

Mr. Ernest W. Tapner,
26 Rose Avenue,
Madison,
Morris County, New Jersey
STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N.J.

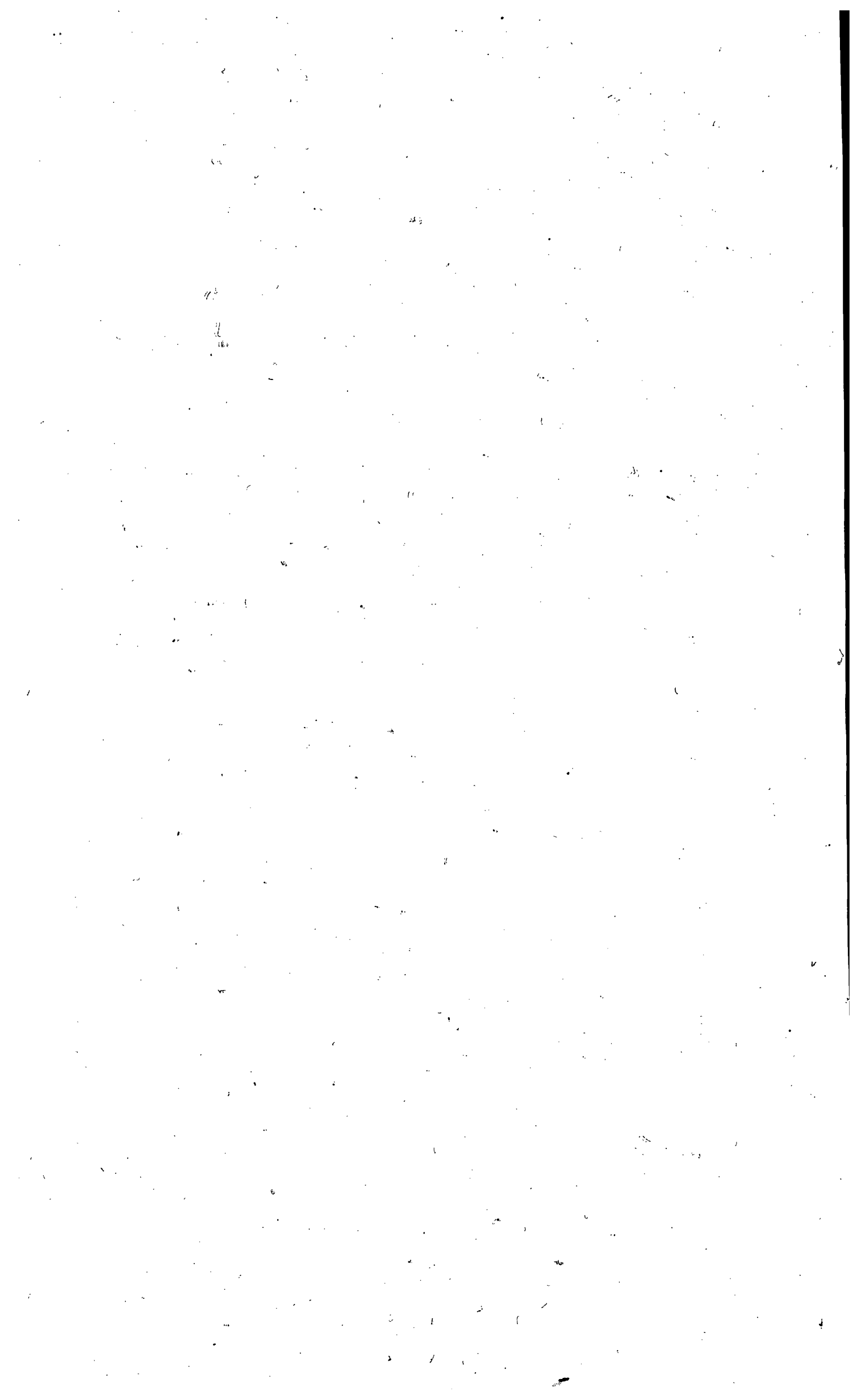
BULLETIN 1028

AUGUST 24, 1954.

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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 1028

AUGUST 24, 1954.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(PERMITTING MAKING ARRANGEMENTS ON LICENSED PREMISES FOR ILLICIT
SEXUAL INTERCOURSE) - LICENSE REVOKED.

In the Matter of Disciplinary)
Proceedings against)

GEORGE SHAW)
415 Washington Street)
Newark 2, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-474 for the 1953-54)
and 1954-55 licensing years, issued)
by the Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)
-----)

Richard L. Amster, Esq. and Saul C. Schutzman, Esq., Attorneys 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 21, 24, 27 and 28, 1953, you allowed, permit-
ted and suffered lewdness and immoral activity in and upon your
licensed premises, viz., the making of arrangements for illicit
sexual intercourse; in violation of Rule 5 of State Regulations
No. 20."

At the hearing herein, three ABC agents who participated in
the investigation leading to the instant proceedings testified on
behalf of the Division. In the testimony and comments hereinafter
set forth the full names of the agents will not be used but, instead,
the initial letters of the last names of two of the agents will be
used, namely, "M" and "C", and the third agent will be referred to
as "Mc".

