

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 961

MARCH 23, 1953.

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SECRET
OFFICE OF THE DIRECTOR
CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

CONFIDENTIAL

SECRET

TO : DIRECTOR, CIA
FROM : SAC, [illegible]
SUBJECT: [illegible]

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 961

MARCH 23, 1953.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(PROSTITUTION) - LICENSE REVOKED.

In the Matter of Disciplinary)
Proceedings against)

LOLA McKNIGHT)
T/a BELVEDERE BEACH HOTEL)
S/W corner Laurel Avenue &)
Charles Avenue)
Keansburg, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-35, issued by the)
Mayor and Council of the Borough)
of Keansburg.)

John J. Crawley, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On October 17 and 20, 1952, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., soliciting for prostitution and the making of arrangements and renting of rooms for illicit sexual intercourse; in violation of Rule 5 of State Regulations No. 20."

At the hearing held herein an ABC agent testified that on the afternoon of October 17, 1952, he and another agent entered the barroom of defendant's licensed premises and seated themselves at the bar. This agent testified that he spoke to Sam McKnight, who is the husband of defendant and who was then tending bar; that Sam McKnight told the agent that they had thirty-three rooms in the hotel; that most of them were vacant; that Sam McKnight referred to some of the people who were living in the hotel, among them Mary ---, "who he referred to as one of his patrons in the hotel" and who, he said, was married but not living with her husband; that meantime two females had come downstairs "from the entrance leading from the upper floors" and one of them, later ascertained to be Mary ---, sat at the bar. The agent testified that he then had a conversation with Mary --- in the presence of Sam McKnight who "was directly in front of us" across the bar; that "Mary said that she had been on sick leave now for some time, that she jumped out of a car and broke her leg and she lost about \$1500 loss of her work"; and that in response to his query as to her business, she had answered, "Laying on my back." The agent further testified: "I then asked her to tell me what it is all about. She said that she had a health card, that she is clean, she said, and she takes care of regular customers then.... At that time a short dark haired man came into the barroom, sat about eight or ten feet away from us and remained there for about five or ten minutes, and as he was leaving Mary said to him ... 'I will see you at ten o'clock tonight.' He said, 'O'kay.' He went out of the place. She remained in our company. She then added, saying, 'He is one of my steady customers. He helps me pay the bills for my room and whatever

expenses I need.' ... She said that she insists on men using rubbers (contraceptive devices) on her, because she believes in hygiene and cleanliness. She said that she will supply all the rubbers, and she supplied all her own towels."

The agent further testified that during this conversation Sam McKnight "was having a drink with us" (meaning the two agents and Mary) and joined in the conversation; that "Mary opened her dress and showed her breasts. Sam McKnight said, 'What those fellows want is what you are sitting on.' She said, 'No. What they want is what I got my left hand on.' With this she put her left hand on her vulva."

The agent testified, further, that he asked Sam McKnight if it would be possible to take Mary upstairs for a lay, to which Sam replied "That can be arranged"; that he then asked Sam about registering in the hotel or baggage, and was told "not to worry about anything." The agent testified that Mary had left the barroom just before this part of the conversation, but that when she returned "I asked her what the price would be for us for laying her, and she said it would be \$5 and \$5 for Lola, that she takes care of all arrangements of rooms"; that Sam McKnight "was in front of us" when Mary was thus talking and that he (Sam McKnight) just laughed about it, grinned"; that Mary also told him (the testifying agent) that she had a "girlfriend" who "lives here in the hotel also" and that she would fix it up for the girlfriend to "take care" of the other agent; that "I asked her what the price would be there. She said the same thing, \$5 for her and \$5 for Lola"; that Mr. McKnight "left the bar space and went to the rear somewheres and Lola McKnight came back" and joined them (the two agents and Mary) and "wanted to know from Mary ... what the conversation was about, and Mary said, 'I just made a date with these fellows to meet them here Monday night, to take care of them.'"

The same agent testified that he and his companion agent returned to defendant's premises at about 6:30 p.m. on Monday, October 20, 1952, with "marked" money in their possession. The agents entered and asked Sam McKnight where Mary --- was, to which he replied that she was upstairs; that when an elderly patron (a woman) offered to go upstairs and get her Sam McKnight said "No. Never mind. I will do it myself." The agent testified, further, that he "said to Sam McKnight that Mary ... had made a date to take us for a lay upstairs and we would like to have one of the rooms"; that the other agent "asked Sam McKnight if Mary ... was clean, if he had any rubbers, and Sam McKnight said in reply, 'I haven't any rubbers, but you will have to find out for yourself if she is clean enough'"; that presently Sam McKnight went upstairs but returned shortly thereafter and said, "Mary is coming down." The agent further testified that Mary came down almost immediately, dressed in "a housecoat, zipper type," and "said that she had this housecoat on, nothing else underneath, that she didn't have time to put anything else on, that she would have to go up and change"; that he said, within the hearing of Sam McKnight, who was tending bar at that moment, "It's kind of silly, you putting clothes on"; that Mary said to Sam, "What do you think of him telling me it's silly to put clothes on when I have to take them off again?"; and that Mr. McKnight smiled at this. The agent further testified that Mary then said (still in the presence of Sam McKnight), that her girlfriend was "upstairs with her boyfriend now" but that she herself would "take the two of you fellows on, if you don't mind."

