuance of consumption licenses for premises where any other mercantile business is carried on except the keeping of a hotel or restaurant. Consequently a roadstand proprietor who desires a consumption license must, at least, so separate the premises where alcoholic beverages are to be sold as to render them substantially separate and distinct from the roadstand enterprise. Even then, I am not in favor of licenses for the average roadstands unless they are in fact essentially restaurants and nothing but that. I suppose it all comes down to what is meant by "roadstand". If it is the common open-air roadside concept, I advise against them.

Cordially yours,

D. FREDERICK BURNETT  
Commissioner

4. DISCIPLINARY PROCEEDINGS - POSSESSION OF SLOT MACHINES BY COUNTRY CLUBS - 7 DAY SUSPENSION MEANS THAT THERE IS BUT ONE LAW FOR THE RICH AND POOR ALIKE

May 24, 1937.

H. C. Scudder, Esq.,  
Attorney for Ewing Township,  
Trenton, N. J.

Dear Mr. Scudder:

I have staff report of the proceeding before the Ewing Township Committee against Trenton Country Club, charged with possession of slot machines on the licensed premises in violation of the State Rule.

The report states: "Pursuant to complaint previously received that slot machines were possessed and operated on the licensed premises, Investigators Lippitt and Perry were assigned.

"On May 6, 1937, they visited Ewing Township Police Headquarters and contacted Captain Morris. He accompanied them to the licensed premises at about 12:15 P. M. They contacted the assistant steward and informed him that they were about to inspect the licensed premises. He referred them to the President

of the Club, a Mr. Bradley. Mr. Bradley at first insisted that they should have a search warrant, but later, after receiving legal advice, instructed the steward to permit the search. He took them to a storage room in the basement where they found three slot machines -- five, ten, and twenty-five cent respectively-- each with a jack-pot 'loaded to full capacity with coins.' Each machine was set on a metal frame with rollers to facilitate the moving of same from place to place. The machines were seized by Captain Morris and stored at Police Headquarters.

"Sentence - License suspended for seven (7) days -  
from 2:30 A. M. June 7, to 7 A. M. June  
14, 1937."

I wish to thank you and the members of the Committee for your prompt and effective action. Ewing Township licensees have good cause to believe that it is the purpose of your Committee to enforce the law without fear or favor.

This penalty should have a very salutary effect upon golf and country clubs throughout the state as it dawns on them that there is but one law for the rich and poor alike and that was made to be obeyed.

Permit me also to compliment highly the exceedingly helpful cooperation of Captain Clarence Morris and your Chief of Police, William C. Forst, Jr.

Cordially yours,

D. FREDERICK BURNETT  
Commissioner

5. DISCIPLINARY PROCEEDINGS - CLUB LICENSEES - SALE TO NON-MEMBERS-  
TWO WEEK PENALTY

May 24, 1937

Frederick C. Kentz, Esq.,  
City Clerk,  
Summit, New Jersey.

Dear Mr. Kentz:

I have staff report of the proceedings before the Common Council of Summit against Knights of Columbus Home Association of Summit for having sold alcoholic beverages to non-members in violation of the terms of its Club license.

I note a plea of guilty was entered and that the license was suspended for two weeks.

Such a substantial penalty should make this licensee value the privilege that has been accorded by your Council. Club licensees get their licenses for a fee far less than regular retail consumption licensees, but this special privilege is expressly conditioned that they may sell only to members and their bona fide guests. When sales are made to others, with no apparent safeguards taken to confine the sales within the proper limits -- as this case discloses -- it is most unfair competition with those who pay the higher license fee in order to sell to all comers.

Please convey to the Council my deep respect and appreciation.

Cordially yours,

D. FREDERICK BURNETT  
Commissioner

6. DISCIPLINARY PROCEEDINGS - ILLICIT ALCOHOL WITH POISONOUS INGREDIENTS.

In the Matter of Disciplinary Proceedings against

JOSEPH GREMBOWIEC,  
252 Union Street,  
Lodi, New Jersey,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License No. C-12, issued by the Borough Council of Lodi.

Jerome B. McKenna, Esq., for the Department of Alcoholic Beverage Control.

Julius Stein, Esq., Attorney for Respondent Licensee.

