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

BULLETIN 364 NOVEMBER 27, 1939.

1. APPELLATE DECISIONS - RASMUSSEN v. PEAPACK-GLADSTONE.

POUL RASMUSSEN, trading and doing business as THE SCANDINAVIAN INN, Appellant, -vs- BOROUGH COUNCIL OF THE BOROUGH OF PEAPACK-GLADSTONE, Respondent	ON APPEAL CONCLUSIONS

George W. Allgair, Esq., Attorney for Appellant.
Ronald A. Gulick, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant appeals from the denial of a plenary retail consumption license for premises located on the westerly side of State Highway Route 31, Borough of Peapack-Gladstone.

The resolution denying the license states that it was denied for the following reasons:

"1. Because in the opinion of this body no plenary retail consumption licenses should be issued, except to hotels and to bona fide clubs eligible for club licenses.

"2. Because applicant does not comply with the resolution of this body presently governing the issuance of plenary retail consumption licenses or with the ordinance introduced at this meeting of the Council, because it is the opinion of this body, after investigation, that he is not maintaining a hotel.

"3. Because it is the opinion of this body that the number of plenary retail consumption licenses in said Borough should be limited to three, as provided in an ordinance introduced at this meeting, and three such licenses have already been issued."

On August 8, 1939, when the application was denied, there was no municipal regulation limiting the number of licenses but a resolution of respondent adopted on June 12, 1934 was then in effect, Section 4 of which provided:

"No Plenary Retail Consumption license shall be issued to any person, partnership, association or corporation not maintaining a common inn and public hotel for the furnishing of food and lodging to permanent and transient guests, for compensation, which inn and hotel shall have at least ten (10) guest bedrooms, or unless maintaining a bona fide private club to which the public generally is not admitted, which private club shall have been in existence not less than three years prior to the application for such license."

For some years past, plenary retail consumption licenses have been issued to Gladstone Hotel, Peapack Hotel and Essex Hunt Club. Both hotels have been in existence for at least forty years and each, apparently, qualifies as "a common inn and public hotel", irrespective of the number of guest bedrooms. The policy of restricting licenses to hotels and clubs is reasonable.

Appellant's premises, as presently conducted, cannot be classified as "a common inn and public hotel". He admits "you couldn't call it a hotel". He serves meals at the Inn; has four bedrooms on the second floor and two overnight cabins on the grounds. He does not keep a register of guests. He characterized his place as a "tourist home". The former operator of the premises says that he conducted it as a "service station and restaurant".

Irrespective of the number of rooms in appellant's premises, I find as a fact that the premises are not now a hotel. Apgar v. Tewksbury, Bulletin 66, Item 2; Steup v. Wyckoff, Bulletin 155, Item 12; Bialoglow v. Independence, Bulletin 254, Item 7. Hence appellant is not entitled to a license.

Appellant offered to make structural changes in his building which would provide for five bedrooms, or in the alternative, ten bedrooms on the second floor. Whether the contemplated changes would constitute appellant's premises a hotel need not be decided. It is sufficient to say that the evidence sustains respondent's finding that appellant does not now conduct a hotel.

Appellant also contends that Gladstone Hotel has only eight guest bedrooms and Peapack Hotel an unspecified number, less than ten. Considering the length of time they have operated, both places seem to qualify as bona fide hotels and appellant, who does not conduct a hotel, cannot claim undue discrimination because they are licensed and his application for a license has been denied.

Under the circumstances, it is unnecessary to consider the effect of the ordinance introduced August 8, 1939 and apparently adopted on September 12, 1939, the effect of which limited to three the number of consumption licenses.

The action of respondent is affirmed.

D. FREDERICK BURNETT,
Commissioner.

Dated: November 20, 1939.

2. RETAIL DISTRIBUTION LICENSEES - SALE OF BOTTLE PROTECTORS - PERMISSIBLE EXCEPT WHERE BARRED BY LOCAL ORDINANCE.

Dear Sir:

We are manufacturing a bag which we call Bottle Guard. The purpose of this bag is to keep bottles from breaking when carried in suitcase or trunk. Furthermore, if the bottle should leak, the liquid will be absorbed within the bag, which prevents other contents from being damaged.

We were told that the package liquor stores in the State of New Jersey are also permitted to sell other merchandise but before we solicit this trade, we would thank you to kindly let us know if our Bottle Guard can be sold in these stores.