Agent "M" testified that at 2:15 p.m., on October 21, 1953,
he visited defendant's licensed premises, at which time he became
acquainted with the bartender called "Doc" but whose real name he
subsequently learned to be Conrad Callender; that they engaged in
general conversation with reference to the operation of the busi-
ness, viz., the kind of musical entertainment provided for the amuse-
ment of the patrons and the particular class of persons who patronize
the establishment; and that he left the premises at 4:10 p.m.

The testimony of Agents "M" and "Mc" is substantially in
agreement as to the events and conversations taking place on their
visits to defendant's licensed premises on October 24, 27 and 28,
1953, respectively. The agents' testimony discloses that they
entered defendant's licensed premises at 1:15 a.m. on October 24,
1953 and went directly to the bar; that three men were tending bar
at the time; that one of the bartenders was Conrad Callender, who
will be hereinafter referred to as "Doc"; that the defendant was also
on the premises; that "Doc" served them each a drink and also poured
a drink for himself at the invitation of Agent "M"; that shortly
thereafter the latter agent inquired of "Doc" as to what the score

was and in reply "Doc" said that he was looking for a couple of girls from a nearby municipality, adding that the said girls engaged in sexual intercourse for pleasure and not for money; that "Doc" spoke to two girls who left their respective places at the bar and took seats next to Agent "Mc"; that "Doc" introduced the girls to Agent "Mc"; that neither of the agents engaged in conversation with the girls who eventually left the premises with two males; that shortly thereafter Agent "M" told "Doc" that he and his fellow agent wanted to get "laid" and didn't mind paying a few "bucks" therefor; that "Doc" said that he would get them "fixed up"; that at about 2:45 a.m. "Doc" told the agents that he had a girl for them and that he was looking for another so that both the agents could get "laid"; that he motioned to a girl and as she was proceeding in their direction Agent "M" asked "Doc" if he was sure they would get "laid", to which "Doc" said not to worry about it; that "Doc" introduced the girl to the agents as Dorothy and told her to take care of them the way she takes care of him; that Dorothy left them but returned in the company of another girl whom she introduced to the agents as June; and that the agents left the premises at 3:10 a.m. in the company of "Doc", Dorothy, June and a man named "Louis." The testimony of Agents "M" and "Mc" further discloses that at 1:15 p.m. on October 27, 1953 Agents "M" and "Mc" again visited defendant's licensed premises and conversed with "Doc" who was tending bar at the time; that "Doc" told them that the two girls who were in the premises on the previous Saturday morning were "society whores" and that he had engaged in sexual intercourse with a number of females who came into the premises and that he engaged in sexual intercourse with a girl named Ann the same day as she arrived from a large city of another state; that Agent "M" told "Doc" that it would cost each of them thirteen dollars to lay June and Dorothy, to which "Doc" replied that the price wasn't bad; that Agent "M" asked "Doc" if Dorothy and June were clean and "Doc" told him not to worry because any of the girls he gives them he already had; that "Doc" took a red book from his pocket and called to the porter named Jimmy and requested him to call a number on the telephone; that Jimmy came back and said he was unable to get the number; that "Doc" then went to the telephone and when he returned said the telephone was disconnected; that he said he was trying to get a girl for them called Necky or Nicchi "to shack up with"; that before the agents left the defendant's premises at 3:30 p.m. they made arrangements with "Doc" to return to the premises between 1:30 and 2:00 p.m. the following day, at which time "Doc" agreed to have two girls for them to engage in sexual intercourse. The testimony of Agents "M" and "Mc" further discloses that on the following day, October 28, 1953, at 1:15 p.m., they again visited the defendant's licensed premises, at which time each agent had fifteen dollars in bills, the serial numbers of which had been previously noted; that Agent "C" accompanied them to the premises but remained on the outside thereof; that as soon as Agents "M" and "Mc" entered "Doc" remarked that they were "right on time" and when Agent "M" asked him about the girls "Doc" said that the girls would be there; that Agent "M" asked "Doc" if the girls were clean and could be trusted and "Doc" assured them they were all right; that a short time thereafter a female entered the premises and took a seat on the side of the bar opposite where the agents sat; that "Doc" pointed to the agents and suggested to the girl that she go over to them and have a drink; that the female came over to where the agents sat and took a seat between them; that "Doc" came over and remarked to the female that those were the boys he had told her about; that, while "Doc" stood directly in front of them, they engaged in conversation with the girl whose name was Agnes concerning the place where they were going and she suggested that they go to her apartment; that she left them to make a telephone call, during which time "Doc" told them another girl would be there; that Agnes returned to the bar and a short time thereafter another girl entered whom the agents recognized to be June, whom they had previously met in the defendant's premises; that June joined them at the bar; that as "Doc" stood in front of the group, Agnes said she and June would go to her apartment in her cousin's car and that the

agents were to follow them in their car; that the agents did this and when they arrived at their destination they observed the females get out of the car and go into a building; that the agents joined the man who drove the females to their destination; that this man led them to the third floor where the agents knocked on the door and were admitted by Agnes; that the four went into the living room and after sitting down each agent gave his respective female companion fifteen dollars; that shortly thereafter Agnes went to answer a knock on the door and returned in the company of Agent "C" and two municipal detectives; that Agent "M" handed Agent "C" the fifteen dollars which Agnes had dropped in his lap when she answered the knock on the door and June also gave Agent "C" the fifteen dollars which she had; that the bills were checked and found to correspond with the serial numbers which had been previously noted; that the agents went back to defendant's licensed premises and identified themselves to "Doc"; that Agent "C" joined them and they all went to police headquarters; that Agent "C" spoke to "Doc" who stated that he had asked the girls the night previous to take care of the agents and show them a good time; that, when asked what he meant by a good time, "Doc" said to have a few drinks and to get "laid if you can."