The agent also testified that, in the presence of Sam McKnight, his companion agent tossed a coin to decide which of the agents would go upstairs first, and that his companion won the toss; that Mary then

asked him to give her \$6 because "she was going to contact Lola McKnight to pay her for the room and make all arrangements"; that he gave Mary a \$5 bill and \$1 bill of the "marked" money; that Mary "walked toward the kitchen, motioned to Lola McKnight, who was back of the bar at the far end there, and the both of them went to the kitchen in the back"; that about two or three minutes later, Lola McKnight returned to the post back of the bar, pushing something down inside her right hand apron pocket with her fingertips; that Mary "rejoined us at the bar and stated that she had just made an arrangement for Room No. 9 to be used by us, that she had just paid Lola McKnight"; that "Mary remained with us for a few minutes, and then said she was going upstairs, and advised ... (the companion agent who had won the toss) to go out the front door or around the side so that the old people there who are too nosey about her wouldn't notice ... (the agent) following her upstairs to the room"; and that his companion agent then told Sam McKnight that "he was going upstairs to meet Mary ... in Room No. 9 for a lay." The agent then testified: "I then said to Sam McKnight that as soon as ... (the other agent) got through laying Mary ... I was going upstairs to lay her also. I then asked him if it was all right, if he wasn't disturbed about this, and Sam said, 'Have you rented a room?' I said 'Yes. Mary had just made arrangements with Lola for the room and it was paid for.' He said, 'You have nothing to worry about.'" The agent testified that neither his companion agent nor he had any luggage, that neither signed a register and that nothing was said about signing a register by either Lola or Sam McKnight.

The foregoing testimony was corroborated by the companion agent.

The sequel to this episode is that, later, the agent who had remained downstairs entered Room No. 9 of the licensed premises with two other agents he had meantime fetched from outside; that Mary was in bed and the agent who had followed her upstairs as arranged was in the room; that five one-dollar bills were found on the dresser in this room; that a five-dollar bill and a one-dollar bill were in Lola McKnight's apron pocket; and that the bills found on the dresser in Room 9 and the bills found in Lola McKnight's apron pocket were identified as money which had been earlier "marked" and brought to the premises by the agents.

Lola McKnight (the defendant-licensee) testified that she did not recall the visit of the two agents on October 17, but she admitted that on October 20 Mary gave her six dollars ("A five and a one") and told her "it was for two rooms for the boys." She admitted, further, that the two men (the agents) did not register; that she did not show them the rooms or speak to either of them about the rooms.

On behalf of the defendant, her husband Samuel (Sam) McKnight testified that he did not remember seeing the agents on the premises on October 17; that he did not have any conversation with them concerning Mary's character at any time; and that he did not overhear any conversation between Mary and the agents while he was at the bar. He did, however, admit that on the night of October 20, after Mary "left the bar" the two agents did not go out together but that one (identifying him) went first.

In view of the seriousness of the charge, I have made a searching study of the record in this case. The testimony of the agents is clear, concrete and convincing. As to the defendant and her husband, their testimony lacks the ring of truth.

Upon the evidence presented, I find defendant guilty as charged.

The only proper penalty in this case is revocation of the license. Re Filippone, Bulletin 875, Item 6; Re Pecorino, Bulletin 889, Item 4; Re Paton, Bulletin 898, Item 3; Re Schumacher, Bulletin 901, Item 5; Re Ewaski, Bulletin 937, Item 1; Re 17 Club, Inc., Bulletin 949, Item 2.

Accordingly, it is, on this 3d day of March, 1953,

ORDERED that Plenary Retail Consumption License C-35, issued by the Mayor and Council of the Borough of Keansburg to Lola McKnight, t/a Belvedere Beach Hotel, for premises at S/W corner Laurel Avenue and Charles Avenue, Keansburg, be and the same is hereby revoked, effective immediately.

DOMINIC A. CAVICCHIA
Director.

2. DISQUALIFICATION - FALSE STATEMENT IN APPLICATION FILED MORE THAN FIVE YEARS AGO - FIVE YEARS' GOOD CONDUCT - APPLICATION TO LIFT GRANTED.

In the Matter of an Application)
to Remove Disqualification)
because of a Conviction, Pursuant)
to R. S. 33:1-31.2.)