BY THE COMMISSIONER:

In the course of an investigation of the licensed premises, Inspectors of the Alcohol Tax Unit, Internal Revenue Service, seized four bottles containing alcoholic beverages which, upon subsequent analysis, were found not only to be below proof but also to contain traces of isopropyl alcohol, acetone and methyl alcohol. Report of the results of their investigation having been forwarded to this Department, disciplinary proceedings were instituted against the licensee.

The testimony of a chemist attached to the Alcohol Tax Unit who analyzed the contents of these bottles shows that each of the four bottles seized contained alcoholic beverages which were below the proof shown on the labels; that each contained artificial coloring although labeled straight whiskey; that each contained small amounts of isopropyl alcohol, acetone and methyl alcohol. The chemist testified that methyl alcohol is poisonous, but in the quantities found in the various samples isopropyl alcohol, acetone and methyl alcohol are not harmful. Hence, pursuant to the ruling made in Re Felsenfeld, Bulletin 175, Item 8, I find as the fact that, while the liquors seized upon the licensed premises were illicit, they were not poisonous.

It sufficiently appears, however, from the authorities cited in the Felsenfeld case, supra, that the presence of acetone or isopropyl alcohol is prima facie evidence that the liquor has been cut with recovered denatured alcohol. In the present case the chemist testified that the presence of methyl alcohol would indicate that there was some alcohol recovered from a proprietary solvent or other special alcohol containing methyl alcohol.

In Re Felsenfeld, supra, I said:

"It is clear that the only way in which acetone gets into liquor is because the liquor has been 'cut' or the bottle refilled with recovered denatured alcohol. The

tell-tale trace of acetone remains, however skillful the cutting or the blending, to point its paternity. Such an ingredient makes liquor illicit, not only in the sense that it is not tax paid or has been diluted with water or colored with prune juice or caromel, but also in the graver significance that the adulterant is harmful to the human system, even if not technically poisonous, and even if the doctors and the chemists and the experts have not yet determined the minimum quantity necessary to produce pernicious results. The public has no way of knowing what is contained in the liquor they drink. Few would buy if they knew what they swallowed was adulterated with a celluloid or smokeless powder solvent or denatured roach exterminator or rubbing alcohol, having a harmful, and possibly poisonous, effect. The mere fact that, in this particular case the samples tested did not contain sufficient acetone by volume to cause any noticeably harmful effect is not the point. It is a pure accident that less rather than more acetone was contained in the bootleg liquor used to adulterate the genuine. Licensed places are not laboratories in which to experiment with human lives. Licensees may not escape punishment because the illicit liquor they purchase or possess happens to be concocted under a formula which renders the deleterious effect negligible. The public will suffer if other formulae or processes are not so fortunate."

The licensee testified that he has been in business since 1933 and has never been charged with any other violation of Federal or State laws since that time; that he did not tamper with the contents of the bottles; that he purchased these liquors which he described as cheap liquors from legitimate wholesalers; that he employs no bartenders but that his wife and daughter sometimes assist him in conducting the business. The licensee insists that he has shown good faith because he has discontinued the use of the brands which were found to be illicit. It appears, however, from the testimony that the unopened bottles of the same brand which were tested upon the licensed premises conformed to the labels thereon. If those unopened bottles had contained acetone or the other dangerous, albeit not lethal, substances, the licensee would have been exonerated forthwith and the responsibility lodged elsewhere. But there was no fault found with the unopened bottles when tested. The possibility that any of the adulterants mentioned would get into legitimate liquor at a legally authorized distillery is so remote that it need not be considered. The Federal Inspectors testified that all of the four open bottles were found on the back bar of the licensed premises.

Upon the evidence, I find the licensee is guilty of possession of illicit alcoholic beverages, in violation of Section 48 of the Control Act, and of possession of alcoholic beverages adulterated with acetone, isopropyl and methyl alcohol, in violation of Rule 10 of the Rules Concerning Conduct of Licensees and Use of Licensed Premises.

In Re Felsenfeld, supra, I established the precedent that when a licensee is convicted of the possession of liquor, illicit because of acetone content, that good cause is not shown why the statutory automatic suspension should be lifted. The application to lift it was, therefore, denied with the result that the suspension remained in effect until the end of the term of the license.

Applying the same principle to the instant case, the foregoing finding of guilt requires that the license should be suspended until the end of its term.