Agent "C" testified that he drove his car to the corner of Norfolk Street and Thirteenth Avenue where he observed Agents "M" and "Mc" get out of their parked car and proceed up the stairs into a building; that he and the two municipal detectives whom he had previously contacted proceeded up the stairs and that he knocked at the door; that a woman whom he later learned to be Agnes answered the knock on the door and that he and his fellow officers followed her into the living room where he saw Agent "Mc" and a female seated on a settee and Agent "M" seated on an overstuffed chair; that Agent "M" handed him fifteen dollars -- "two fives and five singles" and June handed him the same amount of money in like bills; that he checked the serial numbers of the bills against those on the paper where they had been previously noted and that the serial numbers corresponded; that he proceeded to police headquarters with one of the detectives and the two girls, June and Agnes; that, thereafter, he and the detective went to the defendant's licensed premises where he met Agents "M" and "Mc" and "Doc"; that they went to police headquarters where he spoke to "Doc"; that "Doc" stated that he had introduced June and Agnes to Agents "M" and "Mc" and told the girls to take them to their apartment to show the agents a good time; and that when questioned about what he meant by a good time, "Doc" answered to have a few drinks and get laid if they desired.

Defendant testified that he operates the licensed premises in a respectable manner and had no knowledge that females frequented his premises to solicit men for immoral purposes; that Agent "M", while in the company of Agent "Mc", called him over while he was tending bar one evening and asked if he could straighten him out with a couple of girls; that in response thereto he advised Agent "M" that he was in the wrong place; that he could not recall the day this occurrence took place but that it was in the month of October; and that he never served the agents although they were in the premises on different occasions.

Conrad Callender, the bartender hereinbefore referred to as "Doc", testified that he was employed by defendant and recalled the visits of Agents "M" and "Mc" to defendant's licensed premises; that he remembered Agent "M" coming into the premises alone on his initial visit and engaging in general conversation with him, during which time there was a discussion concerning women; that, thereafter, Agent "M" came into the premises in the "early hours of the morning", accompanied by Agent "Mc" whom he introduced to him; that Agent "M" had the following conversation with him: "You got all these hep cats here." I said, 'Yes.' And the music was jumpy; the band was going on and everything

was lively. So he said, 'We ought to have some fun.' So I said, 'As long as you are out to have some fun, I shall try and endeavor my best to see what I can do for you'; that he brought two girls over to the agents and introduced the girls to one of them; that "Just as the bar was about to close one of the agents said again, 'Doc, what's the score? What's happening?' I said, 'Look here, I have to clean the bar.' I said, 'If you all will wait a minute, we are all going to the party. I'll see you meet hundreds of girls. There will be a lot of girls there. You just take it easy; wait. I'll see that you meet someone'"; that he then introduced them to a girl and a man but he denied that he ever mentioned in the barroom, prior to the time he introduced one of the agents to the two girls aforementioned, that these girls engaged in sexual intercourse for pleasure; that on an afternoon a couple of days later the agents again came to the defendant's licensed premises and stated to him that nothing materialized, to which he said "Well, shame on you. That's out of my category ***"; that he remembered discussing Ann from the large city of another state but denied that he told the agents he engaged in sexual intercourse with her the first day she arrived in town; that he remembered attempting to put through a telephone call from a number he obtained from a personal memorandum book to a girl called Necky but he had no intention of arranging with Necky to engage in sexual intercourse with the agents; that when the agents were about to leave the premises they assured him they would return the next day and he then told them "If you are coming back, be specific about your time * * * * You said you wanted to meet some people. I definitely would see after I get out of work that I find some of the girls that you definitely said you wanted to meet"; that at no time did he indicate that the introductions made or to be made were for the purpose of indulging in sexual intercourse; that he never discussed the price to be charged by the girls to commit immoral acts; that he remembered discussing cleanliness of women as he stated to the agents "Today you have most of the girls that are working in factories, they have to have a blood test and that most of the women are today clean"; that the only appointments he made were for the agents to meet some girls to have a good time and that he did this as a friend; that he met Agnes and June at the party sometime previous and told them about the agents wanting to meet some friends to have a good time and if they came around about 1:30 they could meet the agents; that at no time did he ever have any thought that the agents and the girls were to engage in sexual intercourse as all the introductions made by him "were merely the basis of social introductions."

Defendant produced two witnesses who testified that he operates a decent establishment. These witnesses further testified that they could not recall being in defendant's licensed premises on the dates in question.

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 testimony of Conrad Callender, also known as "Doc", who was employed by defendant on the dates in question, it lacks the ring of truth. One would have to be naive indeed to place any credence in the testimony of this man, especially with reference to the pertinent facts which occurred on defendant's licensed premises.

