

NEW JERSEY COURT OF ERRORS AND
APPEALS.

NOVEMBER TERM, 1915.

SHILL ROLLING CHAIR COM-
PANY, *et als.*,
Prosecutors-Appellants,
VS.
CITY OF ATLANTIC CITY,
Defendant-Respondent.

ON CERTIORARI.
APPEAL.

Cases Nos. 42 to 65 inclusive and Nos. 120 to 125
inclusive.

BRIEF FOR ATLANTIC CITY.

By stipulation the cases are combined under Case
No. 1 and Case No. 2.

They involve the validity of an ordinance of At-
lantic City, entitled "An Ordinance governing, regu-
lating and fixing fees of mercantile licenses in At-
lantic City, New Jersey, and regulating the busi-
nesses licensed," and the legality of the conviction
of defendants for alleged violations of its provi-
sions.

The convictions are for doing business without a

license as required; in one class of cases (case No. 1) the business was that of maintaining a "rolling chair station, stand or place from which rolling or invalid chairs are hired"; the other class (case No. 2) "rolling chairs used for hire."

Counsel for the City of Atlantic City may be pardoned, perhaps, for calling the attention of the Court to the great number of reasons, conflicting, changing and contradictory, that have from time to time been raised in these cases. Beginning on page 246 of the record, it will be found that twenty objections were raised before the Recorder of the City of Atlantic City and on page 252, it will be found that seventeen reasons were served as the reasons upon which prosecutor would rely for setting aside the convictions. The brief in the Supreme Court, of the prosecutor, shows that seven reasons were argued, as follows:

1. Is the power of fixing the amount of mercantile license fees in Atlantic City vested absolutely in the City Commissioners, or is the fixing of such fees subject to and under the control of this Court?

2. Is the amount of the license fee fixed by the commissioners of Atlantic City such reasonable fee as will be sustained by the Court, or is it so unreasonable and confiscatory as to these prosecutors that it will be set aside as an abuse of discretion by the City Commissioners?

3. Have City Commissioners the power to impose a license fee upon the rolling chairs or business and impose an additional license fee upon the places where such business is conducted?

4. If City Commissioners have not the power to

license the place where the business is conducted and also the chairs, does the licensing of the station include the licensing of the chairs?

5. Does the license imposed by the mercantile ordinance contravene the State Constitution and general laws of taxation, and is it therefore void?

6. Does the City Commission have power to fix arbitrarily the amount of license fees without regard to the amount of business done, and without regard to the burden thus imposed upon one business as compared with another?

7. Is the ordinance in restraint of trade and against public policy?

Page 262 of the record shows that twenty-eight reasons are now raised before this Court on appeal, while the brief of prosecutor before this Court shows that there has been an attempted condensation of these twenty-eight reasons into six. This makes it very difficult to point with certainty to those things which were raised and argued in the Supreme Court and to those which were not. In this attempted condensation, the form of the reasons and perhaps their substance take new shapes and permit of new arguments, which must eventually become greatly confusing to the Court as they are now to counsel for the respondent.

It is, therefore, thought best to undertake to answer, first, the reasons served after the writ was allowed *seriatim*, with the exception of reason number nine, and then to answer those reasons which relate with particularity to the errors alleged in the judgment of the Supreme Court.

The reasons now discussed will be found on page 252 of the record.

1. "Because the license fee prescribed by said ordinance is excessive and unreasonable."

By paragraph XXVII of Section 14 of the Act of 1902, P. L. page 284 (Atlantic City's Charter) the legislative body is empowered to license and regulate the businesses in question "and to fix the amount of fees to be paid for such licenses and to prohibit all persons and places and all vehicles unlicensed from acting, using or being used in said capacities or for such uses and purposes; and that the fees for such licenses may be imposed for revenue."

In the presence of the broad power expressed in the charter and repeated in Section 8 of the questioned ordinance, this reason is fully met and answered by numerous adjudications of our Court.

As early as 1879 this Court said, in *North Hudson County Railway vs. Hoboken*, 41 *Law*, page 81:

"The distinction between the power to license as a police regulation, and the same power when conferred for revenue purposes is of the utmost importance. If the power be granted with a view to revenue, the amount of the tax, if not limited by the charter itself, is left to the discretion and judgment of the municipal authorities."

This case, together with the quoted language, received approval in *Margolies vs. Atlantic City*, 67 *Law*, page 84, and it was added:

"If, therefore, the power of taxation in the case in hand has been fully committed by the

Legislature to Atlantic City and if it has been exercised in accordance with the legislative act the Supreme Court has no power to set the ordinance aside because the tax may be deemed to be excessive."

The settled and accepted law of the State upon the question is expressed in the cited cases and no case exists which challenges or distinguishes them.

2. "*Because the license fee prescribed by said ordinance and imposed upon the rolling chairs and rolling chair business amounts to a confiscation of prosecutors' business.*"

If it be true as expressed in *Margolies vs. Atlantic City, Ubi supra*, that the Courts are powerless to challenge the fee for excessiveness where no limitation has been placed by Legislature, then the stated proposition is unthinkable. It may sound probable to the prosecutors, but they are pure volunteers in the business under consideration and are at liberty to retire before the supposed calamity happens.

3. "*Because the license fee prescribed by said ordinance and imposed upon the rolling chair stations is a tax upon property and is not levied pursuant to the requirements of the Constitution and statute that property shall be assessed under uniform rules at its true value.*"

The reason opens with a misstatement of fact and a false premise, with the necessary result that what follows is stripped of meaning and significance. The required fee is not a tax upon property. While the power to impose a license fee for revenue purposes

is an exercise of the power of taxation, it is levied at the business and not the property.

Flanagan vs. Plainfield, 44 *Law*, page 118, cites with approval, *Chilvers vs. People*, 11 *Michigan*, page 43. The point at issue is there met and decided adversely to the prosecutors. There the ordinance required a license to keep a ferry over Detroit River. The fee was \$50.00. The Court said:

“But it is said the license fee is a tax. It is not a tax within the meaning of that term as used in the State Constitution and city charter.”

See *Youngblood vs. Sexton*, 32 *Michigan*, where it is said:

“It is not a valid objection to a law imposing a tax on business that its operation will not be uniform or just because it is not assessed in proportion to the business done. Apportionment of taxes is purely a legislative function and the levy of the same on all carrying on business is at least uniform and the Courts are not to inquire into the justice.”

Johnson vs. Asbury Park, 58 *N. J. L.* 604.

4. “*Because the ordinance is unreasonable and void in that it is not general and uniform in its application to the various businesses of the same class.*”

This language is very general and fails to indicate what businesses are in mind. There is no discrimination against business of the same kind. There may be a different amount provided for businesses that may be regarded as only slightly variant in character, but upon the authority cited this lacks

legal significance. Now, the ordinance could not be declared void if the facts were as stated in the reason. It would still be good where uniformity does exist.

5. "Because there is no power in Atlantic City to license or tax the place where a business is conducted and also license and tax the conducting of the business in said place."

Passing for the moment the question of power, the complete answer is that Atlantic City is not guilty. The business of having a stand at which rolling chairs may be hired is one thing; the right to appropriate the public boardwalk in the use of the chairs is quite another thing. The case is analogous to a grocery business with wagons for delivery. No one has ever questioned but that they are separate and distinct, and a separate fee has been always exacted without challenge.

But the point is at rest in *Galen Hall vs. Atlantic City*, 76 Law, page 20, where this Court said that the hotel business might be taxed as well as the omnibus used in transporting its guests.

But in fact the power to license both is granted in the plainest terms.

The cited section of the charter provides:

"To license and regulate cartmen, etc., and all other kinds of business conducted in such city; the place or places or premises in which or at which the different kind of businesses or occupations are to be carried on or conducted."

See *Combs vs. Lakewood*, 68 Law, page 582, and cases cited.

5½. "*Because said ordinance is void in that it does not apply equally to all businesses and subjects mentioned therein.*"

If by this it is meant to assert that the license fees are variant, it may be admitted. This fact makes the ordinance exhibit fairness upon its face. If the same fee were prescribed for all businesses, there would be force in the contention that the ordinance is unreasonable. But as already has been shown, the power to create variant fees has been committed by Legislature to all cities and the cases have placed the question without the domain of discussion.

6. "*Because the act which presumes to authorize Atlantic City to fix the amount of the license fee or tax is unconstitutional.*"

We should not be required to answer this reason. It is too general. To draw upon our imagination for every conceivable constitutional objection and undertake to answer them would be an imposition upon the Court.

6½. "*Because the Legislature is without power to authorize a municipal corporation to pass ordinances that are special in substance, effect and operation.*"

There is no basis of fact to which this reason can apply. The ordinance under review is general, but if it is not, the reason fails to suggest why the Legislature is lacking in power to do what it is claimed it has done.

7. "*Because said ordinance violates the consti-*

tutional and statutory provision that property shall be assessed for taxation under uniform rules at its value."

If the ordinance imposes a property tax within the meaning of the Constitution and statutes thereunder, the reason has force.

We have demonstrated we think, in answer to the third reason, that upon principle and authority this is not true. It is unnecessary to repeat the argument here.

8. "*Because said ordinance is void in that the Commissioners of Atlantic City had no power to ordain the penalty mentioned therein.*"

The penalty named is a fine of \$10.00, and in default, imprisonment in the city or county jail until the fine shall be paid.

Atlantic City vs. Larcomb, 81 Law, page 354, controls this case so far as it touches the question of the fine. In that case, as here, the mercantile ordinance is under attack. The ordinance provided a penalty as prescribed by the city charter and this Court yielded to the contention that the Act of 1908, P. L. 588, had repealed the charter so far as it affected the question of license fees and penalties. The Act of 1908 provides for a fine not to exceed \$100.00, or by imprisonment not to exceed ninety days. The fine imposed is definite and less than allowed by the act. We assume the contention to be that there was no power to commit in default of payment of fine.

It will be observed that the judgment of the Recorder was that the prosecutors pay a fine of \$10.00. Not having included a commitment in default of payment, the supposed point is not open to the pros-

ecutors. The whole ordinance cannot be void so long as the penalty is good, which alone is made a part of the judgment.

Doran vs. Camden, 65 Law, 666, is decisive. But the judgment is without legal vice.

Tomlin vs. Cape May, 63 Law, page 429, is not applicable because there the magistrate was bound by the ordinance to commit for a period not exceeding ten days in default of the payment of fine. In that case, at page 434, this Court said:

“The power to commit to imprisonment where a fine is authorized under the ordinance can only be until the fine and costs adjudged are paid and not by way of punishment to the offender for the offence committed.”

This is express authority for the penalty in the ordinance now under attack. The commitment is not by way of punishment to the offender for the offence committed, but to enforce the payment of the fine, and this is what this Court has said may be done. It should be said that *Doran vs. Camden* (*Court of Appeals*), expressly disapproves of *Tomlin vs. Cape May* in holding that penalties are inseparable.

If, therefore, it can be successfully claimed that the penalty touching the commitment in default of payment of fine is in excess of the power of the Commissioners, that may be separated from the penalty of fine which is manifestly within the power, and since it is stated that the judgment is for a fine only, prosecutors have no complaint.

10. “Because said conviction is a nullity in that the Recorder of Atlantic City failed to impose the penalty provided in said ordinance.”

In other words the prosecutors find default because the wise Recorder refused to imperil his judgment by adding to the judgment of the fine that of commitment in default of payment.

11. "*Because the Legislature of the State of New Jersey was without power to pass a law authorizing the imposition of a license prescribed in the ordinance.*"

This reason is palpably without merit and in the lot of repeated adjudication to the contrary, should be dismissed without further consideration.

12. "*Because the ordinance is in restraint of trade and against public policy.*"

No question of trade is involved and since the Legislature speaks the public policy of the State and has committed the power to municipalities to license for revenue purposes, it should be said that its declared policy is to permit such exactions as are in question here.

13. "*Because the act under which the ordinance is drawn violates Section 1 of Amendment 14 of the United States Constitution which provides that each State shall guarantee to its citizens equal protection under the laws.*"

It is difficult for us to define the significance of this reason and relate it to the proceedings under attack. The charter of Atlantic City is a general act and provides for its internal government. It became operative after adoption by the people. Such acts have been repeatedly declared to be constitutional.

In what way this act fails to deprive the citizens of Atlantic City of their equal protection under the laws is not made to appear. There is no suggestion in the act that any citizen is to have a protection not guaranteed to another, and the ordinance itself mentions no one by name and affects the business only, and in each case the license fees are uniform so far as the particular business is concerned. This reason seems so wholly untenable, without the slightest basis of law or fact to ground itself upon, that we dismiss it with the foregoing brief suggestions.

14. *"Because the fees imposed by said ordinance are taxes levied for revenue purposes and not under the police power."*

This statement is absolutely correct. The act provides the fees may be levied for revenue purposes and the ordinance says that they are levied for revenue purposes, so that the prosecutors and the defendant are in perfect harmony. But how that comes to create any vice in the ordinance or the contention thereunder is not suggested.

15. *"Because the taxes imposed on rolling chairs, rolling chair business and rolling chair stations are levied for revenue purposes, and under the guise of regulation amount to a prohibition by taxing said rolling chairs, rolling chair business and rolling chair stations out of existence."*

In the first place it is not true that they are out of business. They keep right on rolling. It may be that the prosecutors' profit is not as great as they would like it to be and we may well admit that the high probability is, if they had no license fees to pay

and they did not spend money for some other purpose, that they would have more than they would if they were required to pay the fee. But it cannot be successfully maintained that the fee charged amounts to a prohibition, but if it did, we are still confronted with the cases which hold that the Courts are not concerned with the question of the amount of the fee and this creates an insuperable barrier against the prosecutors.

As already stated, the levy is for revenue purposes, and while there is combined perhaps a method of regulation, there is still left to the prosecutors on their own showing, under the voluminous testimony taken, a fair return of the money invested. But it must be perfectly plain to a mere casual observer that this Court is powerless to demarcate where the amount of the license fee must stop or to say what percentage the prosecutors are entitled to receive on the capital invested.

16. *“Because the ordinance, if a taxing ordinance, imposes a direct tax on the various businesses and property mentioned in it and is void.”*

The ordinance is a revenue measure authorized by Legislature. Power is beyond cavil. It is not necessary to conceive that there is an imposition of a direct tax on the business, but since the mere naming of a thing in a matter of this character is of little moment, it may be admitted that it is a direct tax on the business and still not be illegal.

17. *“Because said ordinance is a discriminating trade regulation and is void.”*

But it is not a discriminating trade regulation,

nor does it discriminate in any way, except as already stated, in that it fixes a variant fee according to the character of the business and this Court has already said it will not inquire into the justice of the particular fees charged.

The prosecutors have taken a great deal of testimony to support the contention that the amount of fee charged is excessive, and that it is unjust and unfair against the prosecutors as compared with other businesses which realize a greater income. This testimony is wholly impertinent and irrelevant. To undertake to work out an ordinance for the collection of revenues under the authority of the Legislature under the basis contended for by prosecutors, would nullify the act itself. It simply could not be done.

While it is considered that all of the testimony concerning the ability of one or more men to conduct a rolling chair business successfully and at a profit, is impertinent and irrelevant, it is nevertheless interesting to note the fact that two of the men engaged in the rolling chair business, to wit, one McDuell and one Morowitz, testified that they considered the fees charged by the city to be fair and moderate; that they can successfully conduct their business at a profit and pay such fees; that they have always done so and that they consider the only trouble with the rolling chair business to be the result of fights among the rolling chair men themselves (C. pp. 193 to 211).

REASON NUMBER NINE INVOLVES A DISCUSSION OF POINT FIVE OF THE PROSECUTOR'S BRIEF.

Point Five.

Because there is no ordinance in existence requiring a license to be procured.

Quoting from the brief of prosecutor:

“In the Supreme Court, this reason was disposed of by the Court, stating:

‘This point, however, is not raised in the reasons filed and is therefore not before us.’ ”

In this conclusion, the Supreme Court committed no error. The reason was not before the Court. The point was raised before the Recorder, but it was not raised by the reasons filed in the Supreme Court. (Case, page 252.) Prosecutor, though, in his brief undertakes to say that reason number nine, as follows:

REASON NUMBER NINE.

“Because the conviction is void in that the Recorder of Atlantic City had no power to impose and enforce the penalty mentioned in said ordinance.” (Case, page 254.)

is broad enough to raise this question.

Section three of the Amendment of the Walsh Act, P. L. 1912, pages 643, 644 and 645, provides:

“The Mayor shall have no power to veto any measure, but every resolution or ordi-

nance passed by the Board of Commissioners shall be recorded and signed in the book in which it is recorded by a majority of all of the commissioners before it shall be in force."

Does the prosecutor intend to allege that, as a matter of fact, this was not done? If he does, he entirely neglects to say so.

At the request of the prosecutors' counsel and by agreement with the City Clerk of Atlantic City, a printed copy of the ordinance, made for convenient distribution, to save the expense of printing to the prosecutors, was made a part of the return, and is inserted in the case at page 236. It shows that the ordinance was passed at a regular meeting of the City Commissioners, May 14, 1914, approved, May 20, 1914, and signed "Albert Beyer, Acting Mayor, J. B. Thompson, William H. Bartlett, Commissioners of Atlantic City, Attest, Daniel H. V. Bell, City Clerk." The ordinance was duly recorded and was so signed by the commissioners in the book kept in the office of the City Clerk for that purpose.