Accordingly, it is on this 25th day of May, 1937, ORDERED, that Plenary Retail Consumption License No. C-12, heretofore issued to Joseph Grembowiec by the Borough Council of Lodi, be and the same is hereby suspended until the end of its term, effective May 28, 1937.

D. FREDERICK BURNETT,  
Commissioner.

7. DISCIPLINARY PROCEEDINGS - ILLICIT ALCOHOL WITH POISONOUS INGREDIENTS.

In the Matter of Disciplinary Proceedings against )

WILLIAM H. PLOG, trading as )  
RUSTIC LODGE, )  
276 Valley Road, )  
Clifton, New Jersey, )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License No. C-15, issued by the Municipal Council of the City of Clifton. )  
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Jerome B. McKenna, Esq., for the Department of Alcoholic Beverage Control.

John C. Dluhy, Esq., Attorney for Municipal Council of Clifton.  
Mendelsohn & Mendelsohn, Esqs., by Sam Mendelsohn, Esq.,  
Attorneys for Respondent Licensee.

BY THE COMMISSIONER:

Inspectors of the Alcohol Tax Unit, Internal Revenue Service, in the course of an investigation seized four bottles containing alcoholic beverages which they found to be below proof. Subsequent analysis showed that one of the four bottles, in addition to being below proof, contained a small amount of acetone. Report of the results of their investigation having been forwarded to this Department, disciplinary proceedings were instituted against the licensee.

The testimony of a chemist attached to the Alcohol Tax Unit who analyzed the contents of the four bottles showed that the contents of three bottles were off proof to the respective amounts following: 5.5 proof, 7.9 proof, 9.2 proof. He expressed the opinion that these three bottles had been diluted with water. The fourth bottle, which purported to contain 90 proof whiskey, showed that the contents tested at 82.8 proof and also contained a small amount of acetone.

This evidence shows that the contents of all four bottles were illicit and that the contents of one bottle contained an adulterant which is harmful to the human system even if not technically poisonous. In Re Grembowiec, Bulletin 178, Item 6.

The licensee testified that the licensed business is conducted by his son. The licensee denied that he had diluted the contents of the four bottles, and the son denied that he had diluted any of them. Three bartenders are employed on the licensed premises, but none was produced at the hearing. A woman who was employed at one time as a cleaner in the licensed premises testified that on one occasion she had taken a drink from an open bottle and put water from a faucet in that bottle. There was no other testimony to explain the dilution or the presence of acetone in one of the seized bottles.

Licensee opined that the presence of acetone might be explained by reason of the fact that a washing solution is used in cleaning glasses, which washing solution licensee believes has traces of acetone in it. The said chemist testified that acetone is used in certain denatured alcohol formulas, particularly No. 23-A or G used in the manufacture of rubbing alcohol, and it is also used in manufacturing work, making varnish removers. He was unable to state whether acetone is ever used in any washing solution. Licensee, although granted an adjournment, did not introduce any sample of the washing solution for analysis, nor did he present any chemical analysis of the washing solution which was being used. Hence, the conjecture is unsupported by any evidence whatsoever. Even if it had been, I fail to see what the washing solution used in cleaning drinking glasses had to do with the liquor in the bottle. If that is the stuff which the public is drinking, the sooner the practice is stopped the better. It is somewhat illuminating too, if true, to learn how glasses are cleaned in some establishments!

Assuming the testimony of the licensee and his son to be true, it appears that the most that can be said in their favor is that the presence of the illicit beverages was due to the acts of their employees. Licensees, however, are responsible for what goes on upon the licensed premises. In Re Kneller, Bulletin 49, Item 4.

I find the licensee guilty of possession of illicit alcoholic beverages, in violation of Section 48 of the Control Act, and possession of a bottle of alcoholic beverages adulterated with acetone in violation of Rule 10 of the Rules Concerning Conduct of Licensees and Use of Licensed Premises.

For the reasons set forth in Re Grembowiec, Bulletin 178, Item 6, the license should be suspended until the end of its term.

Accordingly, it is on this 25th day of May, 1937, ORDERED, that Plenary Retail Consumption License No. C-15, heretofore issued to William H. Plog, trading as Rustic Lodge, by the Municipal Council of the City of Clifton, be and the same is hereby suspended until the end of its term, effective May 28, 1937.