Testimony of what occurred after Agents "M" and "Mc" and Agnes and June left the licensed premises, and of Agent "C" who participated in the investigation in its final phase, was admitted over the objections of defendant.

I am convinced that the acts and conversations claimed by the agents to have occurred on the licensed premises did in fact take place there and that, standing alone, they are sufficient to establish the licensee's guilt. With respect to the question of the admissibility of the disputed testimony of the witnesses produced

by the Division, it is well established that evidence of facts which happened before or after the transaction in issue, but which relate directly to it, may be admissible, as where they were, or probably may have been, the cause or the effect of a fact in issue. 31 C.J.S., Evidence, Sec. 162. Statements, acts, or conduct accompanying or so nearly connected with the main transaction as to form a part of it, and which illustrate, elucidate, qualify or characterize the act, are admissible as part of the res gestae. 32 C.J.S., Evidence, Sec. 411. The definition of the res gestae adopted by the late Chief Justice Beasley speaking for the New Jersey Court of Errors and Appeals in Hunter v. State, 40 N.J.L. 495, on pages 538-539, and restated by the late Chief Justice Gummere speaking for the New Jersey Supreme Court in State v. Kane, 77 N.J.L. 244, on page 246, is: "The res gestae may therefore be defined as those circumstances which are the undesigned incidents of a particular litigated act, which are admissible when illustrative of such act. These incidents may be separated from the act by a lapse of time more or less appreciable. They may consist of speeches of any one concerned, whether participant or bystander; they may comprise things left undone as well as things done. Their sole distinguishing feature is that they should be the necessary incidents of the litigated act; necessary, in this sense, that they are part of the immediate preparations for, or emanations of such act, and are not produced by the calculated policy of the actors." I am satisfied that the testimony relating to such acts was properly received in evidence. Testimony of this nature has heretofore been admitted in evidence in similar disciplinary proceedings. See Re Filippone, Bulletin 875, Item 6; Re Paton, Bulletin 898, Item 3; Re Schumacher, Bulletin 901, Item 5.

With reference to the testimony concerning conversations with the bartender, such testimony is admissible as a necessary corollary of Rule 31 of State Regulations No. 20, which makes a licensee responsible, in disciplinary proceedings, for violations committed by his agent, servant or employee. Re Belair Inn, Inc., Bulletin 981, Item 1.

Defendant's attorneys, in a memorandum filed in this case on behalf of defendant, allege entrapment. However, it is apparent from the record and testimony herein that from the very inception when females were discussed by "Doc" and the agents, he was a most willing and cooperative party to the transactions and conversations regarding the obtaining of females to engage in sexual activities with them. In fact, he took the initiative the night prior to October 28, 1953 when he made the arrangements with the females to come to the licensed premises the following day for the purpose of keeping an appointment he had already made with the agents which was planned to culminate in sexual intercourse between them. There is no merit whatsoever in the allegation of entrapment advanced by defendant herein.

The defendant, in the memorandum aforementioned, further contends, with reference to a likely penalty to be imposed if found guilty of the charges herein, that the facts in the case now under consideration are less aggravated than those disclosed in Re Huhn & Olsh, Bulletin 1011, Item 3. There, a non vult plea to a charge similar to the one herein and a further charge of allowing foul language on their licensed premises resulted in a penalty of 120 days. In the Huhn & Olsh case there was a doubt whether George J. Olsh, who was tending bar, heard the conversation concerning the arrangements or knew or had reason to know that the female in question was a prostitute. In the instant case "Doc", the bartender, made the arrangements with the females to visit the defendant's licensed premises at an appointed hour on October 28, 1953 so that they might meet the agents who, by prearrangement with "Doc", were to be there at that time.

I find defendant guilty of the charge as to all dates excepting October 21, 1953. On the latter date there is not enough evidence to sustain the allegations.

It has long been held that solicitation for immoral purposes and the making of arrangements for illicit sexual intercourse cannot and will not be tolerated upon licensed premises. The public is entitled to protection from these sordid and dangerous evils. Re 17 Club, Inc., Bulletin 949, Item 2; affirmed In re 17 Club, Inc., 26 N. J. Super. 43 (App. Div. 1953). Hence, the only appropriate penalty herein is outright revocation of the license. Re Filippone, supra; Re Pecorino, Bulletin 889, Item 4; Re Paton, supra; Re Schumacher, supra; Re Ewaski, Bulletin 937, Item 1; Re Bond Service Center, Inc., Bulletin 939, Item 1; Re 17 Club, Inc., supra; Re McKnight, Bulletin 961, Item 1; Re Guittari, Bulletin 974, Item 4; Re Pisano, Bulletin 977, Item 3; Re Tulipano, Bulletin 978, Item 1; Re Arlington Inn, Bulletin 982, Item 1; Re Merjack Corporation, Bulletin 998, Item 1.