On page 249 of the case, which is a part of the judgment record, will be found,

"Mr. Schimpf offered the following ordinance:

'An Ordinance governing, regulating and fixing the fees of mercantile licenses in Atlantic City, New Jersey, and regulating the businesses licensed, passed at a regular meeting of the City Commissioners, May 14, 1914, and approved, May 20, 1914.' "

To the offer, no objection was made, and by the terms of that ordinance, power was conferred upon the Recorder of Atlantic City to impose and enforce

the penalty mentioned in said ordinance. No suggestion was made by any reason or objection offered by prosecutors' counsel that the ordinance had not been duly passed, duly recorded and duly signed, and no suggestion is now made in the brief of counsel that such procedure was not completed in its entirety. No argument, oral or written, was presented to the Supreme Court touching or concerning this reason. It would require an imagination beyond that of counsel for the respondent to foresee that the question raised in reason number nine had any relation to the enrollment of ordinances and the signing of them, as provided by Commission Act of 1911.

It has frequently been decided by this Court that

“A question not raised by the reasons assigned by the prosecutor will not be decided.” *State vs. Mayor, etc., of Borough of Vailsburgh*, 53 Atl. 388.

It has also been frequently decided,

“The party objecting must specify at the trial the particular proposition deemed erroneous, so that if the errors be committed by inadvertence or other like cause, they may be at once corrected.” *Engle vs. State*, 50 N. J. L. 272, 13 Atl. 604.

“The grounds of error should be definitely pointed out in an assignment or they will not be considered.” *Lutlopp vs. Heckmann*, 57 Atl. 1046 and cases therein cited.

In *Sharp vs. Sweeney*, 65 Atl. 859, the Supreme Court said:

“On certiorari this Court will not review matters which are not referred to in the arguments or briefs presented by counsel.”

It will be readily observed by a reference to the first part of this brief that counsel neglected to refer in the briefs presented in the Supreme Court to any such question as that presented in reason number nine or point five, but summarized the reasons filed in the seven reasons therein enumerated.

The Supreme Court expresses this perhaps just as forcibly in the case of the *City of Elizabeth vs. Lytton*, 85 *Atl.* 341, where it said:

“On certiorari, the Supreme Court need not consider matters which, although they appear in the state of the case, are not referred to in the argument or brief presented on behalf of the prosecutor.”

In the case before the Court, the Supreme Court has disposed of this matter in the following words:

“The last point is that under the Walsh Act Amendment of 1912, page 643, the ordinance must have been recorded before it acquired vitality and that the return does not show that it was ever recorded. This point, however, is not raised in the reasons filed, and is therefore not before us.”

In conclusion on this point, it might be advisable to quote the rule laid down by Chief Justice Ewing, stated with approval in *New Jersey Railroad and Tr. Co. vs. Suydam*, 17 *Law*, page 69:

“That to enable a party to avail himself of an objection, he must file either a general or a special reason. That under a general reason, the practice has been to allow the plaintiff to insist on any error apparent on the face of the proceedings, saving the opposite party at all times from prejudice by surprise.”

This rule has been followed with approval by the Supreme Court in *State (Mayor, etc., of City of Paterson, Prosecutor) vs. Board of Chosen Freeholders of Passaic County*, 29 Atl. Rep. 331, 332.

THE SUPREME COURT OPINION.

The Supreme Court found as a fact that the fees imposed by the Mercantile License Ordinance of Atlantic City are not unreasonable. This finding of fact is not subject to review. (*State, Suburban Land Improvement Co. vs. Vailsburgh, E. & A.*, 53 Atl. 388, 68 N. J. L. 311.)

Judge Trenchard for the Court of Errors in *George vs. Board of Excise of Elizabeth, E. & A.*, 67 Atl. 599, 600, 74 N. J. L. 816, said:

“A decision of a question of fact decided by the Supreme Court upon certiorari is binding upon this Court and not open to review or writ of error (now appeal), if there appears to have been competent evidence upon which this conclusion could have been based,” citing numerous cases.

Pine vs. Board of Errors, E. & A., 72 Law, 182, 61 Atl. 436; *Ryer vs. Turkel, E. & A.*, 70 Atl. 68, 75 Law, 677.

All of the other questions concerning the opinion of the Supreme Court have been argued above.

That the Act under which the ordinance is based is constitutional, has been settled by numerous decisions in this State.

Johnson vs. Asbury Park, 58 Law, 604. *Affirmed E. & A.*, 60 Law, 427, 39 Atl. 693;

See *Atl. City vs. Larcomb*, 79 *Atl.* 1068, 81
Law, 354;
Morristown, etc., vs. Madison, 88 *Atl.* 229,
85 *Law*, 59.

That the City of Atlantic City exercised its authority within the grant and in the manner provided by the Legislature is undoubtedly true and that the penalty as imposed by the Recorder was lawful and was properly imposed cannot be successfully controverted.

Doran vs. Camden, 64 *Law*, 666, 46 *Atl.* 724;
Rosecrans vs. Eatontown, 80 *Law*, 227, 79
Atl. 88;
France vs. Atlantic City, 65 *Atl.* 894, 74
Law, 389. *Affirmed E. & A.* 70 *Atl.* 163,
75 *Law*, 910.

Respondent therefore respectfully urges that the appeal should be dismissed with costs.

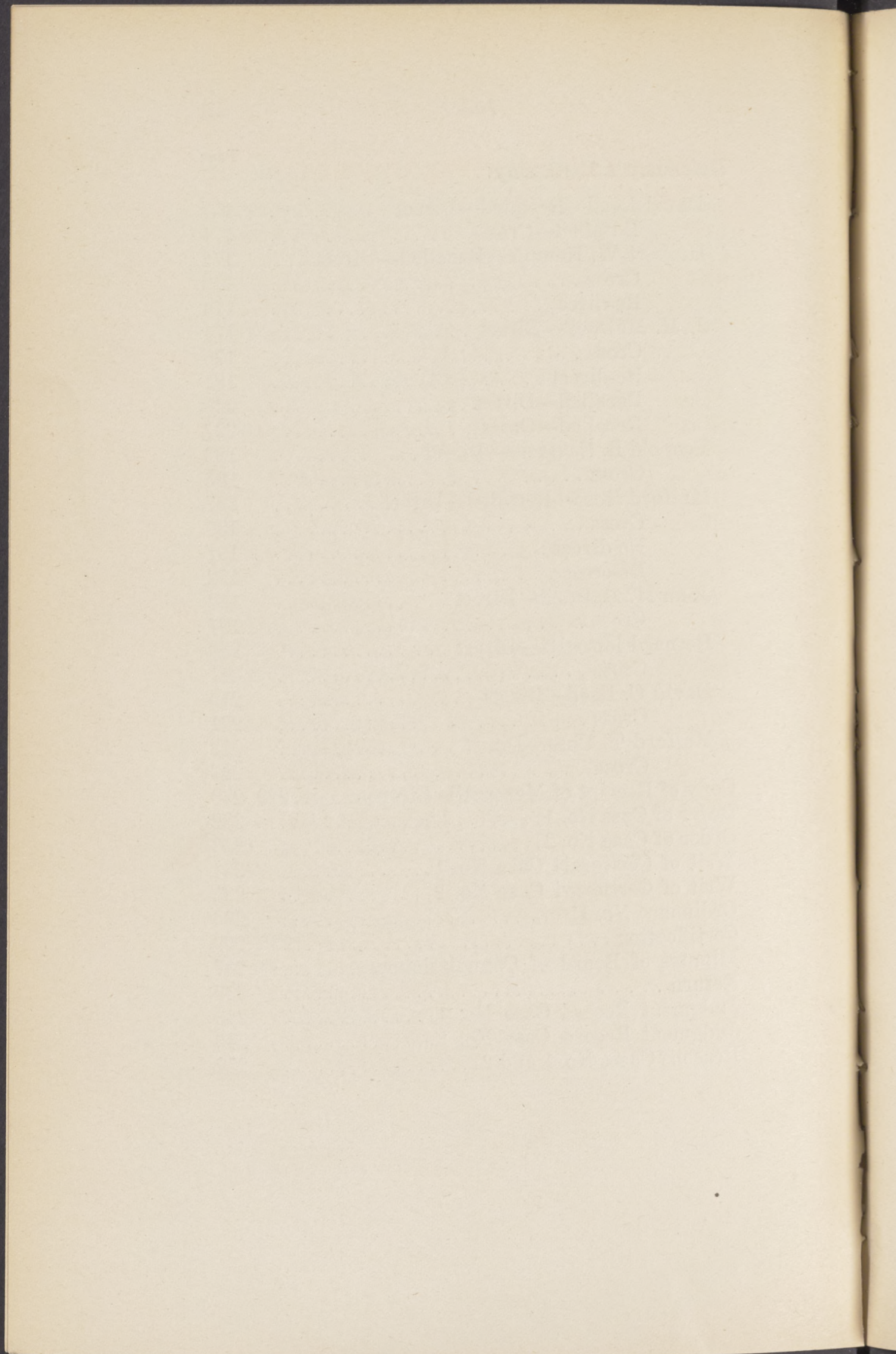
Respectfully submitted,
THEO. W. SCHIMPF,
City Solicitor,
Attorney for Respondent.

INDEX.

Testimony:	Page
Daniel Smith—Direct	3
Cross	5
Re-direct	9
Re-cross	11
Max Mallin—Direct	15
Cross	18
Morris Effron—Direct	19
Cross	20
William Chinn—Direct	22
Cross	24
Re-direct	29
Re-cross	30
Abraham Brilliant—Direct	31
Cross	34
Adolph Marcus—Direct	35
Cross	40
Mrs. Johanna Ulmer—Direct	42
Joseph Haines—Direct	44
Cross	47
Julius Hershon—Direct	47
Cross	49
Re-direct	51
Alfred E. Seidel—Direct	51
Cross	53
Frederick Myers—Direct	61
Stipulations	63, 69

	Page
Depositions:	
Mulford Rose—Direct	69
Henry Freund, Jr.—Direct	71
Cross	72
G. M. Hays Deemer—Direct	75
Cross	75
Alfred Adams—Direct	79
Cross	80
William F. Weber—Direct	82
Cross	83
Albert Beyer—Direct	84
Cross	89
Re-direct	94
Re-cross	101
Harry Bacharach—Direct	102
Cross	103
Re-direct	105
Re-cross	109
James Pettinos—Direct	112
Cross	112
David Reed—Direct	113
Cross	114
Herbert W. Hemple—Direct	116
Recalled—Cross	120
Recalled—Re-direct	124
Recalled—Re-cross	127
Samuel M. Braunstein—Direct	119
Thomas W. Lassiter—Direct	140
Cross	142
Re-direct	150
Arnold S. Rukeyser—Direct	151
Cross	153
T. Titus Brown—Direct	155
Cross	156
Re-direct	157

	Page
Defendant's Testimony:	
David Reed—Recalled—Direct	157
Recalled—Cross	171
Herbert W. Hemple—Recalled—Direct . . .	172
Cross	173
Re-direct	174
J. M. McDuell—Direct	174
Cross	176
Re-direct	181
Recalled—Direct	226
Recalled—Cross	227
Leopold B. Eckstein—Direct	182
Cross	186
Mulford Rose—Recalled—Direct	187
Cross	190
Re-direct	191
Re-cross	192
John M. McDuell—Direct	193
Cross	197
Bernard Morwitz—Direct	209
Cross	211
David C. Reed—Direct	219
Cross	221
Mulford T. Rose—Direct	222
Cross	223
Copy of Receipt of Mercantile License	229, 230
Order of Case No. 1	232
Order of Case No. 2	233
Writ of Certiorari Case No. 1	234
Writ of Certiorari Case No. 2	235
Ordinance No. 11	236
Certification	236, 239
Minutes of Board of Commissioners	237
Return	239
Judgment Record Case No. 1	240
Judgment Record Case No. 2	246
Reasons Cases No. 1 and 2	252



NEW JERSEY SUPREME COURT.

SHILL ROLLING CHAIR COMPANY, THOMAS E. LASSITER, HANNAH M. CLOWNEY, trading as SMITH'S ROLLING CHAIRS; JOSEPH HAINES, ADOLPH MARCUS, MAX MALLIN, MORRIS EFFRON, ABRAHAM BRILLIANT, JULIUS HERSHON, CHARLES BURKHARD, WILLIAM CHINN, <i>Prosecutors,</i> vs. ATLANTIC CITY, <i>Defendant.</i>	ON CERTIORARI. CASES 1 AND 2.	10
HENRY E. HESS, ALFRED E. SEIDEL, FREDERICK MYERS, <i>Prosecutors,</i> vs. ATLANTIC CITY, <i>Defendant.</i>	ON CERTIORARI. CASES 1 AND 2.	20
JOHN A. EVELER, <i>Prosecutor,</i> vs. ATLANTIC CITY, <i>Defendant.</i>	ON CERTIORARI. CASES 1 AND 2.	30

Testimony taken before Claude W. Myrose, Supreme Court Examiner, pursuant to notice, at the offices of Bourgeois and Coulomb, Real Estate and Law Building, Atlantic City, N. J., on Friday the second day of October, 1914, at 10.45 in the forenoon.

10 GEORGE A. BOURGEOIS, ESQ., of BOURGEOIS & COULOMB, appeared for Shill Rolling Chair Company, Thomas E. Lassiter, Hannah M. Clowney, trading as Smith's Rolling Chairs; Joseph Haines, Adolph Marcus, Max Mallin, Morris Effron, Abraham Brilliant, Julius Hershon, Charles Burkhard, William Chinn.

LEE F. WASHINGTON, ESQ., appeared for Henry E. Hess, Alfred E. Seidel, Frederick Myers.

HERBERT R. VOORHEES, ESQ., of GARRISON & VOORHEES, appeared for John A. Eveler.

THEODORE W. SCHIMPF, ESQ., appeared for Atlantic City.

20

(It is agreed that the testimony shall be taken stenographically and signatures of the witnesses shall be waived to their respective depositions.)

30 Mr. Bourgeois: I offer in evidence rule to take depositions in cases number one and number two, wherein Shill Rolling Chair Company is prosecutor and Atlantic City is defendant.

(Papers marked Exhibits P1 and P2.)

DANIEL SMITH, a witness produced on behalf of the prosecutor, being first duly sworn according to law, testified as follows:

Direct examination.

By Mr. Bourgeois:

- Q. Mr. Smith you reside where? 10
A. 167 St. James Place.
Q. Do you know Hannah M. Clowney?
A. I do.
Q. Who is she?
A. My mother.
Q. Are you familiar with the Smith rolling chairs?
A. I certainly am.
Q. I think that is the name they call it?
A. Smith chairs.
Q. Are you familiar with the concern? 20
A. I surely am.
Q. What is it, a corporation or what?
A. It is a family affair. It is not a corporation. It is Mrs. Clowney's exclusively, but we all help more or less about the business.
Q. Who do you mean by, "We all help," the children?
A. Well, my brothers work there, at least, have in the past. At the present time there is but one working there. 30
Q. Do you know if books are kept of that business?
A. Books are kept.
Q. Are you familiar with the books for the Smith rolling chairs?
A. I am, thoroughly.

Q. Can you tell me what was the amount of the rolling chair business done by your mother between the first day of June, 1913, and the first day of June, 1914?

Mr. Schimpf: That is objected to as irrelevant, incompetent, immaterial.

A. \$20,229.55 gross receipts.

10 Q. How many chairs did she operate, what is called the double rolling chair style?

A. We operated one hundred.

Q. And how many chairs of the single rolling chair style?

A. Fifteen.

Q. What was the amount of her investment in that business?

20 Mr. Schimpf: That is objected to as irrelevant, incompetent and immaterial.

A. Over all it was over \$30,000. Over \$30,000.

Q. Can you tell me what was the expense of operating that business, excluding the mercantile license fees and excluding any compensation to herself for services?

Mr. Schimpf: That is objected to.

30 A. It was \$19,390.

Q. And what was the amount, if you know, of the mercantile license fees for that year?

A. If we had paid all—we did not pay the stand license, but had we paid all, including stand licenses, it would have been \$2,425.00.

Q. How many stands did you operate?

A. Two.

Q. What was the license fee or tax on each double rolling chair?

A. It was \$20.00.

Q. What on each single rolling chair?

A. It was \$15.00.

Q. After deducting the expenses of the business, the operating expenses, excluding those that I have mentioned, from the gross receipts, it left how much money with which to pay the license fees and compensation to your mother, if she had received any? 10

Mr. Schimpf: That is objected to.

A. \$839.55.

Cross-examination.

By Mr. Schimpf:

Q. Mr. Smith, how do you make up that expense account? 20

A. That expense account includes the rent, wages, —

Q. Well, tell me in figures.

A. Upkeep.

Q. How much rent and where are the properties located?

A. There is St. James Place and the beach, at the uptown corner, is \$3450. 30

Mr. Bourgeois: Rent?

