

IN RE: MANSION HOUSE, INC., LIQUOR LICENSE, C.P. Cr.  
D. Franklin County Branch, Misc. Doc. Vol. 5, p. 99

*Pennsylvania Liquor Control Board - Revocation of Liquor License -  
Violation of Section 471 of Liquor Code*

1. Revocation of a Liquor License for operating the licensed premises in a noisy and/or disorderly manner under Section 471 of the Liquor Code requires conduct of a recurrent nature.
2. An isolated incident of noisy and disorderly conduct cannot be the basis for revocation of a Liquor License.

*Thomas B. Steiger, Esq., Attorney for Petitioner*

*Sidney A. Simon, Esq., Special Assistant Attorney General,  
Attorney for the Pennsylvania Liquor Control Board*

#### OPINION AND ORDER

Eppinger, P. J., August 22, 1978:

This is an appeal from two citations issued by the Pennsylvania Liquor Control Board (LCB) against Mansion House, Inc. (Bar). Citation No. 1984, 1977, imposed a fine of \$350.00 for serving intoxicating beverages to visibly intoxicated persons and for conducting the establishment in a noisy and/or disorderly manner on or about September 17, 1977. Citation No. 1525, 1977, imposed a fine of \$250.00 for serving intoxicating beverages to visibly intoxicated persons and because the secretary-treasurer-manager of the Bar, Carolyn A. Bricker, was visibly intoxicated on the premises on or about July 23 and 24, 1977. These citations have been joined for hearing on appeal and will be disposed of jointly in this opinion.

The facts presented at the hearing on Citation 1984 showed that an LCB agent entered the Bar at approximately 8:00 p.m. on September 17, 1977. During his stay there, he observed Red Snyder being served beer. The agent described Mr. Snyder as having a thick tongue, slurred speech, glassy, bloodshot eyes, and difficulty in walking. Several males who were with Mr. Snyder were mocking him and grabbing at his posterior and his testicles. The group was very boisterous and made advances at women leaving the Bar. The agent observed the Bar's employee serve Mr. Snyder three beers during his stay. The agent also consumed three beers during his hour and a half visit.

We do not feel that the agent's drinking was excessive so as

to discredit his testimony. Cf. *Pa. Liquor Control Board v. Pope*, 91 Dauphin Co. Reports 266 (1969). The evidence does show that the Bar continued to serve intoxicating beverages to Mr. Snyder when he was visibly intoxicated. The Bar served him three beers in this condition, even though one beer would be sufficient to sustain the finding of an infraction of the Liquor Code, Act of April 12, 1951, P.L. 90, 47 P.S. Sect. 4-493(1), as amended.

The second count of this citation charges the Bar with operating its premises in a noisy and/or disorderly manner. The courts have held that Section 471 of the Liquor Code, 47 P.S. Sect. 471, should not be the basis for a violation where the noisy and disorderly conduct is isolated and not of a relatively continuous nature causing disturbance to the public welfare, peace and morals. Section 471 is pointed to recurrent noise and disorder. *Appeal of Ciro's Lounge, Inc.*, 24 Pa. Commonwealth Ct. 589 at 592, 358 A.2d 141 at 143 (1976). The single incident on September 17, 1977, does not appear to create a public disturbance which is meant to be prohibited under Sect. 471, so the finding of the LCB of a noisy and/or disorderly establishment is reversed by this court as permitted under *Barbato Liquor License Case*, 188 Pa. Super. 548, 149 A.2d 539 (1959).

In the second citation, No. 1525, the issue is whether Carolyn A. Bricker and Herb Price were visibly intoxicated at the Bar during the late hours of July 23, 1977 and the early morning hours of July 24th. The LCB agent testified that on that Saturday night he saw both Mrs. Bricker and Mr. Price served intoxicating beverages when they were visibly inebriated. The agent described Mrs. Bricker as being unable to maintain her balance, glassy-eyed, and incoherent. While the agent stated that Mr. Price was not as intoxicated as Mrs. Bricker, he was intoxicated as shown by his slurred speech and his staggered walk.

The Bar claims that the parties were not intoxicated and that the agent was actually in the Bar on Friday, July 22, 1977. That agent, in rebuttal, testified that he makes notes shortly after his visits and that his notes clearly show that the night in question was Saturday, July 23, 1977. Faced with the written recollection of the agent as against the present memory of the parties involved, the court accepts the date of the incident described as July 23, 1977. The court also finds that the agent's drinking was not of such quantity as to render his observations suspect, while the Bar's witnesses were not convincing to the court of Mrs. Bricker's and Mr. Price's sobriety, given the testimony of the LCB agent. Accordingly, we sustain the LCB's citation, No. 1525.