Accordingly, it is, on this 9th day of August, 1954,

ORDERED that Plenary Retail Consumption License C-474, issued for the 1954-55 licensing year by the Municipal Board of Alcoholic Beverage Control of the City of Newark to George Shaw, 415 Washington Street, Newark, be and the same is hereby revoked, effective immediately.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 CHARLES & FLORENCE DANGLES
 T/a UNION LIQUOR
 801 Ocean Avenue
 Jersey City 4, N. J.,
 Holders of Plenary Retail Distribution License D-59, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS
AND ORDER

Charles & Florence Dangles, Defendant-licensees, Pro Se.
 David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendants have pleaded non vult to charges alleging that (1) on Sunday, July 11, 1954, they sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38, and (2) on said date they sold alcoholic beverages during prohibited hours, in violation of a local regulation.

The file herein discloses that at 10:05 a.m., on Sunday, July 11, 1954, an ABC agent purchased six cans of beer from an employee of defendants on the latter's licensed premises. The local ordinance prohibits the sale of alcoholic beverages between the hours of 2:00 a.m. and 1:00 p.m. on Sunday, and State Regulations No. 38 prohibit the sale of alcoholic beverages in original containers for off-premises consumption on Sunday.

Defendants have no prior indicated record. I shall suspend defendants' license for a period of twenty days, less five days'

remission for the plea entered herein, leaving a net suspension of fifteen days. Cf. Re Biedrzycki, Bulletin 916, Item 15.

Accordingly, it is, on this 4th day of August, 1954,

ORDERED that Plenary Retail Consumption License D-59, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Charles & Florence Dangles, t/a Union Liquor, 801 Ocean Avenue, Jersey City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 9:00 a.m. August 11, 1954, and terminating at 9:00 a.m. August 26, 1954.

WILLIAM HOWE DAVIS
Director.

3. ADVERTISING - PROMOTIONAL PRIZE CONTEST PARTICIPATED IN OR SPONSORED BY MANUFACTURER OR WHOLESALER DISAPPROVED.

August 4, 1954

F. L. Bradfute
"Buy-Lines By Nancy Sasser"
271 Madison Ave.
New York 16, N. Y.

Dear Sir:

We have your letter of July 28th, with descriptive material enclosed therein, relating to a promotion called "Nancy Sasser Products Bingo Games".

This promotion is apparently designed to advertise the products of various manufacturers who sponsor or subscribe to the scheme. In essence, it is a type of contest in which members of the public participate for prizes. In such promotion, your organization distributes, allegedly free, cards to the public which list various products of the manufacturers involved. The card holder is to match his card with certain newspaper advertisements which will list many of the products of the manufacturers in question. If his card has a winning combination, the holder, on sending the card to your organization, is entitled to a prize.

Your inquiry is whether an alcoholic beverage manufacturer may be one of the sponsors or participating manufacturers in this promotion in New Jersey. The answer is, No. We need not here consider the question whether this promotion constitutes a "bingo" or "lottery" illegal under general law (a question which you are taking up with the New Jersey Legalized Games of Chance Control Commission). The plain fact of the matter is that, in any event, it is a prize contest. We have long and consistently disapproved of any alcoholic beverage manufacturer or wholesaler advertising or promoting its products in this state by way of any type of contest in which the public is to participate for prizes. See the enclosed copy of Bulletin 800, Item 9. We allow to alcoholic beverage manufacturers or wholesalers many of the traditional means of advertising (ordinary newspaper ads, billboards, circulars, etc.), and we believe that these are ample without the need of prize contests to make the public alcoholic beverage conscious or to "sell them a bill of goods" for the purchase of alcoholic beverages or any particular brand thereof.

Very truly yours,
WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - SALE TO WOMEN DIRECTLY OVER A BAR IN VIOLATION OF LOCAL REGULATION - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 5 DAYS, LESS 2 FOR PLEA.

In the Matter of Disciplinary Proceedings against

STEELE INN, INC.
T/a ROY STEELE'S TAVERN
560 Carman Street
Camden, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-187, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

Steele Inn, Inc., by Bruce Steele, Secy. and Treas. of Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On July 16, 1954, you served beverages to women directly over a bar on your licensed premises; in violation of Section 10 of an Ordinance adopted by the Board of Commissioners of the City of Camden on December 27, 1934, as amended by Ordinance adopted September 12, 1935."

The pertinent clause of Section 10 of the ordinance hereinabove referred to provides:

"No woman shall be served with beverages directly over any bar ***."

The file discloses that on Friday night, July 16, 1954, ABC agents visited defendant's licensed premises and observed therein numerous patrons of both sexes consuming alcoholic beverages while seated at a U-shaped counter about two feet from a conventional bar. The drinks were obtained from a bartender behind the conventional bar by barmaids and carried by them to the patrons at the U-shaped counter.

The agents made known their identity to Bruce Steele, Sec. and Treas. of defendant-licensee, who admitted the sale to women at the bar but declined to make any written statement.

The facts in the instant case are similar to those of other recent cases wherein it was held that a similar structure was a "bar" within the meaning of the aforesaid ordinance. Eskridge v. Division, 30 N. J. Super. 472; Re The Sports Center, Bulletin 1023, Item 5.

Defendant has a prior adjudicated record. Effective June 12, 1944, defendant's license was suspended for three days by the State Commissioner (now Director) for a similar violation. However, since this similar violation occurred more than ten years ago, it will not be considered in fixing the penalty herein. I shall suspend defendant's license for five days. Two days will be remitted for the plea entered herein, leaving a net suspension of three days.