CONCLUSIONS
AND ORDER

Case No. 1025.
-----)

BY THE DIRECTOR:

On September 23, 1937 petitioner pleaded guilty to a charge of breaking, entering and receiving, and as a result thereof was ordered by the court to make restitution. On February 7, 1938 petitioner pleaded non vult to a charge of robbery, and on February 11, 1938 was sentenced to a county jail for six months. Petitioner testified that he was released from the penal institution at the expiration of thirty-six days.

The two occasions aforementioned are apparently the only times that petitioner was convicted of a crime. However, on October 6, 1930 he was fined \$15.00 by a municipal magistrate for loitering.

Robbery is a crime which, per se, involves the element of moral turpitude. Re Case No. 883, Bulletin 894, Item 6. It is therefore unnecessary to determine whether petitioner's conviction on September 23, 1937 of breaking, entering and receiving involves that element.

Petitioner testified that he is sales manager for a baking company. He produced three witnesses (a machine operator, a baker and a retired assistant manager of a bakery) who testified that they have known petitioner eight or more years. All concurred in their opinions that petitioner has a good reputation for being a law-abiding person in the community in which he resides. The report from the police department of the municipality where petitioner lives indicates no presently pending complaints or investigations involving petitioner.

I would have no hesitancy in granting relief to the petitioner were it not for the fact that, although disqualified by statute, he held a liquor license from 1943 to 1945. Furthermore, petitioner denied in the application filed in 1943 for transfer of the license to him and in the three subsequent applications for renewal of said

license, that he was ever convicted of a crime. In explanation thereof, he asserted the person who assisted him in filling out the application for the original transfer of the license asked him if he had been arrested during the preceding five years. He further testified that until recently he was not aware that his criminal record prevented him from being associated with the alcoholic beverage industry. Ignorance of the law would not excuse him if this were a criminal or disciplinary proceeding. However, knowledge of the law is not a necessary ingredient of the good faith essential in rehabilitation proceedings such as now under consideration. Re Case No. 594, Bulletin 767, Item 6. There can be no justification for petitioner's failure to disclose his criminal record in the applications in question. If the false statements had been made within the past five years, I would deny the relief sought. Re Case No. 956, Bulletin 929, Item 6. However, it is nearly eight years ago that the last misstatement in the application for renewal of his license was made.

I find that petitioner has conducted himself in a law-abiding manner during the past five years and that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 4th day of February 1953,

ORDERED that petitioner's statutory disqualification because of the convictions described herein be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2.

DOMINIC A. CAVICCHIA
Director.

3. DISQUALIFICATION - FIVE YEARS' GOOD CONDUCT - APPLICATION TO LIFT GRANTED.

MORAL TURPITUDE - CRIME OF POSSESSION OF STOLEN GOODS HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

In the Matter of an Application)
to Remove Disqualification)
because of a Conviction, Pursuant)
to R. S. 33:1-31.2.)
Case No. 1024.)
-----)

CONCLUSIONS
AND ORDER

BY THE DIRECTOR:

On October 27, 1947, petitioner retracted his plea of not guilty and entered a plea of non vult to the crime of possession of stolen goods. As a result thereof, a Judge of a Court of Quarter Sessions imposed an indefinite prison sentence with the condition that if petitioner paid a fine of \$50.00, the operation of the prison sentence would be suspended. The fine was duly paid.

Petitioner testified that his nephew, who had planned to be married, asked him if he could obtain some liquor at a low price to be used at the wedding reception. Pursuant to this request, he purchased a quantity of whiskey from a man for the aforesaid purpose. Petitioner contends that he was not aware that the whiskey had been stolen. This explanation might carry some weight if it were not for the fact that petitioner and his wife at the time held a liquor license. He knew, or should have known, that all alcoholic beverages must be purchased through proper channels from a wholesale licensee or from such

other person authorized to sell by special permission of the State Director of the Division of Alcoholic Beverage Control.

The crime of possession of stolen goods ordinarily involves the element of moral turpitude. Re Case No. 194, Bulletin 577, Item 6. Nothing appears in the instant proceeding to free the crime in question of that element. Petitioner cannot collaterally attack herein his own confessional plea entered in the criminal proceedings. Re Case No. 236, Bulletin 279, Item 2; Re Case No. 587, Bulletin 733, Item 2.

The records of the Division of Alcoholic Beverage Control indicate that, on May 25, 1948, the local issuing authority continued the license in the name of petitioner's wife and that she has renewed the license annually since that time. At the hearing, petitioner testified that he has not worked on his wife's premises since May 25, 1948 and that since June 8, 1949 he has been employed as a welder.

Petitioner produced three witnesses; a county employee who testified that he has known him twenty to twenty-two years; a chauffeur who testified that he has known him twenty years; and an unemployed laborer who testified that he has known petitioner during the last ten or fifteen years. These witnesses testified that petitioner is law-abiding and bears a good reputation in the community in which he lives. Furthermore, they testified that during the past five years they have not observed his association in any way with the liquor establishment operated by his wife.

In a report received from the police department of the municipality wherein petitioner resides, there is no indication that any complaints or investigations are pending wherein petitioner is involved.