A. Yes. The stores on the end of St. James Place, that is, on one side, was \$400. On the other side, including the basement and so forth was \$950. On Kentucky Avenue and the beach —

Q. Just a moment. Do all those three stores make one stand?

A. They all make one stand. It is necessary for storage purposes. There is a very small front there, and it is an accessory to the shop. Kentucky Avenue and the Boardwalk, \$6000, making a total of—do you wish this?

Q. Yes.

A. \$10,800.

10 Q. How do you get the other \$9000?

A. There were in wages \$5256; repairs on an average of \$15.00 a chair.

Q. Don't average. Just tell me what the actual repairs were.

A. I can't possibly go in and tell what every chair would cost.

Q. Have you got your books here?

A. No, not all the books. We have sufficient. We don't keep books when we put a screw in a chair.

20 Q. Will you produce your books on Thursday of next week?

A. We can't produce all our books.

Q. You have testified that you had books and that you were familiar with them and I now demand the production of the books.

Mr. Bourgeois: We will produce them.

30 Mr. Schimpf: Then I will suspend the cross-examination of this witness on that matter until the books are produced.

Q. Mr. Smith, how much were your gross receipts from the St. James Place store?

A. \$8522.95.

Q. And what from the Kentucky Avenue?

- A. \$11,706.60.
- Q. And that was the gross?
- A. That was gross.
- Q. How much did you charge per chair this summer?
- A. We charged 50 cents during that entire period. Not this summer, but previous to June.
- Q. What are you giving me?
- A. From June until June. Not this summer.
- Q. This is your total receipts for the year 1913- 10
1914, beginning June 1st and ending June 1st?
- A. Yes.
- Q. And you charged 50 cents per chair?
- A. We charged 50 cents per chair.
- Q. How much business did you do the year before that?

Mr. Bourgeois: That is objected to as irrelevant.

- A. There was very little difference. 20
- Q. Did you sublet any part of these stores, Mr. Smith?
- A. We did not.
- Q. And had no other means of income from your business except the actual running of rolling chairs?
- A. That is all.
- Q. What is the size of the St. James Place store?
- A. It is about 11 feet by 34 feet.
- Q. What is the approximate per foot rental?
- A. On the opposite corner? 30
- Q. Yes.
- A. If that is a fair judge. It is over \$300.
- Q. Do you rent the opposite corner, too?
- A. It is in the family and I have the signing of the lease.
- Q. It is not conducted as a rolling chair station?

A. No, but I am telling you so it will more clearly show you the value of this corner, inasmuch as it is in the family.

Q. Can you tell me the block either side of St. James Place, what the rentals per foot are?

A. Yes, I can tell you the delicatessen shop. They pay for about 26 feet, \$8050.00. It is more than we are paying. Naturally is, you know, in the family.

10 Q. What is the size of the Kentucky Avenue store?
A. Kentucky Avenue store? It is about 15 feet.

Q. Is the Kentucky Avenue store on the Boardwalk or is it on Kentucky Avenue?

A. It is both. It extends back about 170 feet, which gives it its unique value.

Q. How long has Mrs. Clowney been in the rolling chair business?

A. Since about '91.

Q. 1891?

A. 1891.

20 Q. And during all of the years until this year, she paid a license fee for every chair she operated, did she not?

A. I don't know. It is beyond my memory.

Q. How far does your memory go on that subject?

A. Well, I suppose from a time about ten years back.

Q. Then from ten years back she has paid a license fee for all these chairs, hasn't she?

A. She has paid a license fee.

30 Q. Paid rent and operating expenses and earned a profit off the business?

A. She earned a profit off the business. Not every year back.

Q. I mean for the past ten years.

A. Yes, on an average in the past ten years she has got a little profit.

Q. And paid rent and license fees and all the operating expenses?

A. Yes, but rent has not remained the same.

Q. Rent has gone up, has it?

A. I think so.

Q. About what proportion of increase of rent have you had in the last ten years?

A. Well, we haven't had the same place, but one store that cost us \$1400, you can't get today for \$4000.

10

Q. And how have the license fees on the Boardwalk raised in the last ten years?

A. Well, I don't know just what it was ten years ago, but I remember when it was \$2.00 a chair.

Q. Never mind that. We are talking about the last ten years. Ten years ago would be 1904. Do you know what the license fee was in that year?

A. I don't remember.

Q. Isn't it true, according to your recollection, that the license fee from 1907 has been \$15.00 for a rolling chair, until last year?

A. Yes.

Q. So that at least since 1907 until last year there was no raise in the license fee, was there?

A. There was no raise.

Q. And now the raise is \$5.00?

A. Yes.

By Mr. Bourgeois:

30

Q. Mr. Smith, you have paid \$20.00 license fee for these rolling chairs, as I understand?

A. We did last year.

Q. And you state there has been a profit in the past ten years, taking it as a whole. Was there any profit in last year's business?

A. There was not.

Q. Now, about the expense —

A. Actual loss last year.

Q. Now, about the expense, the upkeep, do you keep an exact account of the expenses of your upkeep of the chairs?

10 A. No, we know how long a tire lasts on an average. We know we had to paint it every year. We know the glass in the chair, how it is broken, and ours particularly, inasmuch as we are situated on corners where they are used in rainy weather more than other chair stands. We know the wicker work has to be continually repaired and the wheels, as time goes on, have to be replaced.

Q. Do you know the approximate cost of upkeep for a chair for a year?

A. It is about \$15.00. Some of them run over.

Mr. Schimpf: The question is do you know?

20

A. There are no two chairs alike, like an automobile.

Mr. Schimpf: The question is do you know?

A. I told you yes, the average cost is \$15.00, the average.

Q. Does that mean all or for your place?

30

Mr. Schimpf: I ask that all of the witness' testimony which is not responsive to the question be stricken out.

(Question repeated: Do you know the approximate cost of upkeep for a chair for a year?)

A. Yes.

Q. What is the approximate cost?

Mr. Schimpf: I object to that.

A. \$15.00.

Q. Is it the same cost of upkeep for each of your chairs or does it vary as between the chairs?

Mr. Schimpf: I object to that.

10

A. It varies as between the chairs.

Q. Is the cost of the upkeep of your chairs the same as the cost of the upkeep of other chairs, that is, other places, other stands, or don't you know?

Mr. Schimpf: I object to that.

A. I do know. It would be just as much if we didn't buy better, in larger quantities.

20

Mr. Schimpf: That is a conclusion.

By Mr. Schimpf:

Q. Mr. Smith, what has been the rate for hire per hour for a double rolling chair during the past ten years?

A. It has changed. About ten years ago or even less time than that, it was \$1.00 per hour, \$1.50 for three in a chair. About 1910, January, it changed to 50 cents.

Q. Did it first change to 75 cents an hour?

A. All in the space of a week it changed, or perhaps two days, it changed from \$1.00 to 50 cents.

Q. What is the price of a double rolling chair per hour now?

A. The price of a double rolling chair per hour now depends upon where you get it. With us you will pay 50 cents.

Q. What was it all summer with you?

A. 50 cents.

Q. Didn't you ever come down to the 30 cent rate?

A. We did not.

10 Q. Isn't it true that during this summer there was an agreement entered into between the rolling chair men, yourselves, the Shill Rolling Chair Company and some others, that between Virginia Avenue and Michigan Avenue the price should be 50 cents, and for all stands operated by those companies east of Virginia Avenue, west of Michigan Avenue, the price should be 30 cents?

A. There was no such agreement.

Q. No such agreement to which you were a party, you mean?

A. That is the agreement you refer to.

20 Q. Well, is it a fact that during the summer of 1914 all stands operated on the Boardwalk east of Virginia Avenue charged 30 cents an hour or stands on the Boardwalk west of Michigan Avenue charged 30 cents an hour and all stands between Michigan Avenue and Virginia Avenue charged 50 cents an hour?

A. On the Boardwalk?

Q. Yes.

30 A. That is not true for the entire summer, no. It was true for a part of the summer.

Q. Well now, state to me just what the fact was, will you?

A. The early part of the season those who maintained chairs at either end of the island, say above Virginia and below, I think, about the Million Dollar Pier, forced by circumstances —

Q. I don't care what the occasion was.

A. — charged 30 cents. While those who had stands between those two locations charged 50 cents.

Q. Then what happened?

A. Well, at a certain time in the summer —

Q. About when?

A. About the middle of the summer.

Q. What happened about the middle of the summer?

10

A. About the middle of the summer the people uptown raised their chairs to 50 cents.

Q. That is, extending all the way up the Boardwalk east of Virginia?

A. All those on the Boardwalk east of Virginia Avenue raised their chairs to 50 cents.

Q. And those west of Michigan continued to rent them at 30 cents?

A. No, some did and some did not. Those who could get 50 cents, took 50 cents, and those who couldn't rent their chairs out at 50 cents, took the 30 cents. But those having 50 cents, realizing that the man who had 30 cents could not supply all the needs, thought they had better get their 50 cents while they could, while the going was good.

20

By Mr. Bourgeois:

Q. You say that they were by circumstances forced to take 30 cents. Do you know if there was an effort made to have enforced a uniform price of 50 cents by the rolling chair people on the Boardwalk this last year?

30

A. Yes, they attempted to get together.

Q. Do you know who it was that prevented that getting together?

Mr. Schimpf: I object to that.

A. Mr. McDuell.

Mr. Schimpf: Let me suggest that when you are asked a question whether you know a thing or not, the only proper answer is yes or no.

10 A. Yes.
Q. Who?

Mr. Schimpf: I object to that.

A. Mr. McDuell.

Q. Do you know what rate Mr. McDuell charges for his chairs?

A. He charges 30 cents an hour for two and 50 cents for three.

20 Q. And how long has he been charging 30 cents an hour for two and 50 cents for three, how many years past?

A. It has been not quite a year, or just about a year.

Q. Is he the same McDuell who testified in the Shill Rolling Chair case of last year?

A. He is the same McDuell.

Q. And he was then charging 30 cents an hour?

A. Yes.

30 Q. Do you know if he has a stand on the property of Mayor Riddle, one of our City Commissioners?

A. He has.

Mr. Schimpf: Let me object to that and also ask that that answer be stricken out. Are we going to prove title to property out of the mouth of this witness?

Mr. Bourgeois: No, I am going to find out what rent he paid. I understand he does not pay any rent for it. I understand he gets it free.

Mr. Schimpf: It seems to me there is a much better method of proving that than this.

Q. Do you know if Mr. McDuell pays any rent for that property?

Mr. Schimpf: I object to that.

10

A. I don't know that he does.

Mr. Schimpf: Do not answer it that way. Do you know whether he does? The answer is yes or no.

Q. Do you know that he does?

A. I don't know if he does.

Q. You do not?

A. I do not.

20

MAX MALLIN, a witness produce on behalf of the prosecutor, being first duly sworn according to law, testified as follows:

Direct examination.

30

By Mr. Bourgeois:

Q. Mr. Mallin, are you in the rolling chair business?

A. Yes, sir.

Q. How long have you been in the rolling chair business?

A. About four and a half years.

Q. Alone or with some person else?

A. With Mr. Effron. I was with Mr. Effron for three years; now I am alone.

Q. Since when have you been alone?

A. Since the 12th of February, 1914.

10 Q. Then for a year previous to February 12th, 1914, you were in business with Mr. Effron?

A. Yes.

Q. How many stands did you have?

A. Three.

Q. How many chairs did you operate?

A. Twenty-five. Twenty-eight. Twenty-five doubles and three singles.

Q. Can you tell me how much business you and Mr. Effron did between February 12th, 1913, and February 12th, 1914?

20

Mr. Schimpf: I want to object to this as being irrelevant, immaterial and incompetent for any witness to testify as to the amount of business he did during any given time, the amount of his expenses, either for rent, license fees, wages, repairs or otherwise, as irrelevant, immaterial and incompetent, and I wish it understood that this objection goes to the whole line of testimony of that character offered by any witness.

30

Mr. Bourgeois: The prosecutors agree that the objection made by Mr. Schimpf shall be considered as having been made in opposition to the testimony of each of the witnesses hereafter offered.

(Question repeated.)

Q. How much?

A. \$2343.

Q. What was the amount of your investment?
How much was it, approximately?

A. About \$3000.

Q. Now, what was the amount of the expense of
conducting that business during that year, excluding
the mercantile tax and excluding any compensation
to yourself or to Mr. Effron, but including the in-
terest on your investment?

10

A. Altogether \$1745.

Q. That \$1745 included the mercantile tax, didn't
it?

A. Everything. Nothing for myself or for Effron.

Q. Excluding the mercantile tax it was \$900? Did
that include interest on the \$3000?

A. No, no interest.

Q. Interest would make \$180 more. That would
make \$1080 without the license fee and the license
fee was how much?

20

A. The license is \$845.

Q. That left how much that you and Mr. Effron
got out of this?

A. \$600.

Q. Less \$180, if you had allowed interest?

A. Yes, \$420.

Q. Are you a married man?

A. Yes, sir.

Q. Family?

A. Yes, sir.

30

Q. How much of a family?

A. Four.

Q. Four children?

A. Four children. Six of us.

Q. Is Mr. Effron a married man?

A. Yes, sir.

Q. Children?

A. Yes, sir.

Q. How many children?

A. Four.

Q. In making up this expense of \$900, what does it include? What goes into that expense?

A. Expense is \$500 rent and \$400 for repairing the chairs and \$845 to the city for license and tax.

Q. The \$400 for repairs?

10 A. For repairing chairs.

Q. Do you keep a separate account of what the repairs cost you?

A. I keep a book with all the expenses.

Cross-examination.

By Mr. Schimpf:

20 Q. You say you have been in business four years and a half?

A. About four years and a half or five years; about five years.

Q. Now, Mr. Mallin, did you pay a mercantile license tax for each chair and for each stand you operated in the past five years, with the exception of this year?

A. I pay last year—I don't pay for tax only for one stand. But last year I paid for all three stands.

30 Q. You paid the mercantile license taxes that were assessed against you, whatever they may have been except this year?

A. Yes, sir.

Q. Did you make a living during those years?

A. No, not in the business.

Q. Did you have any other means of making a living?

A. Yes, sir, I keep boarders.

Mr. Bourgeois: Who keeps boarders, you or your wife?

A. My wife.

Q. So that during the whole of the last five years, then, your living has been made out of the boarding house?

A. Boarding house and just a little bit from this.

MORRIS EFFRON, a witness produced on behalf of the prosecutors, being first duly sworn according to law, testified as follows:

Direct examination.

By Mr. Bourgeois:

Q. Mr. Efron, are you in the rolling chair business? 20

A. Yes, sir.

Q. And how long have you been in the rolling chair business?

A. About five years.

Q. Mr. Mallin testifies that up until the 12th of February, 1914, you and he were in partnership?

A. Yes, sir, three years.

Q. And he testifies that during the year preceding February 12th, 1914, that is, from February 12th, 30 1913 to 1914, you took in altogether \$2345?

A. Yes, sir.

Q. Do you know if that is right?

A. Yes, sir.

Q. Who kept the books, you or he?

A. I kept the books.

Q. The total expenses during that time, excluding the mercantile tax, he tells me were \$900, besides the interest on the investment?

A. Yes, sir.

Q. Or \$1080 in all?

A. \$1080.

Q. And that the amount of mercantile tax for last year was \$845?

A. Yes, sir.

10 Q. That brings it down so that you two only got \$210 apiece?

A. Yes, sir.

Q. Exclusive of the interest, and with the interest, your half of the \$180 would make you \$300 apiece?

A. Yes, sir.

Q. Are you a married man?

A. Yes, sir.

Q. Can you live on \$300?

20 A. No, sir.

Mr. Schimpf: That is objected to.

Q. How do you make a living?

A. I got two boys working in my place and pushing chairs, and helping me out and my wife keeping house, about eight rooms, and we got boarders, about fifteen, and we are making our living, but not from the rolling chairs.

30

Cross-examination.

By Mr. Schimpf:

Q. Mr. Effron, you say you have been in business five years? That would take us back to 1909?

A. Yes, sir.

Q. In 1909 you paid \$10.00 for each single chair and \$15.00 for each double chair license fee?

A. Yes, sir.

Q. In 1910 you paid the same price?

A. Yes, sir.

Q. In 1911 the same price?

A. Yes, sir.

Q. In 1912 the same price?

A. Yes, sir.

Q. And last year you paid \$15.00 for each single chair and \$20.00 for each double chair?

A. Yes, sir.

Q. When did you and Mr. Mallin dissolve the partnership?

A. February 12, 1914.

Q. Did you at any time during the last five years make a living out of the rolling chair business?

A. Very short living. My boy helped me out. I raised him up good and feed him good and now he helped me out and make a living, but before I couldn't make a living.

Q. And yet when you and Mr. Mallin ended your business together, you both went into the same business again?

A. Now?

Q. Yes. You are in the rolling chair business now?

A. Yes.

Q. And Mr. Mallin is in the rolling chair business now?

A. Yes, sir.

By Mr. Bourgeois:

Q. How many rolling chairs have you now?

A. Nineteen.

Q. What kind?

A. Doubles.

WILLIAM CHINN, a witness produced on behalf of the prosecutors, being first duly sworn according to law, testified as follows:

10

Direct examination.