Very truly yours,
Venus Corporation

November 20, 1939

Venus Corporation,
New York, N. Y.

Gentlemen:

There is no objection, so far as I am concerned, to travel insurance for temperamental bottles, and their handlers. I presume it is as good for hair tonic or baby's milk as for liquor.

Each municipality has the power under the New Jersey Alcoholic Beverage Law to provide, by ordinance, that package goods licenses shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which any other mercantile business is carried on. If the municipality has such an ordinance, alcoholic beverages may be sold under such licenses only in separate stores and no other articles of merchandise, such as your Bottle Guard, may be offered for sale, or other mercantile business conducted. If it has no such ordinance, then there is no objection to the sale of the Bottle Guard on the same premises.

You can ascertain whether or not there is any such ordinance in any municipality in which you propose to do business by communicating directly with the Municipal Clerk.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

3. DISQUALIFICATION - APPLICATION TO LIFT - UNNECESSARY UNDER THE FACTS.

In the Matter of an Application to remove disqualification because of a conviction, pursuant to R. S. 33:1-31.2 (as amended by Chapter 350, P.L. 1938)

Case No. 68

CONCLUSIONS

Maurice H. Pressler, Esq., Attorney for Applicant.

BY THE COMMISSIONER:

Applicant filed a petition requesting that his disqualification by reason of certain convictions of crime be lifted, praying in the alternative for an adjudication whether the particular crimes of which he was convicted involved moral turpitude.

In his petition he admits one conviction in 1925 for fornication, two in 1926 as a disorderly person, and one in 1927 for violation of the Hobart Act.

The fornication charge arose from petitioner's relations with a widow thirty-one years of age at a time when he was twenty-nine and unmarried. For this he was given a suspended sentence of three months' imprisonment and placed on probation during that time. As a result of his first arrest in 1926 he received a suspended sentence for creating a disturbance in the street; on the second occasion he was fined Ten Dollars for disorderly conduct. His conviction in 1927 resulted from his operation of a speakeasy, for which he was fined $150.00 for unlawful possession of liquor.

In addition to the foregoing convictions, admitted by the petitioner, independent investigation by this Department disclosed four other arrests; one in 1926 on a charge of assault and battery, of which he was found not guilty; one in 1927 on a charge of disorderly conduct, which was adjourned without day; a third in 1927 on a charge of assault and battery, on which the Grand Jury refused to indict, and an arrest in 1929 on a charge of violating the Hobart Act, dismissed by the Grand Jury.

It appears that petitioner has not been arrested or convicted of any crime since 1929, nor is he presently the subject of any police investigation in the municipality in which he lives. At the hearing he produced three character witnesses who had known him forty, twenty-five and seventeen years respectively. All testified that for the past ten years petitioner has enjoyed a good reputation as a law-abiding citizen. Petitioner claims that since Repeal, which put him out of the speakeasy business, he has been doing odd jobs and peddling neckties, socks and other items of haberdashery for a living.

The crime of fornication may or may not involve moral turpitude, depending upon the circumstances. Committed by a single man of twenty-nine with a widow of thirty-one, it clearly does not. The violation of the Hobart Act of which petitioner was convicted, an apparently unaggravated run-of-the-mill Prohibition violation, involves no moral turpitude. Petitioner's convictions as a disorderly person are not convictions of crime. His arrests resulting in dismissals by the committing magistrate or the Grand Jury are not, of course, convictions at all.

It appearing that petitioner has never been convicted of a crime involving moral turpitude, no order removing disqualification because of conviction is required. Re Rehabilitation Case No. 1, Bulletin 208, Item 6.

It is determined that, under the circumstances, petitioner is not disqualified from employment on licensed premises because of the convictions above mentioned.

D. FREDERICK BURNETT,
Commissioner.

Dated: November 20, 1939.

4. DISCIPLINARY PROCEEDINGS - CLUB LICENSES - SALE TO NON-MEMBERS.

November 20, 1939

Miss Ethel M. Hoyt,
City Clerk,
Hackensack, N. J.

My dear Miss Hoyt:

I have before me staff report and your letter of October 26th re disciplinary proceedings conducted by the City Council against Columbian Democratic League of Hackensack, 34 Fair Street, charged with sale of alcoholic beverages to non-members in violation of the privileges of its club license, and note that on confession of guilt its license was suspended for five days.