I find that petitioner has conducted himself in a law-abiding manner during the five years last past and that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 13th day of February, 1953,

ORDERED that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2.

DOMINIC A. CAVICCHIA
Director.

4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

230 MARKET ST. CORPORATION)
230 Market Street)
Paterson 1, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-316, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)
-----)

230 Market St. Corporation, Defendant-licensee, by Andrew Rogkos, President.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge that it sold, served and delivered alcoholic beverages and permitted the consumption of such beverages on its licensed premises during prohibited hours.

Upon receipt by this Division of a specific complaint that defendant was selling alcoholic beverages in coffee cups at its restaurant during prohibited hours, two ABC agents were assigned to investigate. These agents made two visits to the licensed premises and, although they saw what appeared to be service of whiskey in coffee cups during prohibited hours, they were unable to purchase any, apparently because the man on duty behind the counter was suspicious of them. When the agents asked for "coffee royal" the man refused to serve them saying that he only gives it to people he knows adding that he did not know them.

Two other agents were then assigned to continue the investigation. When they arrived in the vicinity of the licensed premises at 3:30 a.m., on Sunday, January 18, 1953, one of the agents entered while the other agent watched from outside. The agent who entered took a seat near the cash register and asked "Pete", the counterman, for a cup of black coffee and said "put something in it", meanwhile making a gesture simulating pouring from a bottle. "Pete" went to the coffee urn, put some coffee in a cup and placed it under the counter near where the agent was seated. After collecting money from other patrons who were leaving, "Pete" returned to the place where he had put the cup and, although the agent could not see under the counter, he saw "Pete" move his arm as though he were pouring something into the cup. When "Pete" served the cup to the agent the latter tasted it and found that it contained some whiskey. The other agent then entered, sat next to the first agent and tasted the contents of the cup. He too detected the flavor of whiskey. When the second agent ordered a cup of black coffee "with something in it" from a waitress she ignored him. Shortly thereafter the second agent ordered toast which the waitress served to him without beverage.

It then appeared that the waitress was becoming suspicious. The first agent went to the cash register to pay his check. "Pete" took only ten cents from the agent and, when the agent told "Pete" that he had forgotten to charge for the "shot", "Pete" said "forget it".

The agents then identified themselves and seized a partly filled 4/5 quart bottle labeled "Seagrams V. O. Canadian Whisky". "Pete" refused to make a written statement but verbally admitted to the

agents that he had served coffee and whiskey from that bottle to the agent. He stated that he knew that he is not allowed to sell whiskey after 3:00 a.m., but that he does not like to refuse his friends.

The fact that "Pete" did not charge the agent for the whiskey is immaterial since a gift of an alcoholic beverage by a licensee is a sale. R. S. 33:1-1(w).

The municipal regulation prohibits the sale and delivery of alcoholic beverages between 3:00 a.m. and 1:00 p.m. on Sundays and also prohibits permitting consumption of such beverages upon licensed premises between these hours.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days, the minimum penalty in cases of this kind. Re Kaiser, Bulletin 954, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 3rd day of March, 1953,

ORDERED that Plenary Retail Consumption License C-316, issued by the Board of Alcoholic Beverage Control of the City of Paterson to 230 Market St. Corporation, 230 Market Street, Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. March 9, 1953, and terminating at 3:00 a.m. March 19, 1953.

DOMINIC A. CAVICCHIA
Director.

5. DISCIPLINARY PROCEEDINGS - SALE TO WOMEN OVER BAR IN VIOLATION OF LOCAL ORDINANCE - "PUBLIC BAR" CONSTRUED - PRIOR RECORD - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against
BLUE MIRROR INN, INC.
T/a RAINBOW GRILLE
3905 Federal Street
Pennsauken Township
P.O. Camden, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-25, issued by the Township Committee of the Township of Pennsauken.

Finnegan and Mohrfeld, Esqs., by John J. Finnegan, Jr., Esq.,
Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to the following charge:

"On Friday, August 29, 1952 at about 9:00 P.M. you allowed, permitted and suffered females to sit at a public bar on your licensed premises; in violation of Section 4(a) of an ordinance adopted by the Township Committee of the Township of Pennsauken on April 27, 1936, as amended by ordinance adopted on December 15, 1947."

The section of the ordinance mentioned in the charge and upon which the charge is based provides:

"No licensee shall allow, permit or suffer any female to sit or stand at any public bar on the licensed premises."

At the hearing held herein, an ABC agent testified that he visited defendant's licensed premises on August 27 and 29, 1952; that upon entering the front door he observed a square bar, on top of which were two perforated metal sections where beer had previously been dispensed; that underneath the top of the bar were compartments where ginger ale and club soda were kept; that water was on tap; and that in the center of the space inside the bar was a musician's stand, as well as a stand on which was a cash register; that this bar "in a straight line would probably be over sixty or seventy feet long"; and that to the rear of the bar just described was an oval-shaped bar which "would probably be about ten or twelve feet in length" if straightened out.