D. FREDERICK BURNETT,  
Commissioner.

8. DISCIPLINARY PROCEEDINGS - ILLICIT ALCOHOL WITH POISONOUS INGREDIENTS.

In the Matter of Disciplinary	:	
Proceedings against	:	
	:	
JOSEPH KAISER,	:	CONCLUSIONS
178 Highland Avenue,	:	AND
Clifton, New Jersey,	:	ORDER
	:	
Holder of Plenary Retail Con-	:	
sumption License No. C-41, issued	:	
by the Municipal Council of the	:	
City of Clifton.	:	

Jerome B. McKenna, Esq., for the Department of Alcoholic Beverage Control.  
 John G. Dluhy, Esq., Attorney for the Municipal Council of the City of Clifton.  
 Sadie P. Ranzenhofer, Attorney for Respondent Licensee.

BY THE COMMISSIONER:

Disciplinary proceedings were instituted against licensee after a report of the results of the Federal investigation was forwarded to this Department.

Inspectors of the Alcohol Tax Unit, Internal Revenue Service, seized a bottle of "Regent Club Straight Whiskey 80 proof" on the licensed premises after the contents of the bottle were found to be off proof. At the hearing a chemist attached to said Alcohol Tax Unit testified that analysis showed the contents of the bottle were 75.7 proof; color of the contents was entirely artificial; there was present a small amount of isopropyl alcohol and acetone. Chemist testified that the amount of isopropyl alcohol and acetone present would not be harmful. Hence, I find that the bottle did not contain poisoned liquor, but did contain illicit liquor.

The licensee testified that the premises are managed by his uncle. The latter testified that the bottle was one of a half case purchased from a licensed wholesaler, and said that he told the Federal Agents that he might have put blended whiskey in this bottle by mistake. His explanation might account for the bottle being off proof, but it does not explain the presence of isopropyl alcohol and acetone. The possibility that these substances would get into legitimate liquor at a legally authorized distillery is so remote that it need not be considered.

I find the licensee guilty of possession of illicit alcoholic beverages, in violation of Section 48 of the Control Act, and of possession of alcoholic beverages adulterated with acetone and isopropyl alcohol, in violation of Rule 10 of the Rules Concerning Conduct of Licensees and Use of Licensed Premises.

For the reasons set forth in Re Grembowiec, Bulletin #178, Item 6, the license should be suspended until the end of its term.

Accordingly, it is on this 25th day of May, 1937, ORDERED that Plenary Retail Consumption License No. C-41, heretofore issued to Joseph Kaiser by the Municipal Council of the City of Clifton, be and the same is hereby suspended until the end of its term, effective May 28, 1937.

D. FREDERICK BURNETT,  
Commissioner.

9. DISCIPLINARY PROCEEDINGS - ILLICIT ALCOHOL WITH POISONOUS INGREDIENTS.

In the Matter of Disciplinary Proceedings against  
 FRANK FUCHS,  
 105 Russell Street,  
 Clifton, New Jersey,  
 Holder of Plenary Retail Consumption License No. C-73, issued by the Municipal Council of the City of Clifton.

CONCLUSIONS AND ORDER

Jerome B. McKenna, Esq., Attorney for the Department of Alcoholic Beverage Control.  
 John G. Dluhy, Esq., Attorney for the Municipal Council of the City of Clifton.  
 Anthony A. Pable, Esq., Attorney for Respondent Licensee.

BY THE COMMISSIONER:

These proceedings were instituted against licensee after report of result of an investigation by the Alcohol Tax Unit, Internal Revenue Service, was sent to this Department.

At the hearing Inspectors from said Alcohol Tax Unit testified that during an investigation of the licensed premises they seized five bottles of alcoholic beverages which they found to be off proof. A chemist attached to said Alcohol Tax Unit testified that each of the five bottles analyzed by him was off proof, and that each contained a small amount of acetone and isopropyl alcohol apparently derived from alcohol coming from a completely denatured alcohol formula No. 10 or No. 10 modified which had been manipulated.