Please express to the members of the City Council my appreciation for their conduct of these proceedings and the penalty imposed.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

5. DISCIPLINARY PROCEEDINGS - PERMITTING MINOR TO SELL ALCOHOLIC BEVERAGES - 5 DAYS.

November 20, 1939

Elmer C. Hall,
Howell Township Clerk,
Freehold, N.J.

My dear Mr. Hall:

I have before me staff report and your letter of November 16th re disciplinary proceedings conducted by the Township Committee against Harry S. Burke, Farmingdale, charged with permitting a minor employee to sell alcoholic beverages, and note that on confession of guilt his license was suspended for five days.

Please express to the members of the Township Committee my appreciation for their conduct of these proceedings and the penalty imposed.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

6. DISCIPLINARY PROCEEDINGS - GAMBLING - PAY-OFF ON BAGATELLE MACHINE.

November 20, 1939

Samuel C. Stafford,
City Clerk,
Burlington, N. J.

My dear Mr. Stafford:

I have before me staff report and your letter of November 14th re disciplinary proceedings conducted by the Common Council against Clinton G. Allen, t/a Allen's Cafe, 114 Gordon St., charged with making merchandise payoffs on scores obtained on a bagatelle machine, and note that upon confession of guilt his license was suspended for 3½ days.

Please express to the members of the Common Council my appreciation for their conduct of the proceedings and the penalty imposed.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

7. ADVERTISING - BREWERS' ADVERTISEMENTS ON PAPER BAGS - PERMISSIBLE.

November 20, 1939

Orchard Paper Company,
St. Louis, Mo.

Gentlemen:

It is permissible, under the New Jersey Law and Regulations, for brewers to advertise on paper bags to be used by retail licensees, provided the cost or value of the advertising matter furnished is within the quota, and the copy is acceptable.

The manufacturer may give or sell the bags to his wholesalers without limit as to quantity. Where the retailer is involved, there is, however, a limit. Manufacturers and wholesalers may furnish advertising matter to retailers, provided the actual cost or reasonable value of all signs and advertising matter furnished by each manufacturer or wholesaler to each retailer does not exceed $50.00 per year. Regulations No. 21, Rule 1. The value in the instant case will be the difference in the price of the bag to the retailer with and without the advertising matter if the bag is sold, or the cost of the bag to the manufacturer or wholesaler if given away free.

The advertising matter on the bag submitted is acceptable. I can, however, give you no blanket approval. Whether any advertising will be approved depends on what it says. I suggest that before you proceed with any printing, you first submit the copy and the layout and have them expressly approved. A great many special rulings have been made concerning advertising. It is the only safe course for you to follow.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

8. ADVERTISING - COARSE OR OFFENSIVE ADVERTISING DISAPPROVED.

November 20, 1939

Mr. Charles Miller,
Trenton, N. J.

Dear Mr. Miller:

I have yours of November 13th and am glad that you have taken the precaution of writing for an approval in advance.

The advertisement of the clams, soup and oysters ending with "Peanuts and pretzels free! All You Can Eat", is acceptable.

But the rest of it - the story about the woman on the street car entitled "It Pays to Advertise" - Ugh! It is wholly out of order for any decent advertiser, let alone a high class tavern.

You know the rule. As you value your license, don't do it.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

9. FOOD PRODUCTS WITH LIQUOR FLAVORING - MINCE PIES - HEREIN OF THE PLIMSOLL LINE.

Dear Sir:

Could you please inform me as to whether it is unlawful to use whiskey in a mince pie that is sold and used as a dessert in a restaurant.

Harvey Taylor.

November 21, 1939.

Mr. Harvey Taylor,
Mayetta, N. J.

My dear Mr. Taylor:

No license or permit is required to sell food products which contain liquor, provided the product is not suitable for beverage use. While I have heretofore said that I can't imagine drinking a mince pie, Re Cornell, Bulletin 302, Item 6, I suppose it depends, after all, on the limits of submergence - in short, how high is the Plimsoll line?

If it is naught but something to eat with a fork and it is flavored with not more than one-half of 1% of alcohol by volume, well and good. If it is afloat, however, and requires a spoon to partake, that's different.

While it is not in the law, are you sure that it is according to Brillat-Savarin to substitute whiskey for brandy?