Throughout the direct examination of the ABC agent, there were repeated references to the larger structure as a "bar." Defendant's attorney interposed no objection to this; indeed, at one point he agreed with the Division's attorney that for convenience "we refer to the larger bar as Bar 'A' and the smaller one as Bar 'B.'"

According to the further testimony of the ABC agent, Bar "A" was attended by two women, and Bar "B" was attended by a man. The agent testified that on his August 29 visit he (and a companion agent) sat at Bar "A"; that they ordered and were served alcoholic beverages; and that on both visits he saw female (as well as male) patrons seated at Bar "A" and served beverages by the waitresses there in attendance. Asked to particularize a typical instance in which service was effectuated at Bar "A," the agent said: "... this lady attendant would come into Bar 'A,' take the order from the three girls, go to Bar 'B,' and receive the order. At this particular instance it consisted of three bottles of beer. She paid the bartender at that Bar 'B' for the three beers, then returned to Bar 'A,' came inside, and placed the bottles of beer on Bar 'A' in front of the three women."

On cross-examination of this agent, defendant's attorney asked only one question: "Did you see at any time any women served at Bar 'B'?" The agent's answer was: "No, no women at Bar 'B.'" Thereupon it was stipulated that it would not be necessary for the Division to call another witness. Defendant's attorney then stated: "Actually, I don't believe there is any conflict in the testimony. For that reason, I don't believe we shall call any witnesses."

The virtual admission by defendant, through its attorney, that Bar "A" -- at which women were seated and served alcoholic beverages -- was in fact a bar is not wholly dispositive of this case. The real question involved, as was stressed by defendant's attorney in his summation, is whether Bar "A" is a bar within the meaning of section 4(a) of the ordinance, above recited. I am thus confronted with the necessity of construing that section according to its intentment. "These municipal regulations," said the late Commissioned Burnett (construing a municipal regulation providing that no woman shall be served with alcoholic beverages directly over any bar), "must be given a common sense interpretation consistent with the reasonably presumable intent of those who enacted the resolution." Re Foster, Bulletin 41, Item 1.

Defendant's attorney has urged upon me, in so many words, that the ordinance contemplates the "conventional" bar, i.e., a bar equipped for service and across or over which men are "commonly" served in the "customary" manner -- that the ordinance does not contemplate the structure or facility which, regardless of its equipment and its use as a bar, is actually operated in a different manner, i.e., a bar across or over which men are not "commonly" served in the

"customary" manner. The argument of defendant's attorney assumes that those who enacted the section had in mind only bars to which primarily men "step up," order their drinks, and are then and there served by the bartender -- not a bar (such as Bar "A" in the instant case) to which drinks must be brought from another place before service to the patron can be effectuated. The point of this argument is that service to a woman at Bar "A" should be deemed to be the same as service to her at a table.

But this is the very crux of the matter. It is a reasonable presumption that, by use of the phrase "sit or stand," those who enacted the section had in mind a structure or facility where persons ordinarily consume alcoholic beverages in either posture -- i.e., sitting or standing. Such a structure or facility is a bar, as specified in the section itself. It is the use to which a facility is put that constitutes it a bar -- not its equipment (such as bottles and glasses) or its fixtures (such as beer taps and sinks). Cf. Re Katzen and Buntele, Bulletin 312, Item 3; Re Albertson, Bulletin 366, Item 8; R. S. 33:1-12.23.

I am convinced that the purpose underlying the section in question was to keep women away from any public bar, whatever its equipment or lack of equipment, and to get them seated at tables. (With respect to the general validity and reasonableness of such an enactment in the public interest, see Re Davidow, Bulletin 796, Item 11.)

It is to be emphasized, for the sake of completeness, that the section does not contemplate that a female must be served or must be drinking at the bar before there is a violation; the section is violated if she merely sits or stands there. It is to be further emphasized that whether a female is sitting or standing at the bar is a mere question of fact; she may be sitting or standing in the outer ranks, three or four deep, unable physically to touch the bar, and still she would be sitting or standing "at the bar." Cf. Re Foster, supra.

In view of the foregoing, I find (a) that Bar "A" on defendant's licensed premises is a public bar and that females were allowed, permitted and suffered to sit at that bar in violation of the cited section of the ordinance, as alleged in the charge; and (b) that the defendant is therefore guilty as charged.

In the absence of a prior record the violation herein would warrant a suspension of the license for a period of five days. Re Choice Liquors, Inc., Bulletin 827, Item 5. However, defendant has a prior adjudicated record. Effective February 14, 1951, defendant's license was suspended for three days by the municipal issuing authority as a result of a plea of guilty to a charge similar to the violation charged herein. Under the circumstances, I shall suspend defendant's license for a period of ten days.