The licensee testified that shortly before the time of the seizure he had been confined to his bed with illness for a period of nine days, and had returned to his place of business only two days before the seizure was made. He testified that during his absence he had placed a man in charge of the licensed premises whom he had known for a period of about twelve years and whom he had previously employed from time to time to clean up his place of business. This man had left licensee's employ the day before the seizure, and licensee's efforts to locate him have not been successful. The licensee testified that he did not tamper with the liquor. Licensees, however, are responsible for the acts of their employees upon the licensed premises. In Re Kneller, Bulletin 49, Item 4. As regards the departed "fall guy," compare the alibis offered in Re LaForgia, Bulletin 178, Item 10; Re Pfeiffer, Bulletin 178, Item 11; and Re Sedlak, Bulletin 178, Item 12, and comments in the latter born of experience enough to qualify one as an expert.

I find the licensee guilty of possession of illicit alcoholic beverages in violation of Section 48 of the Control Act, and possession of alcoholic beverages containing acetone and isopropyl alcohol in violation of Rule #10 of the Rules Concerning Conduct of Licensees and Use of Licensed Premises.

For the reasons set forth in Re Grembowiec, Bulletin 178, Item 6, the license should be suspended until the end of its term.

Accordingly, it is on this 25th day of May, 1937, ORDERED that Plenary Retail Consumption License No. C-73, heretofore issued to Frank Fuchs by the Municipal Council of the City of Clifton, be and the same is hereby suspended until the end of its term, effective May 28, 1937.

D. FREDERICK BURNETT,  
Commissioner.

10. DISCIPLINARY PROCEEDINGS - ILLICIT ALCOHOL WITH POISONOUS INGREDIENTS.

In the Matter of Disciplinary Proceedings against :

ANTONIO LA FORGIA,  
44 East Madison Avenue,  
Dumont, New Jersey, :

CONCLUSIONS  
AND  
ORDER

Holder of Plenary Retail Consumption License No. C-4, issued :  
by the Borough Council of the Borough of Dumont. :

Jerome B. McKenna, Esq., Attorney for the Department of Alcoholic Beverage Control.

Minturn & Weinberger, Esqs., by Hyman Halpern, Esq.,  
Attorneys for Respondent Licensee.

BY THE COMMISSIONER:

Inspectors of the Alcohol Tax Unit, Internal Revenue Service, visited the licensed premises and found that the liquor behind the bar met with all legal requirements. Inspecting the cellar of the premises they found two whiskey bottles and one half-gallon demijohn on a shelf which contained some other articles. One of the bottles was labeled "John Walker Red Label Whiskey" and the other "Seagram's V.O. Rare Old Canadian Whiskey." The demijohn was unlabeled. The bottles and demijohn were seized and, as a result of a report received from said Alcohol Tax Unit, disciplinary proceedings were instituted against the licensee.

At the hearing a chemist attached to said Alcohol Tax Unit testified that the bottle bearing the "John Walker" label contained distilled spirits artificially colored, having a proof of 64.6. The contents appeared to be an unaged distillate of the type commonly known as "moonshine." He testified that the bottle bearing the "Seagram's" label contained Vermouth and bore no similarity to Seagram's whiskey. The demijohn contained a cordial having an anise flavor, in which was found a small quantity of isopropyl alcohol. The contents were fit, however, for use as a beverage.

The licensee testified that the two bottles and demijohn were stored on a shelf which contained groceries and canned goods; that the contents of the two bottles were used to put into coffee (sic) and for the entertainment of bosom friends, the celebration of marriages and christenings, and the relief of rheumatism -- a veritable panacea for the pater familias and his household!; that the contents of the demijohn were not fit to drink; that the bottles and demijohn contained concoctions made by his wife prior to December 1935, and had been stored on the shelf in the cellar since that time. His wife testified that she and her husband operated a grocery store at these premises before they were licensed, and that

at that time they sold extracts of anise and Vermouth; that she mixed the contents of the bottles and demijohn prior to December 1933, having used alcohol which she purchased from an unknown peddler a "long time ago." I note, however, that the bottle bearing "Seagram's" label bore a New York State license number, which shows that this bottle at least was filled after December 1933.

When the licensee was asked why he did not destroy the illicit liquor after he obtained his license, he testified "I didn't know I cannot keep that stuff."

Those who obtain special privileges must make it their business to know the law. It is common knowledge that illicit liquor is unlawful. The alibi of ignorance will not be entertained in this class of cases. The mere possession of illicit beverages on licensed premises is a violation of Section 48 of the Act, and the mere possession of alcoholic beverages containing isopropyl alcohol is a violation of Rule #10 of the Rules Concerning Conduct of Licensees and Use of Licensed Premises.

I find the licensee is guilty on both counts.