By Mr. Bourgeois:

Q. Mr. Chinn, you are in the rolling chair business?

A. Yes, sir.

Q. Where?

A. South Carolina Avenue; foot of South Carolina
20 Avenue.

Q. How many chairs do you have?

A. I have twenty-five at the present time.

Q. Single or double?

A. Double.

Q. How many did you have last year?

A. Nineteen.

Q. What was the amount of business that you did in the rolling chair business from the first of January, 1913, and the first of January, 1914, total business?
30

A. \$1866.45.

Q. What was the expense of conducting your business during that period, including the interest on your investment? First let me ask you what amount of money did you have invested in those chairs?

A. About \$2400.

Q. And that investment, did it include anything except just the cost of the chairs themselves?

A. Includes the cost of the chairs and robes and canopies and attachments that go along with the chair business.

Q. What was the amount of the expense of operating that business, including the interest of your investment, during that year of 1913, excluding the license?

10

A. Excluding the license and the investment? I can give it to you, excluding that. I paid \$380, I think it was, license fee.

Q. Do you want to include it? I don't care. Include the tax, if you want to.

A. Including the license fees it is \$1113.95.

Q. That is including \$380 license fees?

A. Yes, sir.

Q. That would make \$733.95. Does that include interest on your \$2400?

20

A. No, I think your figures are wrong there. It would leave \$752.50.

Q. Let us have that again, \$1113?

A. Yes, sir, and 95 cents.

Q. And \$380 is your license fee?

A. No, the license fee was already in that.

Q. I know, but how much was it?

A. \$380.

Q. That would make \$733.95. Well, be that as it may, your income was \$1866.45, and your expenses, without the interest on your investment were \$1113.95?

30

A. Yes, sir.

Q. That left \$752.50 that you got out of it, including the interest on your investment? The interest on your \$2400 for a year would be \$144. That would

leave, if you paid interest on your capital \$608.00 that you would get for your services. Now, how much of the time do you work?

A. I work all the time, do all my own repairing. That is not included. I do all my repairing. I save the repair bills, practically all, except the tireing. Can't make tires.

Q. How long a day do you take to conduct your business?

10 A. Well, I keep open all night in the summer time.

Q. How many stands do you have?

A. Well, I have only one, you might say. I have a place right across the street where only two chairs are allowed to stand.

Cross-examination.

By Mr. Schimpf:

20 Q. Last year you had nineteen chairs and this year you have twenty-five chairs? How much did the additional six chairs cost you?

A. Well, not very much. I got them at a bargain.

Q. How much?

A. I think \$110.

Q. For the six chairs?

A. Yes.

Q. How much did the twenty-five chairs cost?

A. I paid the regular fee for them.

30 Q. I don't mean the twenty-five. I mean the other nineteen. What was that?

A. Seventy-five and eighty-five.

Q. Seventy-five and eighty-five dollars apiece?

A. Some ninety-five.

Q. How many for \$75, how many for \$85 and how many for \$95?

A. When I first went in business I paid \$95 for them.

Q. That was how long ago?

A. That is nine years ago.

Q. And how many chairs did you have?

A. I had three.

Q. Three chairs at \$95, and those chairs are now nine years old?

A. Yes, sir.

Q. How many did you buy at \$85 and when did 10 you buy those?

A. I bought about eight.

Q. How long ago?

A. Well, about six years ago.

Q. How many did you buy at \$75?

A. The balance of them.

Q. That is eight chairs at \$75, and when did you buy those?

A. Well, between that time and the present.

Q. That is anywhere from two years to six years, 20 and then you bought six for \$110? How many robes do you own?

A. Well, I have in the neighborhood, I guess, of about \$500 worth of robes.

Q. That doesn't answer my question. How many robes?

A. I have over a hundred, 108 or 112, somewheres around there.

Q. How old are they?

A. Well, they are practically all new, because I do 30 away with the old ones and buy new robes all the time.

Q. What do those robes cost?

A. Well, they cost from \$2.25 to \$22.50 apiece.

Q. Have you any that you paid \$22.50 apiece for?

A. I have. I have three that I paid \$22.50 for.

Q. Apiece?

A. Yes, sir.

Q. How many have you that you paid \$2.25 apiece for?

A. Well, I have about forty, I guess.

Q. And what did you pay for the balance?

10 A. Well, some of them \$15.00, some \$11.00. I can't give you exact figures, but I am giving you close to it. Some of them I paid \$11.00 and some cents and then some \$9.00, some \$6.00, some \$8.00. Various figures, according to the robes.

Q. And you don't know how old they are?

A. Well, I don't think you will find a robe on my stand that is over six years old, anyhow.

Q. That is over six years old?

A. That is over six years old.

Q. And they run all the way from the present back to six years?

A. Yes.

20 Q. How do you arrive at a value of \$500 for those robes?

A. Well, I know that is practically just about what they cost me.

Q. That is about what they cost you?

A. Yes. I have between 108 and 112 robes now. Well, some of the older robes I have given away and sold for practically nothing.

Q. That is about what they would bring after they are used, too, isn't it?

30 A. And I have had several of them stole, but I have invested that much in robes; over that.

Q. What are they worth now? What could you get for them now?

A. Well, that is a question.

Q. Well, what do you think? Suppose you were going out to buy the robes you have from some man,

in the same condition they are in now. What would they be worth?

A. If a man was in the business and needed them, my robes would be practically as valuable to him as a new robe, because they are practically new now, kept in good condition, if a man needed them.

Q. You wouldn't pay \$500 for them, would you? Suppose I owned them now. Would you give me \$500 for them?

10

Mr. Bourgeois: That is hardly fair, unless he wanted them.

Mr. Schimpf: Assuming he had no robes at all.

Mr. Bourgeois: If he wanted the robes and had the money to buy, because that has to be part of that question.

Mr. Schimpf: All right. Put it that way. 20

A. If you had the robes and I needed them, I would come pretty near giving you what they were worth, if I needed them. I would try to get them as cheap as possible, and that is natural.

Q. Under all the conditions which Mr. Bourgeois has put in my question, would you give me \$500 for those robes today?

A. I may not have \$500 worth now. I told you I discarded some of the older robes.

30

Q. Some of them have been stolen, and some are six years old, and I am trying to get from you what you consider to be a fair, honest value for those robes in their present condition?

A. I wouldn't sell you the robes I have now for less than \$450.

Q. That is not the proposition. I am not trying to buy robes. I am trying to get you to put an estimated value on them.

A. Naturally, a thing after it is bought and becomes the property of another party, naturally decreases in value. We know that, but I would want \$450 anyhow for the robes I have at the present time.

Q. Have you got any other property invested in your business?

10 A. No.

Q. Mr. Chinn, even taking your figures, with some of your chairs nine years old, some of them six years old, some of them two to six years old, at their original cost price, including your robes at \$450, that amounts to \$2115?

A. Did I tell you \$450. I told you I paid over \$500 for the robes and some of them have been stolen and I have discarded some of them. I have invested —

20 Q. You have told me you would want—I am not talking about what you have invested. I am talking about the present value of your investment. That is what Mr. Bourgeois was talking about, and I have taken your original price, with the possible exception of the robes, which, if I take your original price would only amount to \$50 more.

A. I have paid as high as \$15.00 for canopies, the shades that go over the chairs.

Q. I asked you if you had any other property in your business than what you have given me?

30 A. I didn't just exactly understand. Yes, I have canopies and tools and one thing and another.

Mr. Bourgeois: Rubber covers?

A. Rubber covers. I have a booth I paid \$80 for.

Q. And yet you have allowed no depreciation for a

chair nine years old, have you? Is a chair that has been used for nine years worth any less money than a new chair?

A. Well, it is worth as much to me today, as a new chair, because it does as much work as a new chair. I wouldn't sell it today for any less, unless I was forced to.

Q. If you were forced to, could you get the original price for it?

A. If I was forced to, I might sell them at any figure to get rid of them. 10

Q. Do you know the difference between what you want and the value of an article?

A. Oh, yes.

Q. Well, I am asking you as to the present value of things, not what you want for them.

A. Well, its value to me is just what I paid for it, because it will make just as much.

Q. Mr. Chinn, do you owe any money?

A. No, sir. 20

Q. Everything that you have got is paid for?

A. Yes, sir.

Q. Did you ever make a living out of the chair business?

A. I have.

Q. Have you any other means of income?

A. Yes, sir.

Q. You made a living and paid your license fee both, didn't you?

A. Yes. Had to borrow money lots of times to do it. 30

Q. Even banks do that.

By Mr. Bourgeois:

Q. Now, Mr. Chinn, do you know the market price of a rolling chair at the present time, including the canopy?

A. I do not.

Q. Tell me whether or not you bought these original three chairs at \$95 apiece in the open market, or did you buy them from somebody who was closing out?

A. No, I bought them in the open market.

Q. When did you buy these last six chairs?

A. Why, about two months ago.

Q. They didn't enter into your business before?

10 A. No.

Q. Now, Mr. Schimpf has asked you if you have made a living out of the rolling chair business. Did you make a living out of the rolling chair business last year?

A. No, sir. I lost some money I did have otherwise invested.

Q. Do you know how much you lost?

A. \$465.

Q. That is, you made that much less than a living?

20 It took that much more than you made to live?

A. Yes.

By Mr. Schimpf:

Q. Didn't you testify that your profits last year were \$752.50?

A. Yes, but I run through that. I had to live. I have to eat and other expenses.

30 By Mr. Bourgeois:

Q. You have a family?

A. Yes, sir.

ABRAHAM BRILLIANT, a witness produced on behalf of the prosecutors, being first duly sworn, according to law, testified as follows:

Direct examination.

By Mr. Bourgeois:

- Q. Mr. Brilliant, you live in Atlantic City? 10
A. Yes, sir.
Q. How long have you lived here?
A. The last ten years.
Q. In what business are you engaged?
A. Rolling chairs.
Q. Where is your stand?
A. At the Galen Hall.
Q. What is Galen Hall?
A. Galen Hall is a hotel and a sanitorium, as well
as a hotel. 20
Q. What are the majority of the guests at Galen
Hall, well, healthy people or what?
A. The majority of the guests at Galen Hall are
invalids.
Q. How far is Galen Hall from the Boardwalk?
A. Within two blocks.
Q. Tell me how the majority of the people board-
ing at Galen Hall get to the Boardwalk.
A. We have to carry them up in the chairs most
of the time, the majority of them. 30
Q. How long a season do you have at Galen Hall
in the rolling chair business?
A. There is practically no season with the Galen
Hall. It is all the year round, and there is very little
difference.
Q. It is a continuous business the whole year?

A. It is a continuous business the whole year around.

Q. Is that true on the Boardwalk with those rolling chair stands or do they have what they call seasons?

A. No, they have seasons. They have the spring season and the most work is in the summer season.

Q. They have a winter season, I suppose?

A. That is what we call the spring season.

10 Q. How does the business compare generally of those concerns on the Boardwalk, the winter business with the summer business?

A. I don't understand the question.

Q. I want to know how it compares. Do they have as much business in the winter as they do in the summer?

A. No, they have in the summer the biggest business throughout the year, the Boardwalk people.

Q. Tell me how many chairs you operate.

20 A. We have twenty double chairs —

Q. I mean between June, 1913, and June, 1914.

A. Twenty double chairs and seven singles.

Q. Can you tell me how much your gross income was during that year from June 1st, 1913, to June 1st, 1914?

A. Gross receipts were about \$5900.

Q. And your expenses, excluding compensation for your own services, and excluding the license tax fee, amounted to how much, can you tell me?

30 A. Amounts to about \$2000, close on to \$2000.

Mr. Schimpf: You ought to be able to do it better than that. Cannot you tell the exact amount? Don't you keep books?

A. No, don't keep exactly the expenses. We know very nearly in a year. 1914, \$2000.

Q. Wasn't it \$2400?

A. Including the tax, yes. You asked me excluding.

Q. Well, this is excluding the mercantile tax that I have. Including the interest on your investment, but excluding the mercantile tax?

A. That would come up to about \$2400, including the interest on the investment.

Q. Did you pay your mercantile tax last year?

A. Yes, sir.

10

Q. That made your total expense about what sum, including the interest on the investment and all?

A. About \$2700.

Q. I have it a little more than that. I have it \$3000, \$2995. Haven't you made a memorandum from which you can tell?

A. Well, I didn't bring it with me.

Q. You made an affidavit in which you testified that the amount of your expenses, excluding the mercantile tax and excluding any compensation for yourself, but including the interest on the investment, was \$2410. Was that right?

20

A. Yes.

Q. And you also made an affidavit that the mercantile tax was \$585?

A. That's what it was.

Q. That would make the total expense \$2995, or practically \$3000?

A. Yes.

Q. That left you an income of \$1900 for yourself. How much time did you have to spend to make that \$1900?

30

A. Well, I put in between sixteen and eighteen hours every day at the Galen Hall. It requires all of that attention.

Q. Do you have any more than the one stand?

A. No, sir.

Q. If you were going to have that business run by a manager, could you get one manager to run it for you, or, because of the long hours, would it require two managers?

A. It would require two men.

Q. Do you know what the managers of those rolling chair places receive a year?

A. Well, they receive \$18 and \$20 a week.

10 Q. Do you have any manager for it or do you manage it yourself?

A. Well, I manage it, together with another man, for the last year, because I simply couldn't get along myself.

Q. This other man, is he a manager, or just a pusher?

A. Manager.

Q. Which last year? 1914, you mean?

A. Yes.

20 Q. I mean 1913?

A. 1913 to 1914.

Q. From June, 1913, to June, 1914, did you have the manager then?

A. Yes.

Q. Were his wages included in this?

A. Yes.

Q. What rent do you pay?

A. I pay \$700 rent. I know some people went up there and offered \$2200 rent for the same place.

30

Cross-examination.

By Mr. Schimpf:

Q. Did you say you knew some people that offered \$2200 for the place?

A. So I have heard.

Q. Who were the people?

A. I don't know.

Q. Did they want it for a rolling chair stand?

A. Yes, they did.

Q. And the place you are now paying \$700 for, somebody else was willing to pay \$2200 for, for a rolling chair stand?

A. So I heard. That is, I mean to say, if they enjoyed certain privileges with the Galen Hall people, because they won't have anybody else there but me taking care of invalids and all that sort of thing. 10

Q. How many chairs do you operate, Mr. Brilliant?

A. Twenty-seven.

Q. How much did you say you had for yourself after your expenses were paid?

A. About \$1900.

20

ADOLPH MARCUS, a witness produced on behalf of the prosecutors, being first duly sworn according to law, testified as follows:

Direct examination.

By Mr. Bourgeois:

Q. Mr. Marcus, you live in Atlantic City? 30

A. Yes, sir.

Q. And what business are you in?

A. Now?

Q. Yes.

A. Rolling chairs.

Q. How long have you been in the rolling chair business?

- A. Oh, I don't know. About ten years, I guess.
- Q. Where do you have your stand?
- A. Today?
- Q. Well, during last year?
- A. I am in the same place for five or six years, Pacific Avenue and the Boardwalk.
- Q. How many chairs do you operate?
- A. Twenty-four.
- Q. Single or double?
- 10 A. Double.
- Q. What did your business amount to between June 1st, 1913, and June 1st, 1914?
- A. About \$3200.
- Q. What did your expenses amount to, excluding the mercantile tax and any compensation to yourself?
- A. I don't know exactly. Without the mercantile, you say?
- Q. Yes, without that, and including the interest
- 20 on the money you have invested.
- A. I didn't keep track of it. I know it cost me about \$1500 or \$1600, something like that.

Mr. Schimpf: I object to any guess work.

Q. After you paid all expenses last year within that time, how much did you have left for yourself?

Mr. Schimpf: I object to that.

30

A. Very little.

Q. Tell me as nearly as you can in dollars and cents.

A. After I paid, I don't know what I got left. I got very little left, I know that.

Q. Well, Mr. Marcus, did you bring your book down with you? You had some book?

- A. Yes, I got it right here.
- Q. How much capital did you have invested in your business?
- A. I invested about \$2500 or \$2600.
- Q. Tell me what your expenses were between June 1st, 1913, and June 1st, 1914.
- A. All expenses?
- Q. Yes.
- A. I don't know. I couldn't tell you. I didn't mark them down. I had to pay rent. 10
- Q. How much rent do you pay?
- A. \$1000.
- Q. How much did you pay out for wages and for light, electricity and all those charges?
- A. Light, not much, about \$50 or \$75, something like that.
- Q. How much did your wage account amount to, what the men got?
- A. Oh, not much, \$50. Isn't that what you mean, the manager? 20
- Q. Yes.
- A. Not much, very little, because I am all the time there, day and night. That is all I can say. I might as well tell the truth.
- Q. I want you to tell the truth.
- A. Well, that is all.
- Q. What other expenses did you have?
- A. In the chairs?
- Q. In your business.
- A. We buy the robes. We pay for them and for 30 the chairs.
- Q. Repairs?
- A. Sure. Repairs is plenty. We got repairs all the time.
- Q. How much did your repairs cost you on a chair?

A. Cost over \$15.00.

Q. More than \$15.00?

A. Yes.

Q. How many chairs did you say you had?

A. Twenty-four.

Q. That would be \$360 for the repairs?

10 Mr. Schimpf: That is objected to. This business of hauling off and saying, "My expenses were over \$15.00 a chair," that is not testimony.