Accordingly, it is, on this 5th day of March, 1953,

ORDERED that Plenary Retail Consumption License C-25, issued by the Township Committee of the Township of Pennsauken to Blue Mirror Inn, Inc., t/a Rainbow Grille, 3905 Federal Street, Pennsauken Township, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. March 11, 1953, and terminating at 3:00 a.m. March 21, 1953.

DOMINIC A. CAVICCHIA
Director.

6. DISCIPLINARY PROCEEDINGS - PRIOR SUSPENSION FOR BALANCE OF TERM LIFTED UPON CORRECTION OF ILLEGAL SITUATION - SUSPENSION LIFTED EFFECTIVE IMMEDIATELY.

In the Matter of Disciplinary Proceedings against)

VILLA ROMA HOBOKEN (A CORP.))
 223 Washington Street)
 Hoboken, N. J.,)

ON PETITION
 O R D E R

Holder of Plenary Retail Consumption License C-211, issued by the Board of Commissioners of the City of Hoboken.)
 -----)

Anthony F. Ditri, Esq., Attorney for Petitioner.
 William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On January 8, 1953, I suspended defendant's license for the balance of its term, effective at 2:00 a.m. January 14, 1953, after I had previously found defendant guilty of various charges. Re Villa Roma Hoboken (A Corp.), Bulletin 955, Item 2. In said order defendant was given leave to make application to lift said suspension after forty days had been served, upon its proof that the illegal situation had been corrected. Defendant made application for lifting the suspension.

The matter was set down for hearing on February 27, 1953, at which time defendant by its president and treasurer, Aurelio Battistoni, and its secretary, Anthony F. Ditri, appeared. Aurelio Battistoni testified that he is now the holder of seventeen of the twenty shares of capital stock of defendant corporation presently issued and outstanding; that he is now a resident of New Jersey, having moved on February 13, 1953 from Brooklyn, New York to 506 Jefferson Street, Hoboken; that he has obtained a New Jersey driver's license to operate his motor vehicle, now registered in New York State, but which is to be registered forthwith in New Jersey; that his wife who now holds two shares of the capital stock of defendant corporation presently resides in Brooklyn, New York, but plans to sell the house in New York and to move to New Jersey.

Anthony F. Ditri, secretary of defendant corporation and now holder of one share of its capital stock, testified that he notified the local issuing authority of the changes in stockholdings and officers of the defendant corporation. R. S. 33:1-34.

From the evidence submitted, it appears that Aurelio Battistoni is a bona fide resident of New Jersey and that the unlawful situation has been corrected. Forty days of the suspension imposed have expired and, under all the circumstances, I shall lift the suspension heretofore imposed.

Accordingly, it is, on this 4th day of March, 1953,

ORDERED that the suspension heretofore imposed be lifted, and that Plenary Retail Consumption License C-211, issued by the Board of Commissioners of the City of Hoboken to Villa Roma Hoboken (A Corp.), 223 Washington Street, Hoboken, be restored to full force and operation, effective immediately.

DOMINIC A. CAVICCHIA
 Director.

7. AUTOMATIC SUSPENSION - SELLING ALCOHOLIC BEVERAGES TO MINORS -
 LICENSE PREVIOUSLY SUSPENDED BY LOCAL ISSUING AUTHORITIES FOR 20
 DAYS - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by)

CHANNING P. RITTER)
 T/a HY-SEAS)
 300 East Brinkerhoff Avenue)
 Palisades Park, N. J.,)

ON PETITION
 O R D E R

To Lift the Automatic Suspension)
 of Plenary Retail Consumption)
 License C-7 issued by the Mayor)
 and Council of the Borough of)
 Palisades Park.)

 Rotolo & Rotolo, Esqs., Attorneys for Petitioner.

BY THE DIRECTOR:

It appears from a petition filed herein that on January 30, 1953, Channing P. Ritter, after pleading non vult to a charge of selling alcoholic beverages to minors in violation of R.S. 33:1-77, was sentenced to pay a fine of \$100.00 by Judge Reeve of the Criminal Judicial District Court of Bergen County. The petition, after reciting the action taken by the local issuing authority in disciplinary proceedings as hereinafter set forth, prays that the automatic suspension of the license may be lifted.

The records of the Division of Alcoholic Beverage Control disclose that on February 6, 1953, ABC agents picked up the license held by petitioner because, under the provisions of R. S. 33:1-31.1, the license held by petitioner was automatically suspended for the balance of its term as a result of the conviction in criminal proceedings.

The records of the Division of Alcoholic Beverage Control also disclose that, as a result of disciplinary proceedings instituted against petitioner, the Mayor and Council of the Borough of Palisades Park, on February 10, 1953, suspended his license for twenty days, effective February 6, 1953, after petitioner had pleaded guilty to a charge alleging that he had sold alcoholic beverages to minors.

The charge in the criminal proceedings and the charge in the disciplinary proceedings were based upon the same facts. The case concerns the sale of alcoholic beverages to three minors, two of whom were 16 years of age and the third of whom was 17 years of age.