Happy Thanksgiving in any event.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

10. ADVERTISING - PROGRAM SPONSORSHIP - BASKETBALL.

Dear Mr. Burnett:

Some of the liquor stores here would like to identify themselves with our Basketball sponsorship, for the benefit of the young girls and young men of our City, and they are in the dark as to whether it would be O.K. with you if they did so.

We are running, starting Sunday, two games prior to the big game, a girls' team and a boys' team. The big game goes on at 9:15, and following the game there is dancing until one P.M., all for the small sum of 25 cents.

Enclosed you will find Programme dummy, showing the officers in charge, and if you will be good enough to write and advise if it is O.K. for any liquor stores to put their name on the programme.

The basketball games will continue during the entire winter up until the end of March, every Sunday evening at 9:15 P.M.

Very truly yours,
J. P. Laird

November 22, 1939

J. P. Laird, Programme Director,
Inlet Social and Athletic Club,
Atlantic City, N. J.

Dear Mr. Laird:

Licensees are free, if they choose, to put their name on your program as sponsors.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

11. ILLICIT SALES - UNLICENSED PHARMACY MAY NOT SELL, DELIVER OR OTHERWISE DABBLE IN LIQUOR - THE FACT THAT SOMEBODY ELSE HAS A LICENSE IN THE SAME BUILDING IS OF NO AVAIL.

November 17, 1939

Gentlemen:

Will you kindly advise me whether it is legal for a pharmacy situated in a hotel where there is a licensee, obtaining bottled liquors for the purpose of delivery to his customers or for the purpose of resale.

Very truly yours,
Schlossbach & Newman

November 22, 1939

Schlossbach & Newman, Esqs.,
Asbury Park, N. J.

Gentlemen:

Oh no! This wouldn't do at all except as a misdemeanor.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

12. DISQUALIFICATION - 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 (as amended by Chapter 350, P.L. 1938)	CONCLUSIONS AND ORDER
Case No. 70	

BY THE COMMISSIONER:

Petitioner pleaded guilty in 1926 when he was sixteen years old to a charge of loitering, and received a suspended sentence. In 1932, he pleaded non vult to a charge of highway robbery, received an indeterminate sentence in a reformatory, and served eleven months. Since his release petitioner has lived continuously at the same address in the municipality where he makes his home and has been more or less steadily employed in the radio tube business and as a painter and musician.

At the hearing, two business men, a county employee and petitioner's parole officer, testified as character witnesses. One business man has known petitioner for nineteen years, the other for fifteen years, and the county employee for twelve or thirteen years. All testified they know of no other arrest or conviction. The parole officer, although knowing him for only a year and a half, spoke very highly of the petitioner. The fact that he is on semi-annual supervision shows that the Division of Parole is satisfied that he has adjusted himself. His record since he has been out on parole has been most satisfactory.

After examining the evidence, I am satisfied that the petitioner has conducted himself in a law-abiding manner for more than five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 21st day of November, 1939,

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

D. FREDERICK BURNETT,
Commissioner.

13. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED.

In the Matter of the Seizure on September 29, 1939, of a DeSoto Sedan and a five-gallon can of alcohol contained therein, in the vicinity of 624 Palisade Avenue, in the City of Garfield, County of Bergen and State of New Jersey.	Case 5577 ON HEARING CONCLUSIONS AND ORDER

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

BY THE COMMISSIONER:

On September 29, 1939, investigators of this Department seized a DeSoto sedan and a quantity of alcohol found therein, on the public highway in the vicinity of 624 Palisade Avenue, Garfield. The car was owned by Ruth Blain, and was being driven by Charles Ziegler, who was placed under arrest and charged with possession and transportation of illicit alcoholic beverages, in violation of R. S. 33:1-50.

At a hearing held to determine whether the seized property should be confiscated, no one appeared to contest the forfeiture. The evidence shows that a five-gallon can of alcohol bearing no indicia of tax payment was found in the car; that analysis disclosed that the alcohol had a proof of 83.8 per cent by volume and was fit for beverage purposes when diluted. I find as a fact that the alcohol was illicit. The vehicle in which the alcohol was being transported is also subject to forfeiture. R. S. 33:1-66(c). Hence it is determined that the seized property constitutes unlawful property.

Accordingly, it is ORDERED that the property set forth in Schedule "A" annexed hereto be and is hereby forfeited, and that it be retained for the use of hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,
Commissioner.

Dated: November 21, 1939.