Accordingly, it is, on this 5th day of August, 1954,

ORDERED that Plenary Retail Consumption License C-187, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Steele Inn, Inc., t/a Roy Steele's Tavern, for premises 560 Carman Street, Camden, be and the same is hereby suspended for three (3) days, commencing at 2:00 a.m. August 16, 1954, and terminating at 2:00 a.m. August 19, 1954.

WILLIAM HOWE DAVIS /
Director.

5. DISCIPLINARY PROCEEDINGS - AIDING AND ABETTING A NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF A LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against)

CHARLES KUBIAK)
T/a BARREL INN)
108 South Wood Avenue)
Linden, N. J.,)

Holder of Plenary Retail Consumption License C-57 for the 1953-54 licensing year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden; renewed as License C-30 for the 1954-55 licensing year, and transferred during the pendency of these proceedings to)

CONCLUSIONS AND ORDER.

CHARLES KUBIAK & GEORGE PATERSON)
T/a BARREL INN,)

for the same premises.)

Margulies and Kaplowitz, Esqs., Attorneys for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"From on or about January 11, 1954 until the present time, you knowingly aided and abetted George Paterson to exercise, contrary to R. S. 33:1-26, the rights and privileges of your current plenary retail consumption license; thereby yourself violating R. S. 33:1-52."

The file herein discloses that Linde Sorenson was licensed to operate the above premises, effective July 14, 1952. In March 1953 he, Charles Kubiak and George Paterson formed a partnership to conduct said tavern business, each investing an equal amount of money. The local issuing authority duly transferred Sorenson's license to the partnership and thereafter, on December 28, 1953, Sorenson, Kubiak and Paterson executed a dissolution of partnership agreement, by the terms of which Sorenson conveyed all his right, title and interest in the partnership and its assets to Kubiak for a stated sum and agreed to do those things necessary to effect transfer of the partnership license to Kubiak. Kubiak agreed to assume established partnership obligations and Paterson, who received nothing and paid nothing, merely consented to the agreement and the transfer of the license to Kubiak. At the request of the three former partners, the local issuing authority deleted the names of Sorenson and Paterson and continued the license for the above licensed premises in the name of Kubiak, individually, effective January 12, 1954. Both Kubiak and Paterson, in sworn statements, attested to the aforesaid facts and further admitted that Paterson was an undisclosed partner in the business from which he received or was entitled to receive one-half of the profits.

The illegal situation has been corrected by the transfer of the license to include George Paterson.

recognize the lien of General Motors Acceptance Corporation and return the motor vehicle to such concern, such return is to be considered as with Thompson's consent, and his request for return of the car withdrawn. Since the motor vehicle will be returned to the finance company, as appears hereafter, it is not necessary to further discuss Thompson's claim.

On November 20, 1952 the General Motors Acceptance Corporation advanced \$1631.10 to Harold T. Thompson, secured by a conditional sales contract on the Oldsmobile coupe, such lien being noted on the Motor Vehicle Bill of Sale for the car. The balance presently due the finance corporation is \$862.42.

It further appears that before the finance company advanced the money, it was informed that Harold T. Thompson was 26 years old, had resided at an Elizabeth address for the past two years, and was employed as a carpenter, and was furnished with names of various references. The finance company checked this information and ascertained that it was correct. On this basis the finance company concluded that Thompson was a good financial risk. A check by the Division of Thompson's fingerprint record does not disclose any previous criminal arrest or conviction.

I am satisfied that the finance company made a reasonably prudent investigation which did not disclose any unlawful alcoholic beverage activity of Harold T. Thompson in the past, or any likelihood that he would engage in such activities in the future. I shall therefore recognize the lien claim of General Motors Acceptance Corporation in the amount of \$862.42 against the Oldsmobile coupe. R. S. 33:1-66(f).

The Director of the Division of Purchase & Property has advised that the State of New Jersey is not interested in retaining the Oldsmobile coupe for the use of any state agency upon payment of the lien claim. The retail value of such vehicle does not appear to exceed the amount of such lien and the costs of its seizure and storage.

The stolen alcoholic beverages will be returned to Madeline and Stephen Bernadyn, the licensees from whom they were stolen, when such beverages are no longer needed for evidential purposes.

Accordingly, it is DETERMINED and ORDERED that if on or before the 14th day of August, 1954, General Motors Acceptance Corporation pays the costs of seizure and storage of the Oldsmobile coupe, described in Schedule "A" attached hereto, it will be returned to such company; and it is further

DETERMINED and ORDERED that the seized alcoholic beverages described in the aforesaid Schedule "A" be returned to Madeline and Stephen Bernadyn after they are no longer needed for evidential purposes.

WILLIAM HOWE DAVIS
Director.

Dated: August 3, 1954.

SCHEDULE "A"

- 11 - quart bottles of whiskey
- 33 - 4/5 quart bottles of whiskey
- 1 - Oldsmobile coupe, Serial No. 528L11012
1953 N. J. Registration NH41U

7. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ALCOHOL ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO INNOCENT OWNER.