For the reasons set forth in Re Grembowiec, Bulletin #178, Item 6, the license should be suspended until the end of its term.

Accordingly, it is on this 25th day of May, 1937, ORDERED that Plenary Retail Consumption License No. C-4, heretofore issued to Antonio LaForgia by the Borough Council of the Borough of Dumont, be and the same is hereby suspended until the end of its term, effective May 28, 1937.

D. FREDERICK BURNETT,  
Commissioner.

1. DISCIPLINARY PROCEEDINGS - ILLICIT ALCOHOL WITH POISONOUS INGREDIENTS.

In the Matter of Disciplinary Proceedings against

WILLIAM PFEIFFER,  
69 State Street,  
Camden, New Jersey,

Holder of Plenary Retail Consumption License No. C-38, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

CONCLUSIONS  
AND  
ORDER

Jerome B. McKenna, Esq., for the Department of Alcoholic Beverage Control.  
Herbert J. Koehler, Esq., Attorney for Respondent Licensee.

BY THE COMMISSIONER:

Disciplinary proceedings were instituted against the licensee after a report of the results of investigation by the Alcohol Tax Unit, Internal Revenue Service, was received by this Department.

At the hearing Inspectors of said Alcohol Tax Unit testified that during the course of an investigation of the licensed premises they seized three bottles of alcoholic beverages which were labeled "Distilled Dry Gin", one bottle of blended whiskey and four bottles of straight whiskey, all of which they found to be off proof. A chemist attached to said Alcohol Tax Unit testified that the bottles labeled "Distilled Dry Gin" were off proof and contained glycerine, which indicated that the contents were not distilled dry gin but a rectified product. The bottle which was labeled "Blended Whiskey 90 proof" was found to have a proof of 85.7 and, in the opinion of the chemist, it was diluted with water. The four bottles labeled "Straight Whiskey" were all approximately ten points off proof, contained artificial coloring and small quantities of isopropyl alcohol. He further testified that these bottles appeared to contain denatured alcohol or a preparation made from denatured alcohol.

Licensee testified that he has been in the liquor business for twenty-one years, and that previous tests made at his premises did not disclose any violations. He testified that he was behind the bar at the time the investigation in question was made, and that he never tampered with the contents of this bottle. In attempted explanation of the presence of the illicit liquor, he testified that for a period of six weeks prior to the seizure he had employed a man to clean up the place of business and to tend bar during his absence. He said that he discharged this employee a short time after this investigation, and that the employee has since died. Licensees, however, are responsible for the acts of their employees. In Re Kneller, Bulletin #49, Item 4. Alibis are out of style. Re LaForgia, Bulletin #178, Item 10.

I find the licensee guilty of possession of illicit alcoholic beverages in violation of Section 48 of the Control Act, and of possession of alcoholic beverages adulterated with isopropyl alcohol, in violation of Rule 10 of the Rules Concerning Conduct of Licensees and Use of Licensed Premises.

For the reasons set forth in Re Grembowiec, Bulletin #178, Item 6, the license should be suspended until the end of its term.

Accordingly, it is on this 25th day of May, 1937, ORDERED that Plenary Retail Consumption License No. C-38, heretofore issued to William Pfeiffer by the Municipal Board of Alcoholic Beverage Control of the City of Camden, be and the same is hereby suspended until the end of its term, effective May 28, 1937.

D. FREDERICK BURNETT,  
Commissioner.

12. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - OUTRIGHT REVOCATION FOR SECOND OFFENSE.

In the Matter of Disciplinary Proceedings against  
STEPHEN SEDLAK, t/a EXCHANGE CAFE,  
1085 Broadway,  
Bayonne, New Jersey,  
Holder of Plenary Retail Consumption License No. C-27, issued by the Board of Commissioners of the City of Bayonne.

CONCLUSIONS  
AND  
ORDER

Jerome B. McKenna, Esq., Attorney for the Department of Alcoholic Beverage Control.  
Aaron A. Melniker, Esq., by Wilbur L. Ross, Esq.,  
Attorney for Respondent Licensee.  
William Rubin, Esq., Attorney for the City of Bayonne.