SCHEDULE "A"

1 - 5-gallon can of alcoholic beverages
1 - DeSoto Sedan, Serial K H 831 D, Engine 43491, 1939 N. J. Registration P.P. 822

14. SEIZURES - CONFISCATION PROCEEDINGS - LIENS OF BONA FIDE CLAIMANTS DETERMINED AND THE REST OF THE PROPERTY FORFEITED - PADLOCK ORDERED.

In the Matter of the Seizure of a number of still parts, a quantity of denatured alcohol, three motor vehicles and a quantity of household furniture at the Beacon Hill Country Club, located on Chapel Hill Road, Township of Middletown, County of Monmouth and State of New Jersey.	:	Case #5450 On Hearing CONCLUSIONS AND ORDER

Applegate, Stevens, Foster & Reussille, Esqs., by Leon Reussille, Esq., Attorneys for Bankers Trust Company and Isaac Michaels, Executors and Trustees under the Last Will and Testament of Elizabeth King Hosford.
Louis Logan, Esq., Attorney for Elizabeth Witt (withdrawing during case).
James A. McTague, Esq., Attorney for Paradise Park, Inc., Dorez, Inc., and Eliot Sarasohn.
John A. Petillo, Esq., Attorney for Wallace, Burton & Davis Co.
Solomon Tepper, Esq. and Maurice Bernhardt, Esq., Attorneys for John Wanamaker, New York.
Harry Castelbaum, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

On June 10, 1939 agents of this Department raided the "Beacon Hill Country Club" on Chapel Hill Road, Middletown Township.

Those premises, consisting of a 30-room "club house" and some five out-buildings on a 150-acre tract of land, while nominally owned by the Dorez, Inc. and one Garlock (or Milvey), are nevertheless managed and in practical effect owned by Lillie Sarasohn, President of Dorez, Inc., and Eliot Sarasohn, its secretary.

In the "club house" the agents found a large bootleg still or "cracking plant" in process of installation and also nine 50-gallon drums of denatured alcohol. In a small nearby shed they found a copper column and, in a nearby garage, an electric pump, a wooden vat and the automobile of Mary Demuro, caretaker of the premises.

The agents arrested Mrs. Demuro, Vincent Fozi and Edward Cooley, who were then on the premises. At 1:30 the next morning they arrested Eliot Sarasohn as he drove up in his automobile, and at 11:30 A.M. similarly arrested Samuel Levine (alias Tom Brown) and Louis Grossman as they drove up in Levine's car.

Statements made by Mrs. Demuro, Fozi and Cooley show that the still had been in process of installation for several days; that Samuel Levine was arranging the installation, with the consent of the Sarasohns; that Fozi and Cooley were working on such installation; and that Mrs. Demuro was feeding and lodging the men engaged on the still.

The agents, under R.S. 33:2-2, seized the still parts and paraphernalia, the alcohol, the furniture at the "club house" and the automobiles of Levine, Sarasohn and Mrs. Demuro.

While it is true that the agents, in making the raid and seizure, acted without search warrant, nevertheless, even assuming, although far from admitting, that they should properly have acted under such a warrant, that fact does not bar forfeiture of the contraband articles that were seized or padlock of the premises where they were found. Re Seizure etc., Bulletin #164, Item 9.

As to the bootleg still parts and paraphernalia and the alcohol, no one contests the fact that they should be forfeited. R.S. 33:2-5.

As to the three automobiles, it is clear that their respective owners were implicated in the still activities - Levine being the "master mind" in erecting the still; the Sarasohns, as at least managers if not owners of the premises, permitting the still to be erected there; and Mrs. Demuro, feeding and lodging the men who were installing the still.

Hence, the automobiles of Levine and Mrs. Demuro (neither of whom appeared at the hearing) are forfeited. As to Sarasohn's car, since such was returned to him on his depositing $35. (the appraised retail value of his car) with the Commissioner, on the understanding that the deposit be treated in lieu of his automobile in this proceeding, that money is forfeited. R.S. 33:2-5.

As to the household furniture, there are three claimants: John Wanamaker, New York; Paradise Park, Inc.; and Wallace, Burton & Davis Co.

The evidence shows that, in July or August 1938, John Wanamaker, New York, sold the furniture to one Isquith, apparently trading as the Beacon House Corporation, and then tenant of the club premises, on a conditional sales agreement for $3994.05, $1150. being paid down and $158. to be paid monthly on the balance of $2844.05. So far as appears, Isquith actually planned a bona fide "country club" at the premises.