In the Matter of the Seizure on)	Case No. 8562
March 23, 1954 of a jar of alcohol)	
and a Ford coupe, at the 33 Mile)	
Post on the southbound lane of)	ON HEARING
the New Jersey Turnpike, in the)	CONCLUSIONS AND ORDER
Township of Mount Laurel, County of)	
Burlington and State of New Jersey.)	

Bessie McDougal, Pro Se.
Harry Castelbaum, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether a jar of alcohol and a Ford coupe, described in a schedule attached hereto, seized on March 23, 1954 at the 33 Mile Post on the southbound lane of the New Jersey Turnpike, Mount Laurel, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R. S. 33:1-66, Bessie McDougal, the registered owner of the Ford coupe, appeared and sought its return. No one opposed the forfeiture of the alcohol.

Reports of ABC agents and other documents in the file, presented in evidence with the consent of Bessie McDougal, disclose the following facts:

The motor vehicle was halted by a New Jersey State Trooper while on routine patrol of traffic on the turnpike. Earl Moore and George Evans Flagg were in the car. Flagg had \$759.00 on his person and the jar of alcohol was in his suitcase.

ABC agents were notified and the alcohol and car were turned over to them. The agents questioned Flagg and Moore, each of whom disclaimed ownership of the alcohol, although at the hearing Flagg admitted such ownership. Moore stated that he was employed as a presser, while Flagg stated that he was unemployed.

The alcohol in the jar was analyzed by the Division chemist who reports it is alcohol and water, fit for beverage purposes with an alcoholic content by volume of 49.5 per cent.

Bessie McDougal testified that she purchased the Ford coupe for about \$300.00, that she is employed as a domestic. She does not operate a motor vehicle, and Earl Moore usually drove the car for her. She did not know Flagg. Moore frequently used the car for his own purposes, and it was seized on one of such occasions.

Neither Moore nor Flagg had a previous criminal record for violating any liquor law. Although Flagg and Moore may have been on their way south to purchase bootleg alcoholic beverages, I am satisfied that Moore borrowed the car from Bessie McDougal without any knowledge on her part, or any reason for her to suspect that it was to be used to transport illicit alcoholic beverages. There was no surrender of control of the motor vehicle of the character which would make her responsible for any misconduct of Moore. Cf. Seizure Case 8544, Bulletin 1020, Item 4. The motor vehicle will therefore be returned to her upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if, on or before the 16th day of August, 1954, Bessie McDougal pays the costs incurred in the seizure and storage of the Ford coupe, described in Schedule "A" attached hereto, such motor vehicle will be returned to her; and it is further

DETERMINED and ORDERED that the jar of alcohol described in the aforesaid Schedule "A" constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, 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 Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
Director.

Dated: August 4, 1954.

SCHEDULE "A"

- 1 - jar of alcohol
- 1 - Ford coupe, Serial No. 99A-988179,
1954 New York Registration QQ 532

8. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ALCOHOL ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO INNOCENT LIENOR.

In the Matter of the Seizure on)
May 2, 1954, of 40 one-gallon jugs)
of alcohol and an Oldsmobile sedan)
on the northbound lane of the New)
Jersey Turnpike, in the City of)
Elizabeth, County of Union and)
State of New Jersey.)

Case No. 8596

ON HEARING
CONCLUSIONS AND ORDER

Malachi Parson, Pro Se.
George A. Brooks, Esq., by Edward Frey, Esq., Attorney for
General Motors Acceptance Corporation.
Harry Castelbaum, Esq., appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether 40 one-gallon jugs of alcohol and an Oldsmobile sedan, described in a schedule attached hereto, seized on May 2, 1954 on the northbound lane of the New Jersey Turnpike, Elizabeth, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R. S. 33:1-66, Malachi Parson, in whose name the Oldsmobile sedan is registered, appeared and requested its return; and an appearance was entered on behalf of General Motors Acceptance Corporation, which sought recognition of its alleged lien on the motor vehicle.

Reports of ABC agents and other documents in the file, presented in evidence with consent of the above claimants, disclose the following facts:

The Oldsmobile sedan was halted on the day in question by a New Jersey State Trooper on routine patrol of traffic on the Turnpike. James Junius Simpson was operating the car. Some of the gallon jugs of alcohol were in the rear seat, and the balance was in the trunk of the car. The jugs did not have affixed thereto any labels, or stamps indicating the payment of tax on alcoholic beverages.

The alcohol and motor vehicle were turned over to the Division of Alcoholic Beverage Control. Simpson gave a signed statement to

ABC agents wherein it appears that he purchased the alcohol in Camden, North Carolina from a stranger, known to Simpson only by the name "George", whom he met in a gas station, and with whom he went to nearby "woods" to obtain the alcohol; and that Simpson intended to sell the alcohol and make a "quick buck".

The contents of one of the gallon jugs was analyzed by the Division chemist, who reports that it is an alcoholic beverage containing alcohol and water, fit for beverage purposes, with an alcoholic content by volume of 48.9 per cent.

The alcohol is illicit because of the absence of labels or tax stamps on the jugs wherein it is contained. R. S. 33:1-88, R.S. 33:1-1(i). Such illicit alcohol and the motor vehicle in which it was transported and found constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

Simpson was engaged in a relatively large scale bootlegging enterprise, having purchased and intending to sell forty gallon jugs of moonshine. Hence, Malachi Parson, who is related to Simpson, must establish by clear and convincing evidence that he was not involved in the bootlegging enterprise in any manner or degree. It appears that Simpson had a car of his own.