Q. Do you keep an exact account of the expenses for the repairs?

A. No, sir.

Q. Do you know they have to have repairs?

A. Have to be repaired all the time.

Q. What do those repairs consist of?

20 A. Rubber wear out, gets busted and the glasses break and one pusher bumps into another chair, and other things. Expenses all the time.

Q. What about the rubber if it does not get "busted," how long will it wear, these rubber tires?

A. Don't wear very long. About a month or month and a half. It gets caught in bad weather.

Q. You made an affidavit in this case that your total expenses, including the interest on your investment, which would be \$125 excluding the mercantile license, but including also the repairs, amount to \$1690?

30 A. Something like that.

Q. And that your mercantile license amounted to —

Mr. Schimpf: That is objected to. It is in the nature of cross-examination, it is contradicting your own witness.

Mr. Bourgeois: It is refreshing his memory, there is no doubt about that, but he seems not to have it here enough to know.

Mr. Schimpf: He testifies better than that, that he never kept track of it.

A. That is just what I said.

Q. Your mercantile license tax amounted to how much?

10

A. \$580, I think. I paid my stand license by accident last year.

Q. You paid the station license, did you?

A. By accident. Mr. Beyer promised me last year they would give me back five dollars for each chair.

Q. Why were they going to give you back five dollars for each chair?

A. Because if the Shill Company wouldn't pay \$20.00, they would give us each \$5.00 back.

Q. Who is Mr. Beyer?

20

A. The boss.

Q. What do you mean by the boss? Is he one of the commissioners?

A. Yes, that is what he told me on the street.

Q. If you would pay, they would give you back the five dollars if the Shill Company didn't have to pay their license?

A. Yes.

Q. And so you paid?

A. Yes, like a good boy.

30

Q. I suppose they gave you back the five dollars a chair?

A. Not yet.

Q. Mr. Marcus, how much time do you give to the business?

A. I am there until the next morning.

Q. From what time?

A. I am there in the morning at nine o'clock until the next morning, sometimes.

Q. Nine o'clock in the morning?

A. Until the next day.

Q. What do you mean by the next day?

A. Because a chair goes out about ten or eleven o'clock and comes back about two or three o'clock, I have got to wait there. I was better off if I was in
10 the other business.

Cross-examination.

By Mr. Schimpf:

Q. What are we to understand, that a man in the rolling chair business cannot either eat or sleep?

A. No, sir. Fortunately, I can eat all right.

Q. But you don't get any sleep at all with it?

20 A. Very little.

Q. Very little?

A. Yes, sir.

Q. But you do make money enough so you can eat?

A. No, I don't make money enough.

Q. How do you get your living, then?

A. How?

Q. Yes.

A. Because I am here twenty years in Atlantic
30 City and I made my money before.

Q. So you run the rolling chair business as a matter of amusement and live off the interest of your investment; is that it?

A. I wish I could go in another business.

Q. Well, you made all your money out of the rolling chair business, did you?

A. No. I had a store here for nine years.

Q. What business were you in then?

A. Tailor store.

Q. You are still a tailor, aren't you?

A. No, sir.

Q. Aren't you a tailor by trade?

A. I am a tailor by trade, but I am not in the business.

Q. You are in the rolling chair business?

A. Yes.

10

Q. And you are staying in the rolling chair business, aren't you?

A. At the present, yes.

By Mr. Bourgeois:

Q. Do you know when you are going to get out?

A. I wish I could.

By Mr. Schimpf:

20

Q. Your \$1,000 a year rent includes not only a rolling chair stand, but a house to live in?

A. Yes, for the summer. If I wouldn't have this I would be broke entirely.

By Mr. Bourgeois:

Q. How much did you get an hour for this year, 1913-1914?

30

A. We had 50c except for just a short time.

Q. Why don't you all have 50c?

A. I don't know. Some foolish people think they want to fight another corporation and want to put them out, and they will put themselves out. There is where the trouble is.

By Mr. Schimpf:

Q. That is what the trouble is, is it, a fight among the rolling chair men?

A. I don't know what it is. I know we can't make any money and nowadays it takes money to live, especially a married man, and I am one.

10 By Mr. Bourgeois:

Q. How many children have you?

A. I have got two. I am lucky, too.

MRS. JOHANNA ULMER, a witness produced on behalf of the prosecutors, being first duly sworn according to law, testified as follows:

20

Direct examination.

By Mr. Bourgeois:

Q. Mrs. Ulmer, do you know Mr. Joseph Haines?

A. Yes, sir.

Q. He operates a rolling chair stand?

A. Yes, sir.

Q. Who owns the rolling chairs?

30 A. Part Mr. Haines and part me. We are in partnership.

Q. Have you the books to show how much money was made there during the last year, that is, between the first of January, 1913, and the first of January, 1914?

A. It is two thousand, one hundred and some.

Q. Something over \$2,000?

A. Yes.

Q. Do you know what the expenses were during that time?

A. Just as much as he took in.

Q. Why do you say the expenses were as much as he took in?

A. Because the weekly check he takes out of the business accounts for it.

Q. Did you get your income or any moneys whatever out of the business during that year? 10

A. No, sir. I have my own income.

Q. I know, but I mean out of the business? How many chairs are there in the business?

A. Twenty double and six singles.

Q. Twenty doubles and six singles?

A. Yes, sir.

Adjournment taken until Wednesday, October 7, 1914, 8 o'clock P. M. 20

On Wednesday, October 7th, 1914, there was a further adjournment taken until Thursday, November 5th, 1914, at eight o'clock P. M.

Thursday, November fifth, 1914.

Hearing resumed at eight o'clock P. M., at the same place.

Appearances: Same as before.

JOSEPH HAINES, a witness produced on behalf of the prosecutors, being first duly sworn, according to law, testified as follows:

Direct examination.

By Mr. Bourgeois:

Q. Mr. Haines, you live in Atlantic City?

A. Yes, sir.

Q. What is your business?

A. Rolling chairs.

20 Q. How long have you been engaged in the rolling chair business?

A. Four years and about nine months.

Q. How many chairs do you operate?

A. Twenty-five chairs.

Q. What are they?

A. Twenty doubles and five singles.

Q. Where do you have your station?

A. Holmhurst Hotel.

Q. Have more than one station?

30 A. No, sir; one.

Q. Did you have the same number of chairs and operate them from the same point during the year 1913 from January first, 1913, to January first, 1914?

A. Yes, sir.

Q. Are you permitted to hire those chairs on the Boardwalk?

- A. No, sir.
- Q. Where must they be hired, if at all?
- A. At the Holmhurst Hotel.
- Q. At your station?
- A. Yes, sir, only.
- Q. How much did you receive per hour for those chairs last year when you hired them out?
- A. Fifty and thirty.
- Q. What part of the thirty cents did you get?
- A. Fifteen cents. 10
- Q. What part of the fifty cents did you get?
- A. Thirty cents.
- Q. Now, Mr. Haines, what were the gross receipts from your business from January first, 1913, to January first, 1914?

Mr. Schimpf: That is objected to as immaterial, irrelevant and incompetent.

- Q. What was the gross amount of your receipts? 20
- A. As near as I can recall it was twenty-one hundred and nineteen dollars and fifty cents, as near as I can recall.
- Q. You kept a book, Mr. Haines?
- A. Yes, sir.
- Q. Well, you can refer to it. You made a memorandum, I think?
- A. Yes, sir.
- Q. You can refer to that, if you want to.
- A. Twenty-one hundred and thirty-nine dollars 30 and fifty cents.
- Q. And what were your gross expenses?

Mr. Schimpf: It is agreed that I may have an objection to all this testimony?

Mr. Bourgeois: Certainly.

- Q. What were your gross expenses?
 A. Eleven hundred and thirty dollars.
- Q. How, how much was the mercantile license on your chairs?
 A. Ten hundred and nine, I think.
- Q. No. You had twenty chairs, the license was twenty, that would be four hundred, and then you had five at fifteen, wasn't it?
 A. Yes, sir.
- 10 Q. That would be seventy-five. It would be four hundred and seventy-five dollars?
 A. Four hundred and seventy-five.
- Q. And then the station license?
 A. One hundred dollars.
- Q. That would make five hundred and seventy-five dollars? That would leave your net income four hundred and thirty-four dollars and a half?
 A. Yes, sir.
- Q. Or how much, about eight dollars a week?
 20 A. Eight dollars a week.
- Q. What did you do before you were in the rolling chair business for yourself?
 A. I was manager of Shill Rolling Chair Company.
- Q. And what wages or salary did you get per week as their manager?
 A. Eighteen dollars a week.
- Q. Do you have a family?
 A. Yes, sir.
- 30 Q. Consisting of what?
 A. Five children.
- Q. And a wife?
 A. Yes, sir.
- Q. Do you have anybody to manage your business for you or do you operate it alone?
 A. Operate it alone.

Cross-examination.

By Mr. Schimpf:

Q. Mr. Haines, have you sold your business out to any one?

A. No, sir.

Q. Are you still operating that business as your own? 10

A. Yes, sir.

Q. Have you any agreement with any one concerning that business?

A. You are not quite plain enough.

Q. Have you any agreement to sell it or to manage it for anybody else?

A. Sell it?

Q. Yes. Have you any relation with the Shill Company in the conduct of that business?

A. No, sir. 20

Q. None at all?

A. None at all whatever. Independent business altogether from the Shill Rolling Chair Company.

JULIUS HERSHON, a witness produced on behalf of the prosecutors, being first duly sworn according to law, testified as follows:

30

Direct examination.

By Mr. Bourgeois:

Q. Mr. Hershon, you live in Atlantic City?

A. Yes, sir.

Q. And you are engaged in what business?

A. Rolling chairs.

Q. Since when?

A. About eleven years.

Q. Where do you have your station?

A. Corner Massachusetts Avenue and the Boardwalk.

Q. Do you have more than one station?

A. No, sir; one.

10 Q. How many chairs do you operate?

A. Twenty-eight double chairs and two single chairs.

Q. Will you tell me whether or not you are permitted to hire these chairs on the Boardwalk? Can you hire them right out on the Boardwalk?

A. No, sir.

Q. Where must they be hired, if at all?

A. From the station.

20 Q. If a patron comes in and hires a chair from you he is pushed, we will say, down to the Chelsea Hotel, and then gets out of the chair, can your pusher engage to hire to another person before he gets back to your place?

A. No, sir.

Q. Even though somebody wants to hire that chair, he is not permitted to do it?

A. He is not permitted.

Q. How much did you receive per hour for your chairs?

30 A. Thirty cents an hour.

Q. Now?

A. Yes, sir.

Q. How much last year between January, 1913, and January, 1914?

A. Fifty cents an hour.

Q. Were any chairs being pushed at that time at less than fifty cents an hour?

A. At a certain time of the year.

Q. Do you have anybody to assist you in operating your business, I mean any manager?

A. No, except certain time of the year.

Q. Certain time of the year you do?

A. Yes, sir.

Q. Can you tell me what amount of money you have invested in your business, that is, for the chairs, the robes and everything that goes with the business?

10

Mr. Schimpf: That is objected to as immaterial, irrelevant and incompetent.

A. About five thousand dollars.

Q. Mr. Hershon, what was the gross income from your business between June first, 1913, and June first, 1914?

Mr. Schimpf: The same objection to all that testimony. All this line of testimony is objected to.

20

A. About thirty-two hundred dollars.

Q. Now, what was the expense of it, expense of your business, not including the license tax?

A. Eighteen hundred dollars.

Q. And what was the amount of the license tax, including the station license?

A. Six hundred and ninety dollars.

30

Cross-examination.

By Mr. Schimpf:

Q. Mr. Hershon, do you own a motor boat?

A. Yes, sir.

- Q. Do you own a boat house?
A. No.
- Q. Do you rent one?
A. Rent one.
- Q. You don't use that motor boat for business, do you?
A. Yes, sir, I do.
- Q. What business?
A. For taking out people fishing.
- 10 Q. Do you ever take them out yourself?
A. Yes, sir; I am a licensed member of the government.
- Q. How often do you take parties out fishing?
A. Every day, when it is suitable.
- Q. Who runs your chair business then?
A. That is why I leave a man there; like I said to Mr. Bourgeois, certain times of the year I have a man.
- Q. You say you have been in the chair business
20 eleven years?
A. About eleven years.
- Q. You have paid a license to the city all that time?
A. All that time, yes, sir, sure.
- Q. What was your business before you went in the chair business?
A. Well, I was in Baltimore. I had a cigar store there.
- Q. Where did you get this five thousand dollars
30 that you have invested in the business?
A. I borrowed it.
- Q. Pay it back?
A. Yes, sir.
- Q. All paid, is it?
A. All paid.

By Mr. Bourgeois:

Q. Did you make the money to pay it back out of the chair business?

A. Well, I made some of it in the previous years.

Q. Have you made any money in the chair business in the last two or three years?

A. No, sir; whatever I made I lost some of it.

Q. Have you made any money in the chair business since they have put a twenty dollar license on each chair? 10

A. No, sir; I reduced the number of chairs what I operate on, because it wouldn't pay me to run twenty dollar chairs.

Q. How is that?

A. I reduced the number of chairs on account of the twenty dollar license.

Q. In other words, you stored some of them?

A. Yes, sir. 20

Q. Didn't use them at all because you couldn't afford to pay the license?

A. Yes, sir.

ALFRED E. SEIDEL, a witness produced on behalf of the prosecutors, being first duly sworn according to law, testified as follows:

30

Direct examination.

By Mr. Washington:

Q. Mr. Seidel, you are engaged in the rolling chair business in Atlantic City?

A. Yes, sir.

Q. How long have you been engaged?

A. Going on seven years.

Q. And you operated rolling chairs in the city of Atlantic City from June first, 1913, to June first, 1914?

A. Yes, sir.

Q. During that period how many chairs did you operate?

10 A. Thirty-four doubles and two singles.

Q. Do you have a record of the business which you did and your expenses during that period?

A. Yes, sir.

Q. Now, what was the amount of receipts, not including the sums paid to pushers?

A. Thirty-one hundred and fifty-six dollars and five cents.

Q. And the amount received by pushers was retained before that sum was turned over to you?

20 A. Yes, sir.

Q. Now, what was the total amount of your expenses during that period?

A. Twenty-seven hundred and twenty-five dollars and eighty cents.

Mr. Schimpf: The same objection as before stated goes to all this testimony.

30 Q. Mr. Seidel, during that period how many places of business did you have?

A. Well, for ten months one place. Eleven months, practically.

Q. And for the other one month?

A. Well, I run places partly in the Shill place, Station 10.

Q. How much in license fees did you pay?

A. Eight hundred and ten dollars.

Q. That included your chairs and two stands?

A. Eight hundred and ten license and seven hundred dollars rent.

Q. During that period how much did you pay per chair, per double chair?

A. Up until September eighth I received thirty cents for my chair, twenty cents for the pusher.

Q. You misunderstood the question. How much did you pay the city for the license fee for each chair? 10

A. Each chair? I paid eight hundred and ten dollars including the stand license. Seven hundred and ten dollars I paid license, thirty-four chairs and two singles.

Q. What was the license for each chair?

A. Twenty dollars, double chair.

Q. Were all of these double chairs, or some singles?

A. Two singles; seven hundred and ten dollars. 20

Q. And the singles were how much per chair?

A. Fifteen dollars.

Q. Mr. Seidel, what is the amount invested in the two businesses that you run, in chairs and in robes and other equipment that you have?

A. Oh, fifty-five hundred dollars.

Cross-examination.

By Mr. Schimpf:

30

Q. Where did you get the fifty-five hundred dollars, Mr. Seidel?

A. Out of my pocket.

Q. How did it get in there?

A. Working for it, painting.

Q. At what?

A. Painter.

Q. As a painter?

A. Yes.

Q. Were you a master painter or journeyman painter?

A. Master painter.

Q. When you quit the painting business you had saved fifty-five hundred dollars?

10 A. Not quite that.

Q. How much had you saved?

A. Close to four thousand dollars.

Q. Where did you get the rest?

A. Out of this. The first two years I made it.

Q. Out of the rolling chair business?

A. Yes.

Q. You don't owe any money, do you?

A. I owe money, yes, sir, I do.

Q. For investment in your business?

20 A. Yes, sir, that I had to borrow this and last year.

Q. That was to increase your business with, was it?

A. No; to pay my bills with, to go through with.

Q. What bills?

A. Last year, for instance, I paid the eight hundred and ten dollars license.

Q. You borrowed money to pay that with?

A. Yes, sir.

Q. Have you paid it back?

30 A. Not all of it.

Q. Did you borrow any other money than that?

A. Yes, sir, I borrowed this year.

Q. For what?

A. This year I was in debt the first of the year twenty-five hundred dollars.

Q. Well, what were you in debt twenty-five hundred dollars for?

A. Poor season, poor business. Chairs was being too high, rents too high, licenses too high.

Q. And yet the license was only eight hundred and ten dollars and you borrowed that and borrowed seventeen hundred dollars beside that; is that so?

A. Yes, sir.

Q. And that was because of an increase of five dollars in the license fee?

A. Well, we had a very bad season last year. I have taken in three times more money with fifteen 10 less chairs, in years gone by.