ORDER OF COURT

NOW, August 22, 1978, at 2:30 p.m., the order of the Pennsylvania Liquor Control Board to citation No. 1984 is affirmed to the extent that intoxicating beverages were sold to an intoxicated person but is reversed as to the allegation that the Mansion House, Inc. operated in a noisy and/or disorderly manner. The fine is reduced to \$200.00.

The order of the Pennsylvania Liquor Control Board as to citation No. 1525 is affirmed.

COMMONWEALTH ex rel. CLINE vs. CLINE, C.P. Franklin County Branch, No. 274 of 1978, NS

*Non-Support - Parent's Responsibility for College Education - Lack of Contact with Father*

1. The fact that an 18 year old daughter seeking support from her father for her college education has not seen her father for 7 years does not deprive her of her right to support.
2. Various acts of the legislature establishing age 18 as the age of majority do not limit a parent's responsibility for support of a child when she reaches 18.

Gregory L. Kersz, Esq., Attorney for Petitioner

R. Harry Bittle, Esq., Attorney for Respondent

EPPINGER, P.J., October 4, 1978:

Kimberly K. Cline (Kimberly) wants to go to college. According to her testimony she can't do it unless her father, Walter M. Cline, contributes to her support. Her father maintains (1) that he had no contact with his daughter for many years and therefore is not responsible for her education, (2) that she is 18 years old, is legally an adult and is responsible for her own education and (3) even if under the law he could be compelled to assist with her education, it would work an undue hardship upon him.

(1) *Non-visitation by the child with her father.* It has been uniformly held that a child's failure to visit with a parent does not affect the child's right to support. *Mallinger v. Mallinger*, 197 Pa. Super 34, 175 A.2d 890 (1962); *Commonwealth v. Mexal*, 201 Pa. Super 457, 193 A.2d 680 (1963); *Commonwealth v. Ferree*, 35 Northumb. L. J. 121 (1963). The rule still prevails, though to the observer there may be

something unseemly about a child insisting on receiving money from a parent and disdaining any social contact with the source of that money. In most situations a child who is supported by a parent would want to fulfill his or her responsibility to that parent by at least being civil, and visiting from time to time.<sup>1</sup>

In cases where that does not occur, it is frequently because the parents have had a difficult break and the child feels compelled out of loyalty to cling to one parent or the other. This is quite understandable, but on reaching maturity the child should attempt to re-establish relationships with the other parent.

With these comments which are aimed more at good sense than at the legal situation, we hold that the fact that Kimberly hasn't seen her father for seven years, even if she has refused to associate with him, does not alone deprive her of the right to receive educational funds from him.

(2) *The child is an adult.* There was great pressure on legislators and others to grant 18 year olds the full panoply of rights and privileges. About 1972 many laws were changed, all seemingly intended to make the 18 year olds complete adults. Generally they have been given control of their own affairs. Parental influence now seems to be that which is engendered by respect. If that is so, one would wonder how it is that a child can claim money for educational purposes from his or her parents after reaching 18.

Merely as illustrative of what has happened, the legislature has declared that 18 year olds are adults for the purposes of suing and being sued<sup>2</sup>, of consenting to their own adoption<sup>3</sup>, for the purposes of being employed<sup>4</sup>, of entering into contracts<sup>5</sup>, of serving as guardians for others<sup>6</sup>, and of special interest in this case, for the purposes of seeking financial aid from the Pennsylvania Higher Education Assistance Agency<sup>7</sup>.

From all of this it might be concluded that the legislature has established 18 as the age when a person becomes an adult. It

<sup>1</sup>Our courts speak of the reciprocal duties between father and child. *Commonwealth ex rel. Schulberg v. Hrisch*, 236 Pa. Super 179, 344 A.2d 530 (1975).

<sup>2</sup>Act of 1972, P.L. 1404, 12 P.S. Sect. 140

<sup>3</sup>Act of 1972, P.L. 347, 1 P.S. Sect. 413

<sup>4</sup>Act of 1974, P.L. 123, 43 P.S. Sect. 41

<sup>5</sup>Act of 1972, P.L. 472, 73 P.S. Sect. 2021

<sup>6</sup>Act of 1972, P.L. 508, 20 P.S. Sect. 5113

<sup>7</sup>Act of 1977, P.L. 1, 20 P.S. Sect 5158.3