BY THE COMMISSIONER:

In the course of an investigation of the licensed premises, Inspectors of the Alcohol Tax Unit, Internal Revenue Service, seized six bottles of alcoholic beverages, five of which they found to be below proof and one of which showed a different color from that shown upon the label. Report of the results of their investigation having been forwarded to this Department, disciplinary proceedings were instituted against the licensee and notice of these proceedings was also served upon Mr. A. Madson, the owner of the building in which the licensed premises are situated.

At the hearing Inspectors of said Alcohol Tax Unit testified that they had seized the six bottles upon the bar of the licensed premises. A chemist attached to said Alcohol Tax Unit testified as follows concerning the contents of these bottles: (1) Bottle labeled "Seagram's Five Crown Blended Whiskey 90 proof" was found to have a proof of 86.2. In the opinion of the chemist, the bottle contained genuine whiskey diluted with water; (2) Bottle labeled "Mount Vernon Brand Straight Rye Whiskey - Bottled in Bond - 100 proof" was found to have a proof of 94.5. It contained a small amount of artificial coloring, which is not permitted in a bottled-in-bond whiskey. The acid content was 42 grams per 100 liters, whereas the acid content of a genuine sample was 68.4 grams per 100 liters; the solid content was 147 grams per 100 liters, as compared with 163 grams per 100 liters in genuine sample; (3) Bottle labeled "Bar Special Wilson Blended Whiskey, 90 proof" was found to have a proof of 87.2; (4) "The Wilken Family Blended Whiskey, 86.8 proof" was found to have a proof of 83.6. The acid content was 18 grams per 100 liters, as compared to 21.6 grams per 100 liters in genuine sample; the solid content was 564 grams per 100 liters, as compared with 993 grams per 100 liters in genuine sample; (5) "Wilken's Family Blended Whiskey, 86.8 proof" was found to have a proof of 82.7. The acid content was 16.8 grams per 100 liters; the solid content was 377 grams per 100 liters; (6) Bottle labeled "Albion Blended Whiskey, 90 proof" was found to have a proof of 87.6. Upon cross-examination the chemist testified that variation due to analytical error should not be more than 1% in proof.

The licensee and his bartender testified that neither of them tampered with the contents of the seized bottles. Both of them put the blame upon a man who had been employed by the licensee to clean up the premises. Licensee testified that he had known this man twenty years ago and had hired him because he was homeless and out of work. Licensee further testified that this man left his employment four or five days after the seizure, and that he has been unable to locate him since that time. Licensees, however, are responsible for the conduct of their employees upon the licensed premises. In Re Kneller, Bulletin #49, Item 4. The sting of ingratitude is undoubtedly more biting than alcoholic bitters but alibis based on dead, departed or unknown soldiers are out of style Re LaForgia, Bulletin #178, Item 10; Re Pfeiffer, Bulletin #178, Item 11.

I find the licensee guilty of possessing illicit alcoholic beverages in violation of Section 48 of the Control Act.

The records of this Department show that on December 9, 1935, the Board of Commissioners of the City of Bayonne instituted disciplinary proceedings against the licensee on a charge of possession of illicit alcoholic beverages, as a result of which he was found guilty on said charge and his license suspended for three days from February 10, 1936 to February 12, 1936.

Since the present findings adjudicate Sedlak guilty of having committed a second violation of the Control Act, the license should be revoked. Cf. Re Wismer, Bulletin #171, Item 5, where I said:

"Since she has been adjudicated guilty of having committed two violations of the Control Act, she may never again obtain any liquor license either in Phillipsburg or elsewhere in this State. Section 22 of the Control Act so provides. This is the most virile section in the whole Act. It will eventually operate to purge the industry of those who apparently can't learn that the law was made to be obeyed."

In considering whether the revocation should render the licensed premises ineligible to become the subject of any future license of any kind or class under this Act during a period of two years from the effective date of revocation, I have taken into consideration the representation made by the attorney appearing for the City of Bayonne, that the building in which the licensed premises are located is now in possession of the City of Bayonne through a receiver of rents. I deem it would be working an undue hardship upon the City to render these premises ineligible for further license and, hence, the building will not be declared ineligible.

It is, therefore, on this 25th day of May, 1937,  
ORDERED that Plenary Retail Consumption License No. C-27, heretofore issued to Stephen Sedlak, trading as Exchange Cafe, by the Board of Commissioners of the City of Bayonne, be and the same is hereby revoked, effective May 28, 1937.



D. Frederick Burnett,  
Commissioner.