A review of the facts indicates that the suspension heretofore imposed by the local issuing authority was adequate under the circumstances of the case. That suspension has been in effect for more than twenty days. Hence the relief sought herein will be granted.

Accordingly, it is, on this 5th day of March, 1953,

ORDERED that the automatic suspension of License C-7 held by Channing P. Ritter, t/a Hy-Seas, for premises known as 300 East Brinkerhoff Avenue, Palisades Park, be and the same is hereby lifted and said license is hereby restored to full force and operation, effective immediately.

DOMINIC A. CAVICCHIA
 Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against

FOSTER'S TAVERN, INC.
T/a FOSTER'S TAVERN, INC.
312 Passaic Street
Passaic, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-146, issued by the Board of Commissioners of the City of Passaic.

Louis Adler, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On December 12, 1952 you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to Reginald ---, a person under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

The evidence presented at the hearing herein discloses that on the evening of December 12, 1952, an ABC agent entered defendant's premises at about 9:50 p.m. He observed Reginald ---, 18 years of age, standing near the rear end of the bar and holding a glass of beer in his hand. The contents of the glass were seized after it was ascertained that Reginald was a minor.

It was stipulated that two other ABC agents who were present at the hearing would corroborate the testimony of the agent who testified if they were called to testify.

Reginald --- testified that he had entered defendant's premises on December 12 at about 9:30 p.m.; that he was alone; that he went to the bar, at which two bartenders were working, and put a quarter on the bar and ordered a glass of beer from a bartender, whom he could not identify; that, before any beer was served, he left the bar and went to a machine where he obtained a package of cigarettes; that he returned to the bar and saw a glass of beer and fifteen cents on the bar near that portion of the bar where he had given the order for the beer; that he put the change in his pocket and had drunk half of the beer when the agents walked up to him and took it away.

Reginald (the minor) further testified that he had not been asked to produce proof, or make a written acknowledgment, of his age; and, on cross-examination, that no one had told him to get out of the place because he would not be served any liquor or beer. His direct testimony in its essential aspects was not shaken on cross-examination:

Q Isn't it true, as a matter of fact, that you took the beer off the bar, and it was not served to you? Isn't that a fact? A I did what?

Q Took the beer off the bar, and it was not intended for you. Isn't that a fact? A When I went back I saw the beer. I didn't know who it was intended for; I just took it."

On further cross-examination the minor insisted that he had walked to the bar, ordered a glass of beer, walked to the cigarette machine, returned and took the glass of beer that was at the space where he "walked up first." At the conclusion of his cross-examination, he was questioned by the Hearer. The Hearer's questions and the minor's answers were:

- "Q Let me ask you this: You said something about putting a quarter on the bar and picking up fifteen cents change. When did you put the quarter on the bar? A That is when I first walked in.
- Q You ordered a beer and put a quarter on the bar? A That is right.
- Q And then you went to the cigarette machine? A That is right.
- Q You came back and picked up the glass of beer and fifteen cents; is that it? A That is right."

On behalf of defendant, Floyd Foster, President of defendant-corporation, and Bruce Bragg testified that they were the only persons tending bar in defendant's premises on the evening of December 12. Both denied that they had ever sold or served any beer to Reginald. Floyd Foster also testified that he had refused to serve Reginald because "I know him from a kid"; that he had told him to go out; and that he had seen Reginald "standing by the booths" when the investigators "grabbed him." Bruce Bragg also testified that he has known Reginald "maybe ten, twelve years," and that he "didn't notice him particular until the agents had him and questioned him." A patron testified that he saw the minor go to cigarette machine, get a pack of cigarettes, then walk to the bar, but that he did not see either bartender serve the minor. "The next thing I knew," he testified, "this man (an agent) had him and he had a half a glass of beer in his hand."

A fourth ABC agent, Investigator George Hill, had entered the defendant's licensed premises on the evening of December 12 prior to the time the other three agents entered. Investigator Hill died on January 4, 1953, three days prior to the hearing herein. Thus I do not have the benefit of his testimony. As the case is presented to me, it involves conflicting stories told by the minor, on the one hand, and by the various witnesses produced by the defendant, on the other hand. However, the minor's presence in the barroom is not questioned. The agent who took the stand testified that he and the two other agents had been outside of the licensed premises and that, after receiving a signal from Investigator Hill and entering defendant's licensed premises (and after seeing the minor standing near the rear end of the bar holding a glass of beer in his hand, as aforesaid), "Investigator Hill walked over and said 'This is the minor', took the glass from his hand and handed it to me..."

Throughout the hearing, defendant's attorney made an unsuccessful effort to establish that the minor took from the bar a glass of beer served to or intended for somebody else. In his summation he argued: "Isn't it just as likely he (the minor) may have walked in there knowing they would not sell him beer and pick up a glass and was standing there and then the ABC walked in?"