Q. How much are you in debt now?

A. About eleven hundred dollars.

Q. Where did you get the money to pay the difference with?

A. Where I got the money from?

Q. Yes, where did you get it from?

A. Didn't I take in some money this year?

Q. I don't know. I haven't heard of anybody who took in any money out of the rolling chair business 20 yet. I am trying to find out whether the amount that you have reduced your indebtedness since last year was earned in the rolling chair business or not.

A. No, it was not. I earned off of one man three hundred dollars as a loan that went into the rolling chair business this year, on the outside.

Q. What did you earn that from?

A. I have property which I take care of which I get paid for, opening and closing.

Q. Didn't you have that last year? 30

A. Not as heavy last year. One house alone brought me three hundred dollars.

Q. Are you in any different business this year than you were last year, all of your businesses combined?

A. No.

Q. So that your earnings last year were from the same businesses that your earnings are this year, were they not?

A. Yes; not so much to me on the outside of my rolling chairs.

Q. The question is whether you are in the same business. Your earnings came from the same thing this year as last year?

A. Yes.

10 Q. What was the difference you earned in your outside business this year over last year?

A. Over last year something like four hundred and ten dollars.

Q. What did you earn altogether from your outside business this year?

A. That I haven't got with me to state.

Q. What did you earn in your outside business last year?

A. That I can't say unless I look over the book.

20 Q. Suppose you find out and come here and tell us, Mr. Seidel.

A. Here is my chair business. Do you want to see that?

Q. I don't want to know anything more about your business until you can give me the figures when I ask you the question, with the same accuracy as you can when Mr. Washington asks you about them. You find out about your outside business and bring me your books and memorandums.

30 A. Haven't I told you about the chair business?

Q. I have asked you questions you have not answered. I want to know what you earned last year out of your outside business, and what you earned this year in your outside business.

A. Outside of the chair business?

Q. Outside of the chair business. That is what you said.

A. I will have to hunt it up in the book. I haven't prepared for it.

Mr. Washington: We will supply that.

Q. Where do you arrive at the figures of four hundred and ten dollars more this year than last year?

A. From one party that was here for seven months, that he paid me right out of his pocket.

Q. What was that for?

10

A. Taking care of his place.

Q. Whose place was it?

A. Down on Stenton Place.

Q. What is his name?

A. Buckley.

Q. What is the number of the house?

A. He had Scott Johnson's house.

Q. Paid you four hundred and ten dollars for taking care of his place?

A. For work I done for him.

20

Q. What was the work?

A. Unpacking, taking care of his place, doing odds and ends for him.

Q. What did you do when you took care of his place?

A. Anything the man wanted. Unpacking.

Q. He didn't unpack every day, did he?

A. Well, he had a great deal to pack, pretty near every day or every other day, and unpack.

Q. What business did he conduct in the house?

30

A. Only as a private family. Family of five children and about five or six in the help.

Q. He packed and unpacked something every day?

A. Around Christmas there was a lot to be unpacked, such as the crypt and Christmas tree. His

Christmas tree was a case bigger than any of those two closets here. The crypt, you know, of the Saviour, is no small thing. That takes time.

Q. I thought you were talking about a crib.

A. There were several cribs I unpacked there, also.

Q. Have you four hundred and ten dollars for what you have described here?

A. Yes, sir. It ain't on there at all, is it?

10 Q. Put it on there, will you?

A. Because that isn't in what I have taken in with this business at all.

Q. You got four hundred and ten dollars for what you said there; is that the truth?

A. From Mr. Buckley. That is the truth. I will take an oath to it.

Q. You have already taken an oath.

A. I haven't taken an oath only on the chair business.

20 Q. Oh, yes, whatever you are testifying to is under oath. Do you want to recant any of your testimony now?

A. No, sir, I have nothing to recall.

Q. How much else did you earn in your outside business beside that four hundred and ten dollars?

A. Well, I can't give you the figures right now. I would have to look them up.

Q. Give me approximately the figures. Tell me how much.

30 A. Well, it might be—from O'Connell there might be something like forty or fifty dollars there, my two bills there. Austin's may be a hundred and twenty dollars. Several different places. McManus, opening and closing there, all them cottages where I done the work I have to look that up in a book.

Q. How much does it amount to approximately?

A. Pretty close to seven hundred dollars. Little over seven hundred dollars.

Q. In addition to the four hundred and ten dollars?

A. No, sir, that is included.

Q. So you made possibly seven hundred dollars out of your outside business?

A. Little over seven hundred dollars.

Q. Yet you reduced your indebtedness over fourteen hundred dollars?

10

A. Yes, sir.

Q. Did you make any part of the balance of that out of the rolling chair business?

A. I reduced mine?

Q. You said you owed twenty-five hundred dollars at the first of the year and you only owe eleven hundred dollars now. The difference is fourteen hundred dollars, isn't it?

A. Yes, sir.

Q. You say you have earned about seven hundred dollars in outside business. I ask you if any part of the other seven hundred dollars by which you have reduced your indebtedness was earned out of the rolling chair business?

20

A. All has been put into the rolling chair business.

Q. Was any of it earned in the rolling chair business, the balance of seven hundred dollars by which you have reduced your indebtedness?

A. Anything else? That comes out of the rolling chairs.

30

Q. That comes out of the rolling chairs?

A. Out of the rolling chairs.

By Mr. Washington:

Q. Now, Mr. Seidel, of that fourteen hundred dol-

lars that was reduced, what did that indebtedness represent? I understood that you were back a certain sum?

A. Yes, sir.

Q. That that amount has been reduced?

A. Yes, sir.

Q. Before you reduced it and when you were back, what did that indebtedness represent? In other words, how did you come to be indebted? For what
10 items were you indebted?

A. Well, borrowed the money for rent and license.

Q. And that was the cause of the indebtedness being originally incurred; is that correct?

A. Because I got behind last year.

By Mr. Schimpf:

Q. How much was your rent?

A. Seven hundred dollars.

20 Q. And your license?

A. Eight hundred and ten dollars.

Q. That amounts to fifteen hundred and ten dollars, doesn't it?

A. Yes.

Q. What about the other thousand dollars?

A. I wasn't that in debt last year.

Q. Didn't you borrow that money last year?

A. I borrowed fifteen hundred dollars last year.

Q. What about the other thousand?

30 A. That has come from this year.

Q. That has come from this year?

A. Yes, from the first of June, around that time.

Q. So you were not indebted for twenty-five hundred dollars the first of last January?

A. Not the first of January.

Q. You were fifteen hundred dollars in debt then; is that so?

A. About that, yes.

Q. Don't you know?

A. I borrowed for license, or for rent, I borrowed a thousand dollars this spring. That is what I done.

Q. How much did you owe the first of last January?

A. Fifteen hundred dollars was left over from last year.

Q. Notwithstanding the fact that you borrowed a thousand dollars ——— 10

A. I borrowed a thousand this year.

Q. ——— you have still paid off fourteen hundred dollars since the first of June?

A. No, sir, I haven't paid it off since the first of June. Yes, sir. Yes, from the first of June I paid it off, until the first of September.

FREDERICK MYERS, a witness produced on behalf 20
of the prosecutors, being first duly sworn according
to law, testified as follows:

Direct examination.

By Mr. Washington:

Q. Mr. Myers, you are engaged in the rolling chair
business in Atlantic City?

A. Yes, sir. 30

Q. For how long a time have you been engaged in
the rolling chair business?

A. I guess about eight years.

Q. During the year from June first, 1913, to June
first, 1914, how many stands did you operate?

A. Two.

Q. And during that same period how many double chairs did you run?

A. Forty-seven.

Q. And what was the license fee for each of those double chairs?

A. Twenty dollars.

Q. Did you operate any single chairs during that period?

A. Seven.

10 Q. And for each of those seven chairs the license fee was how much?

A. Fifteen.

Q. Did you keep an account of your receipts during that period, not including the amounts that the pushers received?

A. Yes.

Q. Now, what was the amount that you received, excluding the amounts that the pushers retained?

20 A. Here it is. Six thousand and ninety-one dollars and sixty-five cents.

Q. During that same period did you keep account of the expenses of conducting the business?

A. Well, yes.

Mr. Schimpf: I interpose the same objection as before to all this.

Q. What was the amount, as nearly as you can compute it, of the expenses during that same period?

30 A. I paid nine hundred and forty dollars for —

Q. Just give us the total.

A. Five thousand, five hundred and seventy-six dollars and fifty cents.

Q. During that period, Mr. Myers, what rate did you charge at your stand?

A. Fifty cents.

Q. During the entire year?

A. Yes.

Q. Mr. Myers, what was the amount of your investment, approximately, in your business for robes, rolling chairs, and so forth, during the period from June first, 1913, to June first, 1914?

Mr. Schimpf: I make the same objection.

Q. To put it differently, Mr. Myers, what was the value of your rolling chairs and of your robes and equipment during that period? 10

A. Forty-five hundred dollars.

(It is stipulated and agreed between counsel for all parties that Henry E. Hess, one of the prosecutors, is at present out of the city, and his testimony cannot be secured; but that if he were present and sworn, he would testify as follows, and for the purposes of this hearing, this stipulation may be considered as his testimony: That from January first, 1913, to January first, 1914, he operated twenty-nine double chairs in the City of Atlantic City; that his gross receipts during said period amounted to forty-eight hundred and thirty-seven dollars and fifty-five cents; that the expense of conducting said business during said period, including the interest on his investment, but excluding the mercantile license fee or tax, and excluding compensation to deponent for his services in connection with said business, amounted to fifteen hundred and forty-nine dollars and two cents; that deponent's mercantile license fee or tax amounted, during said period, to seven hundred and fifty dollars; that the aforesaid license fee or tax amounted to over fifteen per cent. of deponent's gross receipts, and to over twenty-two per cent. of deponent's net business, without making any allow- 20 30

ance for compensation to deponent for his services in connection with said business, to which he devoted his entire time.)

Mr. Schimpf: I make the same objection as before.

(It is stipulated and agreed between counsel for all parties that John A. Eveler, one of the prosecutors, is at present out of the city and his testimony cannot be secured; but that if he were present and sworn, he would testify as follows, and for the purposes of this hearing, this stipulation may be considered as his testimony: That for several years he has conducted a rolling chair station in Atlantic City; that from January first, 1913, to January first, 1914, he operated forty-four double rolling chairs from a station located at Ocean Avenue and Boardwalk; that the gross receipts from the operation of those chairs for that year was the sum of six thousand, nine hundred and ninety-six dollars, and that the expense of operating the stand for this period, excluding the mercantile tax and excluding any compensation to himself, was the sum of fifty-three hundred dollars, leaving a balance of sixteen hundred and ninety-six dollars, and that out of this sum he paid nine hundred and eighty dollars to the City of Atlantic City as mercantile tax, eight hundred and eighty dollars for tax on forty-four double rolling chairs at twenty dollars each, and one hundred dollars being the tax on the rolling chair stand, leaving a net balance of seven hundred and sixteen dollars.)

Mr. Schimpf: I make the same objection to that.

PROSECUTORS REST.

It Is Stipulated and Agreed by and between Bourgeois and Coulomb, Lee F. Washington, Esq., and Garrison and Voorhees, Esqs., attorneys of the above-named several prosecutors, and Theodore W. Schimpf, Esq., attorney of defendant, Atlantic City, that the testimony of Mulford Rose, Henry Freund, Jr., G. M. Hayes Deemer, William F. Weber, Albert Beyer, Harry Bacharach, David Reed, Herbert W. Hemphill, Samuel M. Braunstein, Thomas E. Lassiter, Arnold S. Rukeyser, T. Titus Brown, J. M. McDuell, Leopold B. Eckstein, together with the facts stipulated and agreed upon by the respective attorneys during the taking of the testimony of the said witnesses, taken before William M. Clevenger, one of the Supreme Court Commissioners, on the twenty-eighth day of May, nineteen hundred and thirteen, and the subsequent days to which the taking of said depositions were continued, in a cause wherein Shill Rolling Chair Company was prosecutor and Atlantic City was respondent, be considered as having been taken on the day of the date hereof in the above-stated causes, and that the testimony of the witnesses aforesaid may be read upon the hearing of the above-stated causes as though taken under the rules to take depositions allowed therein, and that the conditions of the various businesses, &c., therein testified are the same on this date as on the date when said testimony was taken, except in so far as the facts herein stipulated are inconsistent with the testimony taken under the rules heretofore allowed in the above-entitled causes, the intent being that any party shall take such additional testimony as he desires.

It Is Further Stipulated and Agreed that the depositions in these causes shall be taken and used as taken under all of the writs allowed to all the prose-

cutors, attacking the legality of the municipal ordinance requiring that licenses be obtained for the operation of rolling chairs for hire as well as that requiring licenses to be obtained for the conduct of stations or stands from which rolling chairs are hired, and the convictions for the alleged violations of said ordinances.

It Is Further Stipulated and Agreed that all of the above-stated causes be and they are hereby consolidated, and that the two writs of certiorari heretofore allowed to the Shill Rolling Chair Company, rules to take depositions, returns and reasons are similar in all respects to the writs, rules, returns and reasons allowed and filed in each of the other several cases hereinabove mentioned; and it is stipulated and agreed that the State of the Case need contain only the complete record in the two Shill Rolling Chair cases, consolidated as herein agreed, and that the same judgments that are rendered and entered by the Court in the respective Shill Rolling Chair cases shall be entered in all the other respective cases, varied only as to names of prosecutors and dates of convictions. 10 20

BOURGEOIS & COULOMB,
Attys. of Prosecutors.

GARRISON & VOORHEES,
Attys. of Prosecutor.

LEE. F. WASHINGTON,
Atty. of Prosecutors.

THEO. W. SCHIMPF,
Attorney of Defendant.

30

It is further stipulated that the testimony shall be used upon the return of the rule in the case of Thomas Lassiter, prosecutor, against Atlantic City, as well as in the present case.

MULFORD ROSE, a witness produced upon the part of the prosecutors, being duly sworn according to law upon his oath, deposes and says:

10

Direct examination.

By Mr. Bourgeois:

Q. Mr. Rose, you reside where?

A. Atlantic City.

Q. And you are engaged as what?

A. Deputy mercantile appraiser.

Q. What other office do you hold, if any, outside of deputy mercantile appraiser?

20

A. I am an employe of the Detective Bureau.

Q. And as a member of the Detective Bureau, you are what?

A. A member of the Police Department.

Q. How long have you been a member of the Police Department?

A. Not quite twenty-two years.

Q. And how long have you been deputy mercantile appraiser?

30

A. Five years, steadily, and about six different summers. Prior to that for four months of each year.

Q. Who is the mercantile appraiser?

A. Charles C. Fortner.

Q. Will you state just what work Charles C. Fortner does, as mercantile appraiser?

A. Writes license certificates, receives money for the same, signs checks, deposits money and checks in bank to the city's credit, and supervises the office generally.

Q. Now, will you state just what work you do as deputy mercantile appraiser?

A. I write licenses, answer communications, look up delinquents who don't pay, and prosecute those who, at times, break the sections of the ordinance
10 that governs their particular business, and make arrests if necessary.

Q. In what cases do you make arrests, if necessary?

A. A person who would go out and attempt to peddle any merchandise in the public highways, or operate a bus or roller chair, or any other vehicle which is for hire, or to sell any merchandise there without first having obtained a license.

Q. Will you state whether or not your office intends to collect the license from rolling chair owners, if that license is not paid voluntarily on the first day
20 of June?

A. We couldn't very well on the first of June on account of it being Sunday, but we will on June second.

Q. It would be collected on June second?

A. Yes.

Q. Mr. Rose, in the cases at hand, the Court has made an order, which I show you, in the case of Shill
30 Rolling Chair Company against Atlantic City, in which they have ordered that Atlantic City desist and refrain from collecting the license fee, or any of them mentioned in said ordinance, from The Shill Rolling Chair people. Tell me whether or not, if that restraining order had not been issued against the city, restraining them from collecting the license

fees from The Shill Rolling Chair Company, the mercantile appraiser would have collected those fees on the second day of June from them, and in the event that they didn't pay, what would happen?

A. Arrest would follow and be taken to the Recorder's Court for judgment.

Q. I show you a similar judgment in the case of Thomas Lassiter, and ask you whether, if the restraining order had not been allowed at the application of Mr. Lassiter, the mercantile appraiser's office would have pursued the same course against Mr. Lassiter? 10

A. Surely would.

No cross-examination.

HENRY FREUND, JR., a witness produced upon the part of the prosecutors, being duly sworn according to law upon his oath, deposes and says: 20

Direct examination.

By Mr. Bourgeois:

Q. Mr. Freund, you are in business in Atlantic City?

A. Yes, at Maryland Avenue and the Boardwalk.

Q. What business? 30

A. Photographic supplies and optical business.

Q. How long have you been in business in Atlantic City?

A. Close to fifteen years.

Q. Have you seen a copy of the new mercantile ordinance for this year?

A. No.

(It is admitted that Mr. Freund's license fee under the new ordinance is \$15.00.)

Q. Mr. Freund, will you tell me what was the amount of business done by you during the year 1912?

Mr. Schimpf: I object to that on the ground of irrelevancy. It doesn't make any difference what
10 business he did. The city doesn't assess license fees upon his business.

Q. I mean approximately, not to the cent.

A. I couldn't tell you exactly. In the neighborhood of between fifteen and twenty thousand dollars.

Cross-examination.