There being default on the first installment, Wanamaker's pressed the matter for collection. Its attorney was approached by the Sarasohns' attorney, who stated that Isquith had disappeared and the country club forced to close down; that the Sarasohns would like to have the furniture remain on the premises so that they might rent it more easily; and that they would make some arrangement for payment of the balance. One such payment of $50. was made in December 1938, leaving a balance of $2794.05. Apparently the matter was allowed to drag along in this status until seizure.

I am satisfied that John Wanamaker, New York, is not guilty of any bad faith and has a bona fide lien on the household furniture for $2794.05.

The attorney for Paradise Park, Inc., in support of its claim to the furniture, declared that, on August 11, 1938, it had bought in the furniture at a landlord's distress sale by Dorez, Inc., and produced a document allegedly

representing such sale. However, neither the document nor the purported sale was in any way authenticated. Nor is there any evidence, despite a specific call for such proof by the Department's attorney, as to the identity of the Paradise Park, Inc. stockholders or officers, who remain clothed in a mysterious anonymity. I am not convinced of its good faith. Hence, its claim is disallowed.

As to Wallace, Burton & Davis Co., the evidence shows that, by reason of an unpaid grocery bill, it obtained a judgment against Isquith under which it levied upon and, on December 23, 1938, sold the furniture to make up $270., the amount of the judgment plus costs; that it bought in at the sale for that figure; that, however, the persons in possession of the premises refused to give up the furniture; and that Wallace, Burton & Davis Co. was, therefore, contemplating an action in replevin.

I am satisfied that Wallace, Burton & Davis Co. has a bona fide lien on the furniture for $270.

Since the value of the furniture is apparently less than the sum of both the recognized claims (viz., $3064.05), there is no point in having these claims paid off and the furniture forfeited for the use of the State. Hence, the furniture will be released to the two recognized claimants on payment of costs of the seizure and storage. Wallace, Burton & Davis Co. agree that such release may be made to John Wanamaker, New York, their rights inter sese to be adjusted between themselves.

As to padlock of the premises because of the bootleg still being erected there (R.S. 33:2-5): Such padlock is contested only by Dorez, Inc., nominal owner of a three-quarters interest in the premises, and by Bankers Trust Company and Isaac Michaels, holders of a mortgage on the premises in stage of foreclosure at time of the hearing.

However, padlock is clearly in order despite the protest of Dorez, Inc., since the Sarasohns, who apparently manage that corporation and also the premises, are directly inculpated in the bootleg still.

As for the mortgagees (who contest padlock only in so far as it may interfere with their possible possession of the premises after foreclosure), they have no standing now to avoid the padlock since, so far as appears, they are not presently entitled to possession. If and when they gain right to such possession, they may then petition to have the padlock lifted, at which time the merits of their case will be considered.

I see no reason why padlock should not issue. However, although the statute (R. S. 33:2-5) permits padlock up to a period of one year, padlock here, since this is apparently a "first offense" for the owners of the premises, will be for six months.

Accordingly, it is ORDERED that the still parts and paraphernalia, alcohol and two automobiles, all of which were seized in this case and are set forth in Schedule "A" annexed, be and hereby are forfeited as unlawful property, in accordance with the provisions of R. S. 33:2-5, and that they be retained for the use of hospitals and State, county and municipal institutions or destroyed in whole or in part, at the direction of the Commissioner; and it is further

ORDERED that the sum of $35.00, deposited by Eliot Sarasohn with the Commissioner in lieu of his seized automobile, be turned over to the State Treasurer for the use of the State and accounted for by the Commissioner in the manner provided by law; and it is further

ORDERED that all the household furniture seized in this case be released to John Wanamaker, New York, upon payment of the costs of their seizure and storage; and it is further

ORDERED that premises owned by Dorez, Inc. and one Garlock (or Milvey), and heretofore known as the "Beacon Hill Country Club", being the premises in which the illicit still parts were found, including all buildings erected thereon, shall not be used or occupied for any purpose whatsoever for a period of six (6) months, commencing the 30th day of November, 1939.

D. FREDERICK BURNETT,
Commissioner.

Dated: November 24, 1939.