The evidence presented by the Division established that Investigator Hill went into the licensed premises first and then, later, signalled to his companion agents who were waiting outside. Supposedly, Investigator Hill saw the sale to the minor and then gave the signal. The Division's attorney stated at the hearing that Investigator Hill was the only agent who saw the sale. I am not, however, permitting either this supposition or this statement (as to Investigator Hill's seeing the sale) to influence my judgment in

weighing the evidence before me. Moreover, I am disregarding entirely the testimony of the agent with respect to the identification of the minor made by Investigator Hill.

I cannot, however, overlook the fact that there is not in evidence even a scintilla tending to show that the glass of beer the minor had in his hand was actually served to or intended for another person. As above indicated, the pertinent testimony of each of the three witnesses produced by the defendant was to the effect that he did not see the minor with the glass of beer in his hand until the ABC agents got to him. The patron (one of these three witnesses) further testified that he was seated in a booth facing the bar, where he "was in a position to see everything that went on in there. I was paying strict attention to that." (Underscoring mine.) This patron, however, although "paying strict attention" to everything on the night in question and able at the hearing to testify that the minor had not been served by either bartender, did not offer the least bit of testimony that would tend to show that the minor had taken the glass of beer served to or intended for somebody else. According to his own testimony, as already recited, he had seen the minor go from the cigarette machine to the bar and "the next thing" he (the patron) knew the agent "had him and he had a half a glass of beer in his hand." He admitted, however, that the first time he saw the half-full glass of beer was when the minor was being questioned by the agents and that he did not see where the minor got the beer from. It is evident to me that this witness was not paying as strict attention to what was going on as he would have me believe. In any event, his testimony that he saw the minor go from the cigarette machine to the bar serves to corroborate the testimony on the Division's side that the minor was at the bar. No reason appears why I should disbelieve the testimony of the minor. Moreover, it is unlikely that he could have taken from the bar another person's drink, without protest from such person or without detection otherwise. Nor is his failure to identify the specific person who served him fatal in these proceedings. See Re La Corte, Bulletin 469, Item 1; Re Cohen, Bulletin 495, Item 6; Re Dante, Bulletin 771, Item 9.

From all of the evidence, I find defendant guilty as charged.

Defendant has a prior record. Effective September 21, 1952, its license was suspended by the local issuing authorities for five days after it had pleaded non vult to a charge of selling alcoholic beverages to minors. Following the usual practice where it appears that defendant has recently committed a prior similar violation, I shall double the minimum period of suspension imposed in a case of this kind, and suspend defendant's license for twenty days. Re Friedman, Bulletin 921, Item 5.

Accordingly, it is, on this 11th day of March, 1953,

ORDERED that Plenary Retail Consumption License C-146, issued by the Board of Commissioners of the City of Passaic to Foster's Tavern, Inc., t/a Foster's Tavern, Inc., for premises 312 Passaic Street, Passaic, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. March 19, 1953, and terminating at 3:00 a.m. April 8, 1953.

DOMINIC A. CAVICCHIA
Director.

9. DISCIPLINARY PROCEEDINGS - FAILURE TO HAVE TRUE COPY OF LICENSE ON PREMISES - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

STANLEY PERLOWSKI
T/a PERLOWSKI'S TAVERN
432 Grove Street
Jersey City, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-250, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Stanley Perlowski, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On February 4, 1953, and on divers days prior thereto, you conducted your licensed business without having a photostatic or other true copy of the application for your current license on the licensed premises available for inspection; in violation of Rule 16 of State Regulations No. 20."

The file herein discloses that on February 4, 1953, an ABC agent made a routine inspection of defendant's premises. He reported that, at that time, defendant failed to have a copy of his application for license available for inspection. During the licensing year expiring June 30, 1952, defendant received four warning letters from the Division after prior investigations disclosed that a copy of his application for that licensing year was not available for inspection. On June 18, 1952, he advised the Division in writing that "When the new application comes in I will make sure that it will be ready for inspection at all times." Nevertheless he failed to have a copy of his application available for inspection on February 4, 1953.

Defendant has a prior record. On April 4, 1952, his license was suspended for twenty days after he had pleaded non vult to charges alleging that he sold alcoholic beverages outside the scope of his license and sold alcoholic beverages during prohibited hours. Re Perlowski, Bulletin 932, Item 7. This is a case of first impression. In view of his prior dissimilar record, I shall suspend defendant's license for fifteen days. Five days will be remitted because of the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 13th day of March, 1953;

ORDERED that Plenary Retail Consumption License C-250, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Stanley Perlowski, t/a Perlowski's Tavern, for premises 432 Grove Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. March 23, 1953, and terminating at 2:00 a.m. April 2, 1953.

DOMINIC A. CAVICCHIA
Director.

10. STATE LICENSES - NEW APPLICATION FILED.

Middle Atlantic Transportation Company, Inc.
975 West Main St., New Britain, Conn.
Application filed March 18, 1953 for Transportation License.