Parson has given a long, vague, and confused account of how it came about that Simpson borrowed Parson's car. What actually happened cannot be ascertained from his testimony, but the account he gives definitely appears to be untruthful. Hence, on the oft repeated principle that a person who seeks return of property subject to forfeiture must tell an honest, truthful, and frank story, I am compelled to deny return of the Oldsmobile sedan to Malachi Parson.

General Motors Acceptance Corporation presented a conditional sales contract dated Dec. 24, 1953, covering the sale of the Oldsmobile sedan in question for the sum of \$3012.75 to Malachi Parson with an unpaid balance of \$1723.44. The present balance due on the contract after rebate for prepayment is \$1174.02.

Prior to purchasing such contract, the finance company investigated information given it concerning the character and background of Malachi Parson. Thereby it ascertained that he was a resident of Brooklyn, N. Y.; that he was employed as a laborer by a Long Island contractor and that his earnings were in the neighborhood of \$87.00 a week. The finance company also checked with various credit references, and with the Federal Alcohol Tax Unit of the Internal Revenue, and did not receive any derogatory information.

I am satisfied that the General Motors Acceptance Corporation acted in good faith and did not know that the Oldsmobile sedan would be used to transport bootleg alcohol, or have knowledge of such facts as would have led a person of ordinary prudence to discover such use. R. S. 33:1-66(f). I shall therefore recognize the lien of the General Motors Acceptance Corporation to the extent of \$1174.02.

I am advised that it is not desirable to retain the Oldsmobile sedan for the use of the State, conditioned upon the payment of the lien of \$1174.02, and that the retail value of such vehicle does not exceed the amount of such lien and the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if, on or before the 14th day of August, 1954, the General Motors Acceptance Corporation pays the costs incurred in the seizure and storage of the Oldsmobile sedan, described in Schedule "A" attached hereto, such motor vehicle will be turned over to such finance company; and it is further

DETERMINED and ORDERED that the alcoholic beverages listed in the aforesaid Schedule "A" constitute unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, 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 Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
Director.

Dated: August 3, 1954.

SCHEDULE "A"

- 40 - one-gallon jugs of alcohol
- 1 - Oldsmobile sedan, Serial No. 529L-2034, Engine No. R 3412, 1954 N. Y. Registration KA 53-71

9. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SHOW CAUSE ORDER DISCHARGED - CHARGE ALLEGING FALSE ANSWER IN APPLICATION DISMISSED.

In the Matter of Disciplinary Proceedings against)

SHACKAMAXON COUNTRY CLUB
Shackamaxon Drive
Scotch Plains, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-2 for the 1953-54 and 1954-55 licensing years, issued by the Township Committee of the Township of Scotch Plains.)

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Green and Yanoff, Esqs., by H. Kermit Green, Esq., Attorneys for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On November 6, 1953, the defendant was served with an order to show cause why its liquor license should not be canceled for the reason that said license was issued in violation of R.S. 33:1-12(5), in that the club had not been in active operation for three years continuously immediately prior to making application for said club license, nor had the club been in exclusive, continuous possession and use of a clubhouse or club quarters for the same period of time, as required by Rules 3 and 4, respectively, of State Regulations No. 7. At the same time disciplinary proceedings were also instituted, charging the defendant with making a false statement in its application, dated May 28, 1953, filed with the local issuing authority that it had been in active operation for three years immediately prior thereto, in violation of R. S. 33:1-25.

Defendant denied the accusation and entered a plea of not guilty to the charge preferred herein.

At the hearing in the instant case, which extended over a period of several days, a large amount of testimony was presented and various documents and records were made exhibits herein. The defendant produced a copy of minutes of a meeting of the defendant club, held on

November 3, 1949, and copies of minutes of meetings held several times each year thereafter up to and including January 7, 1954. It appears that the clubhouse where the members of defendant club formerly met was destroyed by fire. However, the evidence discloses that the said meetings were thereafter held in the "pro-shop" situated on the grounds where, in addition to accommodation for the meetings, toilet and shower facilities were provided for the exclusive use of the members of the defendant club. It further appears that a new clubhouse was in the course of construction and was nearing completion at the time of the within hearing.

I am satisfied after full and careful examination of all the evidence presented herein that the defendant is a bona fide club and that at the time the club license was issued to it by the local issuing authority it was legally entitled thereto. Under the circumstances, I am constrained to discharge the order to show cause entered herein and to dismiss the charge alleging a false statement in defendant's application.

Accordingly, it is, on this 4th day of August, 1954,

ORDERED that the order to show cause herein be and the same is hereby discharged and the charge herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

10. STATE LICENSES - NEW APPLICATIONS FILED.

Ronnor Trucking Co., Inc.


U. S. Route 1, Raritan Township, N. J.

Application filed August 18, 1954 for Transportation License.

Kingsway Transports Limited

50 Terminal Road, Lyndhurst, N. J.

Application filed August 19, 1954 for Transportation License.



William Howe Davis
Director.