SCHEDULE "A"

7 - Galvanized tanks
1 - Galvanized column
1 - Sectional boiler
6 - Sections copper column
1 - Iron cooker
1 - General Electric motor
9 - 50-gallon drums of denatured alcohol
60 - Empty 5-gallon cans
1 - Centrifugal pump with G.E. Electric Motor, Model 58KC73AB80
1 - Ford Coach, Serial A4181343, N. J. 1939 Registration MP-10-E
1 - Ford Coach, Serial 222A500, N. Y. 1939 Registration 3G-17-90
Other miscellaneous personal property

15. DISCIPLINARY PROCEEDINGS - GAMBLING - PAY-OFF ON GAMBLING MACHINES - CASE DISMISSED BECAUSE SOME CUSTOMERS DIDN'T SEE IT DONE.

November 22, 1939

J. Cory Johnson,
Town Clerk,
Bloomfield, N. J.

My dear Mr. Johnson:

I have before me staff report and extract of minutes of the disciplinary proceedings against Harry Conroy, 10 Orange St., charged with redeeming in drinks free games won on a bagatelle machine, and note with regret that the charges were dismissed.

As I get the picture, Investigators John L. Arts and Anthony Palmieri of the Department entered these premises on June 6, 1939 at or about 1:50 P.M. In the barroom they observed a bagatelle machine known as "Exhibit Contact". Investigator Palmieri played this machine and secured a number of free games upon attaining winning scores. Finally, he had twenty-two remaining free games and asked the bartender whether it was necessary to play them out. The bartender, who was known as Weber, informed

Palmieri that he could choose drinks instead. Palmieri then ordered and was served two drinks of whiskey each for Arts and himself and a glass of beer for a male patron for the total sum of $1.10.

The licensee did not deny that he gave drinks for the free games that my men had won on the machine but claimed that the drinks were merely given as a matter of grace or favor. That's odd! My men did not just happen to walk in but were there for the specific purpose of investigating a specific complaint that payoffs were made on scores obtained on the bagatelle machine! They found it was true. Payoffs in drinks are just as bad as payoffs in money.

I understand that the licensee produced several prominent citizens to testify that his establishment was properly conducted, and was ready to produce many more; that all testified or would testify to the fact that they had never seen any payoffs made in consequence of scores obtained on the bagatelle machine. Good as far as it goes, which is precious little. The question is not what they didn't see but rather what happened last June.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

16. HOURS OF SALE - SPECIAL EXTENSIONS FOR CHRISTMAS AND NEW YEAR'S MAY BE MADE ONLY BY ORDINANCE.

MUNICIPAL REGULATIONS - MAY BE ENACTED ONLY BY ORDINANCE - NO POWER TO RESERVE AUTHORITY IN THE ORDINANCE TO AMEND IT BY RESOLUTION.

My dear Commissioner:

Applications have been made since the adoption of Chapter 234 of the Laws of 1939, to municipalities which I represent, requesting an extension of hours of sale on special occasions.

Will you please advise me as to whether an issuing authority has the right to grant an extension of hours on special occasions without an ordinance?

Will you also please advise me as to whether or not in your opinion the governing body may adopt an ordinance which would embody a provision that the issuing authority could grant an extension of hours for special occasions by resolution?

Very truly yours,
Elden Mills

November 20, 1939

Elden Mills, Esq.,
Morristown, N. J.

My dear Mr. Mills:

It is no longer possible for municipalities to enact any regulations of the conduct of retail liquor businesses except by ordinance. The reason is Chapter 234, P.L. 1939, with which you are already familiar. It applies to extensions of hours for special occasions, such as Christmas and New Year's, the same as

to other types of regulations. What the municipality is prohibited from doing directly by this Act it cannot do indirectly by attempting to reserve the authority in an ordinance. The special extensions must be provided for right in the ordinance itself or brought about by the formal adoption of an amendatory ordinance.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

17. DISCIPLINARY PROCEEDINGS - SALES ON ELECTION DAY - INADEQUATE PENALTY.

November 22, 1939

Joseph D. Pacella,
Borough Clerk,
Lodi, N. J.

My dear Mr. Pacella:

I have before me staff report and your letter of November 13th re disciplinary proceedings conducted by the Mayor and Council against Joseph A. Kozel, 480 Main Street, charged with sale of alcoholic beverages on Primary Election Day, and note that his license was suspended for two days.

The penalty imposed is not in accord with the recommended minimum of ten days for Election Day violations. I cordially suggest that the minimum penalty be imposed in future cases.

Very truly yours,

D. Frederick Burnett

Commissioner.