By Mr. Schimpf:

20 Q. You don't mean that that is net, do you, Mr. Freund?

A. I can't tell you exact, because I haven't gone over the books or anything.

By Mr. Bourgeois:

Q. That is as nearly as you can approximate?

A. Yes.

30 By Mr. Schimpf:

Q. Are you here as a voluntary witness or under subpoena?

A. Under subpoena.

Q. Are you giving this information as to your business, of your own free will?

A. I am giving it under oath.

Q. — or under the belief that you are obliged to give testimony in this inquiry?

(Objected to as irrelevant and immaterial.)

(Question repeated.)

A. I don't know how to put that. I am giving it simply because I am asked to. 10

Q. Simply because you are under subpoena?

A. Yes.

Q. When you say that you did between fifteen and twenty thousand dollars, that is your gross receipts, or gross profit, which?

A. I can't say for I haven't gone over my books.

Q. You are just guessing as to what business you have done?

A. Yes.

Q. And it has no regard to your heat and light or 20 salaries, or the cost of your supplies, and means nothing, so far as indicating what business you do?

A. That is just about what I think we have done.

By Mr. Bourgeois:

Q. That estimate that you have given, is the best that you can give without going over your books to find out?

A. Yes. 30

Mr. Schimpf: Objected to, because the answer itself shows that it cannot be of any value.

By Mr. Schimpf:

Q. You don't conduct any business on the Board-

walk or the public streets or highways of Atlantic City, do you?

A. No.

Q. The business is entirely done upon your own premises?

A. Yes.

By Mr. Bourgeois:

10 Q. Your place of business fronts on the Boardwalk, does it not?

A. Yes, right on the corner. We have a front on the side street and on the Boardwalk, too.

By Mr. Schimpf:

Q. Do you mean that it abuts on the Boardwalk?

A. Yes, on the Boardwalk. We have a door on Maryland Avenue and one on the Boardwalk.

20 Q. Is that door on the Boardwalk, horizontal with the Boardwalk; is it right on the Boardwalk?

A. Back of the Boardwalk.

Q. Back of the Boardwalk?

A. Yes; in fact the door is diagonal across—half on the Boardwalk and half across the street.

Q. Still, after this argument, you don't do any work on the Boardwalk or the streets or highways of Atlantic City?

A. No, sir.

G. M. HAYS DEEMER, a witness produced upon the part of the prosecutors, being duly sworn according to law upon his oath, deposes and says:

Direct examination.

By Mr. Bourgeois:

Q. Doctor, you live in Atlantic City?

A. Yes.

10

Q. In what business?

A. The drug business.

Q. Where?

A. On Virginia Avenue opposite the Steel Pier. Virginia Avenue and the Boardwalk, opposite the pier.

Q. From what place do people have access to your place of business?

A. The Boardwalk.

20

(It is stipulated that Dr. Deemer's license under Ordinance No. 29, is \$25.00 a year.)

Q. Doctor, will you state, to the best of your ability, what amount of business you did during the year 1912—the gross amount?

(Objected to as irrelevant.)

A. \$40,000.00.

30

Cross-examination.

By Mr. Schimpf:

Q. Doctor, you don't do any business on the Boardwalk, or on the public streets or highways of Atlantic City, do you?

A. We deliver our goods over the Boardwalk.

Q. Then you take orders on the Boardwalk, or public streets or highways, for any kind of materials, notwithstanding the fact that the city does not allow you to transact any business on the streets or Boardwalk of Atlantic City?

A. We receive orders from hotels and houses and sometimes deliver on the Boardwalk and sometimes to the hotels.

10 Q. You understand my question, don't you?

A. Yes.

Q. Well, I question it, the way you have answered it. Do you sell any goods on the Boardwalk?

A. Do we collect money from them on the Boardwalk?

Q. Do you know what sale means, Doctor?

A. Yes. We sell goods on the Boardwalk—customers stand on the Boardwalk and we sell them cigars on the Boardwalk.

20 Q. Your counter is located on the Boardwalk, is it?

A. Located adjoining the Boardwalk. Of course, not on the Boardwalk. That is set apart.

Q. Is that plain to you that the Boardwalk is set apart and not intended for you to sell goods on the Boardwalk?

A. No.

Q. You don't sell goods on the public streets or highways of Atlantic City, anywhere, do you?

A. No, sir.

30 Q. You sell goods in the store, Dr. Deemer, don't you?

A. Yes.

Q. Without passing through the door?

A. Yes; but that isn't a part of the Boardwalk.

Q. No part of your business is done on the Boardwalk, is it?

A. We don't receive any money on the Boardwalk.

Q. You don't sell any goods on the Boardwalk, do you?

A. Yes, we deliver goods on the Boardwalk.

Q. It will be interesting for the city to know that you sell goods on the Boardwalk. You are saying under oath that you are selling goods on the Boardwalk?

A. We sell —

Q. Answer my question. Do you sell goods on the Boardwalk? 10

A. What do you mean? Do I sell?

Q. Don't you know what sale means? You stated a minute ago that you did.

A. You mean that I am on the Boardwalk?

Q. I mean, do you sell any goods on the Boardwalk?

A. Do we keep goods on the Boardwalk?

Q. Do you know what I mean when I ask you if you sell goods on the Boardwalk? That is what I want to know. 20

A. Yes, we sell goods on the Boardwalk.

Q. That is your statement under oath, is it?

A. I qualified my statement.

Q. You said, "Yes, we sell goods on the Boardwalk." Do you want to qualify that?

Mr. Bourgeois: Objected to, because the witness has testified to what he has done; whether he does sell on the Boardwalk or not, is a nice legal question that he might not want to answer. 30

A. If you will define what you mean by selling, I might answer the question.

Q. Where are your goods?

A. In the store.

Q. Where are your clerks?

A. In the store.

Q. Where are you?

A. In the store.

Q. That is where you transact your business?

A. Yes, sir.

Q. Do you transact any business anywhere else but there?

A. We transact business in hotel offices.

10 Q. My original question was, "On the Boardwalk or the streets or public highways of Atlantic City." That is what I am asking you—not about hotel offices.

A. I couldn't answer in any other way than I have testified—that our customers stand on the Boardwalk and we deliver goods to them from the store.

Q. Have you any interest in this rolling chair business?

A. None whatever.

20 Q. Are you in any way associated with or interested with the Shills?

A. None whatever.

Q. Or any other company?

A. No.

Q. Do you get any commissions from the rolling chair people for securing them customers?

A. No.

By Mr. Bourgeois:

30

Q. Doctor, let me see if we can't straighten this up. Your cigar stand is in your store. About how near the Boardwalk, Doctor, is it located?

A. Just adjoining. Just as near as it can be.

Q. Then do I understand you to say that you or your clerks stand in your store and sell cigars from

that show case, and deliver them to your customers, who frequently are on the Boardwalk?

A. Principally candy. Our cigars have been changed, but we deliver candy on the Walk.

ALFRED ADAMS, a witness produced upon the part of the prosecutors, being duly sworn according to law upon his oath, deposes and says: 10

Direct examination.

By Mr. Bourgeois:

Q. Mr. Adams, you live where?

A. Boardwalk above Virginia Avenue.

Q. In Atlantic City?

A. Yes.

Q. And you are in what business? 20

A. The bath-house business.

Q. How long have you been in the bath-house business?

A. Thirty years.

Q. Where is your bath-house located?

A. On the Boardwalk above Virginia Avenue.

(It is admitted that Mr. Adams, or anybody engaged in the bathing business, must pay under Ordinance No. 29, twenty-five cents for each bathing house, or bathing room.) 30

Q. How many bathing houses, or rooms, do you have?

A. I have two places now. About three hundred or three hundred and fifty in my own place and the place I rent.

Q. How many have you in your Virginia Avenue place? I mean the one that you have had for years past?

A. I don't know the exact number of them.

Q. Did you have two places last year?

A. Yes.

Q. And the year before?

A. Yes.

Q. And you have three hundred rooms?

10 A. Yes.

Q. Mr. Adams, state as nearly as you can the amount of annual business done by your bathing establishment?

A. About \$20,000.00.

Cross-examination.

By Mr. Schimpf:

20 Q. Your bath-houses are located on private property, are they not?

A. Yes.

Q. You don't do any business on the Boardwalk or streets, do you?

A. No.

Q. The \$20,000.00 that you speak of, is gross, and entirely exclusive of rents and other expenses, and taxes generally, is it not?

A. Yes.

30

By Mr. Bourgeois:

Q. How do your customers get to your bathing house?

A. They come in off the Boardwalk.

Q. And when they leave your place, they leave it by way of the Boardwalk, do they not?

A. Yes. That is the only entrance I have.

By Mr. Schimpf:

Q. Mr. Adams, when your patrons go from the bath-houses to the surf, they go out underneath the Boardwalk, do they not?

A. A part of them.

Q. The great majority of them go down, do they not? 10

A. No.

Q. You have an entrance under there, though, so that they can get to the beach or come up that way?

A. Yes.

Q. The city doesn't permit bathers in wet bathing suits on the Boardwalk, do they?

A. Yes. They do go across that way.

By Mr. Bourgeois:

20

Q. How do the other portion of your bathers get to the surf; that is, those who don't go under the Boardwalk?

A. They go over the Boardwalk.

Q. I suppose there are other bathing houses in Atlantic City besides yours?

A. Yes, one or two.

Q. Will you mention a few of them, please?

A. Brode, Higgins, Jeffries, Clabby, my own, Richards, Lew, Cuthbert's, Smith's and the Brigh- 30
ton Baths.

By Mr. Schimpf:

Q. Mr. Adams, are you in any way interested in the Shill Company?

A. No.

Q. Do they rent any part of your property?

A. They do sometimes for storage purposes.

Q. Do they rent anything from you now?

A. Not now.

Q. Do they pay you anything at the present time?

A. No.

Q. Were they in there by way of a lease, or by way of rent?

10 A. No.

Q. When did they stop doing that?

A. When their lease was up.

Q. When was that?

A. Some time a month or so ago.

Q. Have any arrangements been entered into for this summer?

A. No.

20

WILLIAM F. WEBER, a witness produced upon the part of the prosecutors, being duly sworn according to law upon his oath, deposes and says:

Direct examination.

By Mr. Bourgeois:

30 Q. Mr. Weber, you live where?

A. 805 Boardwalk.

Q. In Atlantic City?

A. Yes.

Q. And what business are you in?

A. I am manager for William F. Dentzel's Merry-go-round, States Avenue and the Boardwalk.

(It is stipulated that the amount of license fee

under Ordinance No. 29, for the business of operating a Merry-go-round, is \$150.00.)

Q. Mr. Weber, will you state, as nearly as you can, the amount of business done by your concern during the year 1912?

A. A little over \$7,000.00.

Q. And where is your Merry-go-round located?

A. At the corner of Delaware Avenue and the Boardwalk.

10

Mr. Schimpf: These questions are all objected to on the same grounds as the others, that they are irrelevant and immaterial.

Q. How do people get to your place of business?

A. From the Boardwalk and Delaware Avenue. We have two doors.

A. And when you come from Delaware Avenue you would come right off the street or the approach? 20

A. The approach.

Q. Built along your property line?

A. Built along the line.

Cross-examination.

By Mr. Schimpf:

Q. The wooden structure is raised above the sidewalk, is it not? 30

A. Yes.

Q. You do your business entirely upon your own premises, don't you?

A. Yes, our own premises.

Q. You are only open about five months in the year, are you not?

A. No, not that long. About eighteen weeks.

Q. And the business that you do is gross, not net—that is the amount of your business—what you take in?

A. Yes.

Q. Are you here under subpoena?

A. Yes.

Q. You don't know what your profits are, do you?

A. No, sir.

10

(It is stipulated that the license fee of all rooms is fifty cents a year under Ordinance No. 29.)

(It is also stipulated that these license fees are for one year from the first day of June, 1913, to the first day of June, 1914.)

20 ALBERT BEYER, a witness produced upon the part of the prosecutors, being duly sworn according to law upon his oath, deposes and says:

Direct examination.

By Mr. Bourgeois:

Q. Mr. Beyer, you are one of the Commissioners, are you not?

30 A. Yes.

Q. I mean Commissioners of Atlantic City.

A. Yes, sir.

Q. Do you remember the history of Ordinance No. 29?

A. Yes.

Q. Will you state just how the Commissioners

fixed the fees—the different amounts of the fees, that are mentioned in it?

A. What do you mean, for the rolling chairs?

Q. Any of them at all. For instance, they have “Auction stores and places where goods are regularly sold at auction, each \$250.00.” How did they fix \$250.00 as the fee for that license?

A. Well, we depend a good bit on the mercantile appraiser, and he tells us. He goes around and sees what business they do, and what they should be charged, and we depend a good bit on him. 10

Q. What does he tell you—the business that they do?

A. Well, for instance, auction stores, there are quite a number of them, and we charge them \$250.00.

Q. In other words, you make the fee large for the purpose of eliminating and reducing the number?

A. Yes, sir.

Q. “Auctioneers \$25.00.” What was the basis for the fee of auctioneers, fixing \$25.00 as the fee for auctioneers, if there was any basis for it? 20

A. There was nothing that I know of. I think it was there all the time and just kept it that way.

Q. “Automobiles, taxicabs, used for hire, each \$25.00.” Now, what was the basis for fixing that fee?

A. That was in the ordinance last year and we left it that way.

Q. Didn't you have any basis at all for it?

A. No, sir. 30

Q. “Garage with capacity for housing ten or less machines \$25.00. Garage with capacity for housing any number exceeding ten and not exceeding twenty machines \$60.00.” What was the basis for that?

A. I think that was in the last year's ordinance and we just left it as it was.

Q. Didn't have any basis at all for it?

A. No.

Q. "Hotels .50 a room." What was the basis for assessing or licensing them at .50 a room?

A. That was the same way as it was last year. It has been that way for several years and we left it the same as it was.

Q. "Barber shop, selling cigars \$5.00"?

A. We reduced that.

10 Q. From what?

A. It was \$10.00 last year and we made it \$5.00 this year.

Q. What was the basis for that?

A. It appears that a barber shop where they were selling cigars, that is all they would sell, just cigars, and we made it \$5.00 as we thought \$10.00 was too much.

Q. What made the Commissioners think \$10.00 too much?

20 A. Because other places that pay \$10.00 for cigars do more business and could afford to pay \$10.00, while barber shops only carry them as a side issue, and we thought that \$5.00 would be enough for barber shops.

Q. What ones are more?

A. Those that had regular cigar stores—selling cigars and pipes.

Q. What was the basis for fixing \$10.00 as the license for cigar stores?

30 A. That was there, too. That was the old license.

Q. Wasn't anything a basis for it?

A. No.

Q. Was there any effort made to secure uniformity of these various fees, in the licensing of them?

A. Yes, they tried to, and these mercantile ordinances have been passed every year—every other year as amended.

Q. I mean this year?

A. No, I think they are the same as last year, except a few.

Q. Mr. Beyer, was there any effort made to ascertain the relative values of these different businesses?

A. No, not by us.

Q. "Plumbing supplies, hardware, metals, household goods, china and crockery, when sold with other goods \$100.00," in this ordinance. What was the basis for making that \$100.00? 10

A. That is the way it was last year, and we left it that way.

Q. "Rolling chairs for private use \$1.00 and rolling chairs used for hire \$15.00." Single ones, that is. What was the basis for assessing one at \$1.00 and the other at \$15.00?

A. The reason of that is that the private chair is for invalids only, for themselves. They don't get any revenue from it, but the other is where they run on the Boardwalk and charge for it. 20

Q. Does the invalid chair run on the Boardwalk?

A. Oh, yes.

Q. They have unlimited use of it, do they not?

A. You mean the private? Yes, sir.

Q. The private chairs just the same as the public chairs?

A. Yes, but only for their own use. They can't charge for them—couldn't charge any fees.

Q. They only have them for their own use? 30

A. Yes.

Q. But if a man has it for his own use, he pays \$1.00 for it, and if he hires a chair from a rolling chair man for a year, and uses that chair all of the time, then the rolling chair man is charged \$15.00 for it, isn't he?

A. I suppose so.

Q. Now, rolling chair stations. Under this ordinance the fee is fixed at \$100.00. What was the basis for charging them \$100.00 for a stand?

A. I don't know much about it. Mr. Rose can probably answer that better than I can. The rolling chair people wanted it. The Shill people wanted it themselves.

Q. \$100.00 a stand?

10 A. They wanted those stands charged \$100.00. That is what I understood.

Q. Then is it a fact, or not a fact, that the \$100.00 was inserted there because the rolling chair people asked to have it inserted there?

A. That is what I understood and what I heard.

Q. Was that fixed this year?

A. \$100.00 is the same as it was before.

Q. And no consideration was given to it at all?

A. No, except that it was left as it was.

20 Q. Now, these rolling chair stations—what are they?

A. That is where they keep their chairs for hire.

Q. Are they on the Boardwalk, or next to the Boardwalk?

A. Next to the Boardwalk.

Q. On private property?

A. Yes.

Q. And that property is assessed for taxation, is it not?

30 A. I think it is.

Q. It is not property rented from the city—these stations are not?

A. Oh, no.

Q. They are rented from private people?

A. Yes.

Q. Now, the rolling chairs themselves are also

assessed for local taxation, as personal property—
I don't mean under the mercantile license.

A. I don't know whether they do or not.

Q. Mr. Beyer, can you tell us why the rolling
chair license fee was made \$20.00 for a double chair
and \$15.00 for a single chair?

A. Why, last year we made up our appropria-
tion ordinance, we made it higher with the expect-
ation of raising the rolling chairs, last fall, last
August. 10

Q. Why did you expect to raise the rolling chairs?
What was the object?

A. We thought they could pay it or should pay
it, and we thought they ought to pay it.

Q. Did you make any investigation to find out
what business they did?

A. No.

Q. Was one of the objects of raising the fee on
rolling chairs, to compel the rolling chair people to
charge \$1.00 an hour to their patrons? 20

A. Not that I know of. I never heard that. I
understood they could charge \$1.00 an hour if they
liked, for the ordinance said so; not that we thought
that they should.

Q. Did not the Mayor on the first day of May,
1913, when this ordinance was under discussion on
second reading, publicly state that the license fee
should be large so that the rolling chair people would
charge \$1.00 an hour to their patrons, instead of
fifty cents? 30

A. I don't know. He may have said it, but I
don't remember it.

Cross-examination.

By Mr. Schimpf:

Q. Mr. Beyer, one of the reasons why this fee

was fixed was for the purpose of raising revenue for the city, was it not?

A. Yes.

Q. And that is the main reason why all of these fees were fixed, is it not?

A. Yes, that is right.

Q. Now, when these fees were fixed, the Commissioners had regard for the trouble and expense it took to regulate this business?

10 A. Yes.

Q. They had regard to the fact that no business is permitted on the Boardwalk, except the operation of rolling chairs?

A. That is right.

Q. And isn't it true that the rolling chairs have all of the right to do business on the Boardwalk?

A. Yes; there are over two thousand of them.

Q. There are over two thousand chairs in operation on the Boardwalk, are there?

20 A. Yes.

Q. And over two thousand pushers?

A. Yes.

Q. They are usually men of very rough character with no interest in Atlantic City, are they not?

A. A good many of them are.

Q. And it requires a good deal of extra control upon the part of the police force to keep them in line, does it not?

30 A. Yes; especially at a time like Easter and holidays.

Q. And isn't it true that the number of rolling chairs on the Boardwalk interfere with pedestrians?

A. Yes; lots of times.

Q. And isn't it also true that they interfere with the business of stores along the Boardwalk?

A. That is what I hear.

Q. And isn't it true that these so-called stations are places where rolling chairs are rented and where their business is conducted?

A. Yes.

Q. And they are charged \$100.00 for the right to do this in these places, are they not?

A. Yes.

Q. As every mercantile business is charged, are they not?

A. Yes.

10

Q. In your judgment, is \$20.00 for a double rolling chair and \$15.00 for a single rolling chair, too much money for the city to receive for that privilege?

A. No.

Q. And for the cost of regulation?

A. No.

Q. And for the cost of maintenance and repair of the Boardwalk and lighting and cleaning it?

A. I think that is right.

20

Q. You think that \$20.00 for a double and \$15.00 for a single rolling chair is just right, do you?

A. Yes.

Q. And do you think that \$100.00 for each stand is a fair price to charge?

A. Yes, I do. That is what they wanted.

Q. That is, this company, is it not, Mr. Beyer?

A. Yes.

Q. And they have been paying that \$100.00 tax for years, have they not?

30

A. Yes.

Q. And isn't it true that around these stands there are several hundreds of men of rough character?

A. I heard that. I seldom go on the Boardwalk myself, but that is what I heard.

Q. So that the license fee was taxed for revenue, for the purpose of defraying some of the expense of maintaining the Boardwalk and for the preservation of order?

A. That is right.

Q. And also because it is an exclusive business?

A. Yes.

Q. Now, an auction store isn't, in the judgment of the Commissioners, considered to be a very desirable business for Atlantic City, is it?

10

A. No.

Q. That is the reason the fee is made \$250.00, is it not?

A. Yes.

Q. And a fee of \$25.00 for auctioneers, in order to clear as much as possible and regulate the number of men pursuing that business? I mean that is what they wanted themselves?

20 Mr. Bourgeois: Objected to; unless he can state that it is so, it is hearsay.

Q. All of the fees which are in this ordinance have been in it for year, have they not?

A. Yes.

Q. Rolling chairs have been taxed for years, haven't they?

A. They haven't been raised for ten years.

Q. They have been paying \$10.00 on single and
20 \$15.00 on double chairs for years, haven't they?

A. Yes.

Q. The other fees have been raised but they have managed to keep their fee as it was, haven't they?

A. Yes.

Q. What other businesses, to your knowledge, are conducted in the streets of Atlantic City, exclusive

of the Boardwalk? I think you said that nothing is conducted on the Boardwalk except the rolling chairs?

A. All that I know of.

Q. Well, busses are, for the carrying of passengers?

A. Yes, sir.

Q. And there are trolley cars, aren't there?

A. Yes.

Q. What tax is put on the trolley cars? 10

A. \$50.00.

Q. And that only operates on one street, doesn't it?

A. That is all.

Q. And what tax is put upon busses?

A. \$10.00 for the one-horse and \$15.00 for the two-horse bus.

Q. \$10.00 for one and \$15.00 for two horses?

A. Yes.

Q. They are also limited to a charge of twenty- 20
five cents, are they not?

A. Yes.

Q. A trolley car can charge a nickel?

A. Yes.

Q. Bus drivers are licensed, are they not?

A. Yes.

Q. But pushers of rolling chairs are not, are they?

A. No.

Q. Mr. Beyer, the Boardwalk of Atlantic City is an expensive proposition to maintain, is it not? 30

(Objected to as immaterial and irrelevant.)

A. Yes.

Q. What does it cost the City of Atlantic City to maintain the Boardwalk for one year?

A. It cost \$135,000.00 last year. That includes everything.

Q. How do you make that up?

A. That includes carpenter work, scavengers' expenses, interest on bonds and sinking fund.

Q. All of which are a part of the tax assessment of the City of Atlantic City?

A. Yes.

10 Q. And this mercantile ordinance, particularly the tax on rolling chairs, is designed to meet some of those expenses, is it not?

A. Yes.

Re-direct examination.

By Mr. Bourgeois:

Q. Mr. Beyer, how much mercantile tax did you assess for this year of 1913?

20 A. All together, do you mean?

Q. All together.

A. I think it was \$138,000.00. I haven't it here.

Q. And out of that \$138,000.00, how much was supposed or expected to be raised from the rolling chair people?

A. About—let's see—\$44,850.00.

Q. \$44,850.00?

A. Providing that they took out the same number of licenses as last year.

30 Q. That is, one-third of the entire mercantile tax was assessed on the rolling chair people?

Mr. Schimpf: Objected to. It is not a proper question. Nothing has been assessed on the rolling chair people except \$20.00 for the double and \$15.00 for the single chairs.

The Witness: I want to correct the figures just given. It is \$135,000 instead of \$138,000.

Q. It was understood that \$44,000.00 was to come from the rolling chair people?

A. That is the way we expected—the amount we expected to get from the rolling chair people.

Q. How many rolling chair people are there?

A. Do you mean chairs?

Q. How many rolling chair people are there in 10 business?

A. I don't know.

Q. Can't you tell me about how many?

A. I couldn't tell you. I know they have sixty-three stands.

(It is admitted that there are thirty people or corporations engaged in the rolling chair business in Atlantic City.)

Q. Now, Mr. Beyer, is the mercantile fee or license fee for hotel rooms fifty cents? 20

A. Yes.

Q. Has it been raised in the last five years?

A. No.

Q. That has remained the same?

A. Yes.

Q. The fee of twenty-five cents for bath rooms hasn't been raised in the last five years, has it?

A. No.

Q. Has it in the last ten years, in either case? 30

A. Not that I know of.

Q. They are the same?

A. Yes.

Q. Has the license fee for using the streets of Atlantic City for busses been raised in the last five or ten years?

A. Not that I know of; no.

Q. Has the license fee for hardware business been raised in the last five years?

A. I couldn't answer that, for it has been regulated several times, I think, but not much.

Q. Has any other mercantile license fee been raised in the last five years, that you know of, excepting the raising of the license fee for rolling chairs this year?

10 A. I think auction stores were raised.

Q. They were lower, weren't they?

A. I think they were \$150.00.

Q. Did they go back to \$150.00 or \$200.00?

A. I am not sure.

Q. Were they raised a second time?

A. Within the ten years, I think they were.

(It is admitted that the license fee for auctioneers was formerly \$150.00, then was raised to \$2,500.00, and that was set aside as being unreasonable. The
20 license fee was then fixed at \$150.00 and later to \$250.00. It was raised to \$250.00 about one year ago.)

Q. You talked about the rolling chair people having an exclusive business on the Boardwalk?

A. Yes.

Q. What do you mean by that?

A. Why, the right to do business on the Board-
30 walk, the right to roll their customers up and down the Boardwalk in rolling chairs.

Q. They roll them in the streets, don't they?

A. Yes, they can if they want to.

Q. You don't mean for exclusive business, do you? The city has no right to grant an exclusive franchise to any one, has it?

- A. No; but they take them on the streets.
Q. Because a street is a highway, is it not?
A. Yes.
Q. Hotels front upon the Boardwalk, don't they?
A. Yes; face the Boardwalk.
Q. The Boardwalk is not maintained especially for the rolling chair people, is it?
A. Oh, no.
Q. It is maintained for the general public, isn't it? 10
A. Yes, sir.
Q. It is used for the general public?
A. Yes.
Q. Built at public expense?
A. Yes, sir.
Q. And the Hotel Chalfonte fronts on it?
A. Yes, sir.
Q. And Haddon Hall?
A. Yes, sir.
Q. The Seaside has a Boardwalk entrance to it, 20
has it not?
A. Yes, sir.
Q. And the St. Charles?
A. Yes.
Q. The Rudolph?
A. Yes.
Q. The Royal Palace?
A. Yes.
Q. The Traymore? 30
A. Yes.
Q. The Marlborough?
A. Yes.
Q. The Dennis?
A. Yes.
Q. The Shelburne?
A. Yes.

Q. The Chelsea?

A. Yes.

Q. The Gladstone?

A. Yes.

Q. The Ostend?

A. Yes.

Q. The Hotel Dunlop and Young's Hotel?

A. Yes.

10 Q. Those hotels accommodate hundreds of thousands of guests during the year, do they not?

A. Yes, sir.

Q. All of them?

A. Yes, sir.

Q. And these visitors come here largely for the benefit of their health, don't they?

A. Yes.

Q. And they use the Boardwalk?

A. Yes, sir.

20 Q. As a matter of fact, Mr. Beyer, is or is not the Boardwalk the main attraction of Atlantic City?

(Objected to because it calls for a conclusion.)

A. It is for the outsider.

Q. Now, these rolling chairs that you have been speaking of, that use the Boardwalk, do they use the Boardwalk down in Ventnor also, do you know?

A. Yes, they go down that far, some of them.

30 Q. And the wagons that are licensed here for the use of the streets, use the streets also of Ventnor, Egg Harbor Township and Pleasantville?

A. I guess they do.

Q. There is no license fee assessed against the people of the mainland who come on here and drive, is there?

A. Not for their driveway; no.

Q. Now, you say that the rolling chairs interfere with pedestrians. Do not the wagons and other vehicles of Atlantic City interfere with pedestrians when they want to cross Atlantic Avenue?

A. Sometimes, in crowded places.

Q. And do not the people themselves, the pedestrians, interfere with each other on the Boardwalk?

A. When it is right crowded they do.

Q. Now, I understood you to say that somebody objected to the use of rolling chairs. Who objected to them? 10

A. Why, I have heard people sometimes complain on account of the chairs being so thick on the Boardwalk that they couldn't walk.

Q. Is that because the chairs are so thick, or because there are so many pedestrians?

A. They complained of the chairs, not the pedestrians.

Q. Mr. Beyer, would two thousand chairs on the Boardwalk crowd the Boardwalk if nobody else was there? 20

A. No; but they go one right after the other on a straight line, and they kind of block the crossings so that you can't get across the Boardwalk.

Q. So it is only crowded when there are a great many people on the Boardwalk?

A. Yes.

Q. That is true?

A. Yes.

Q. And you can't tell positively whether the rolling chairs were crowding the Boardwalk, or whether the people, or both? 30

A. No; only the walking across the Boardwalk.

Q. Now, let me ask you, Mr. Beyer, to tell me, if you can, who are the principal people who use these rolling chairs?

A. Strangers, I suppose.

Mr. Schimpf: Mr. Beyer, if you know, say so, and if you don't know, say you don't know, and don't suppose.

Q. Now, what storekeeper objected to these rolling chairs along the Boardwalk?

A. I don't remember that.

Q. Can't you tell which one?

A. No.

10 Q. What?

A. No. I have heard it several times from people talking, but I don't remember who they were.

Q. That is just hearsay?

A. Yes.

Q. Mr. Beyer, you say that there is a rough class of people pushing these chairs. How many arrests have there been in the last year of these rolling chair pushers?

A. I don't know. I didn't say all of them. I said
20 some of them were rough. I didn't say it.

Q. Has the city ever endeavored to license the pushers?

A. Yes. I believe they did two or three years ago—license was twenty-five cents.

Q. Are they licensed now?

A. No; they repealed that ordinance.

Q. They repealed the ordinance?

A. Yes.

Q. Mr. Beyer, do you know if the pushers of those
30 chairs are any rougher or any more disorderly than the other people in Atlantic City?

A. No, I don't.

Q. You don't know that they are?

A. No.

Re-cross examination.

By Mr. Schimpf:

Q. Mr. Beyer, it is true that the city excludes all form of traffic over the Boardwalk except rolling chairs and pedestrians, isn't it?

A. Yes.

Mr. Bourgeois: They exclude roller chair business from the Boardwalk, don't they? 10

Mr. Schimpf: I said forms of traffic, not forms of business.

Q. Mr. Beyer, do the rolling chair people rent their chairs on the Boardwalk?

A. No; they rent in their stations and bring the chairs outside.

Q. They can't use the Boardwalk for the purpose of doing their business? 20

A. No; in their stands.

Q. In other words, if a person wants to take a rolling chair ride he must go to their place of business, one of these stands, for a rolling chair?

A. Yes; that is right.

Q. And then some pusher takes them out on the Boardwalk and they go wherever they want to go?

A. Yes.

Q. They tell the pusher where to take them, do they not? 30

A. Yes.

Recess to 2 P. M. of the same day.

Bartlett Building, Atlantic City, N. J., May 28, 1913.
Taking of depositions resumed at 2 P. M.

HARRY BACHARACH, a witness produced upon the part of the prosecutors, being duly sworn according to law upon his oath, deposes and says:

Direct examination.

10

By Mr. Bourgeois:

Q. Mr. Bacharach, do you live in Atlantic City?

A. Yes.

Q. And you have lived here for how many years?

A. About thirty.

Q. Do you hold an office in this city?

A. City Commissioner.

Q. I show you Exhibit P1, which is Ordinance No.
20 29, entitled, "An Ordinance regulating and fixing
fees of Mercantile Licenses in Atlantic City, New
Jersey, and regulating the business licensed," and
ask you if you are familiar with the introducing and
passage of that ordinance?

A. Yes.

Q. I want to know, Mr. Bacharach, how the
amounts of the license fees were taxed. Can you
as Commissioner, arrive at the amount that should
be charged for license fees of the different busi-
30 nesses, whether it was by some uniform rule or
whether it was by an arbitrary tax?

A. No uniform rule. The Commissioner of Fi-
nance said we required a certain amount of money to
meet the mercantile license, and they just put that
in, but custom, of course, regulated most of these
license fees.

Q. Then the Commissioner of Finance told you that he wanted about \$135,000.00, did he?

A. Yes; required that amount.

Q. And then the Commissioners simply fixed the different license fees that you anticipated would make up that amount?

A. That is it.

Cross-examination.

10

By Mr. Schimpf:

Q. Mr. Bacharach, each particular business is classified in that ordinance, is it not?

A. Yes.

Q. And each one is assessed exactly the same amount of money, isn't it? I mean by that, all auction stores are charged the same amount?

A. Yes, sir.

Q. All auctioneers are charged the same amount? 20

A. Yes.

Q. All dry goods stores' licenses are the same?

A. Yes.

Q. All grocery store licenses?

A. Yes.

Q. All dry goods department stores?

A. Yes; regulated by the different lines in their departments.

Q. That is, if they handle more than one line of merchandise, they are charged for each line that 30 they handle?

A. In proportion.

Q. So that each person in any particular business is charged alike?

A. Yes.

Q. Every rolling chair is charged alike—on the chairs and stand—exactly alike?

A. Yes.

Q. And any man who sells any kind of goods, or peddles, is classified and charged the same amount of money?

A. Yes.

Q. Isn't it true that almost all of the license fees, set out in this license ordinance, have been in effect for a number of years?

10 (Objected to as irrelevant and immaterial.)

A. Yes; that is what I said at the start, that custom had made most of the fees.

Q. And this year some of them were raised, were they not?

A. Some lowered and some raised.

Q. Do you recall any instances of any that are raised except cigar stands?

A. Cigar stands, and to my recollection, about four. Wagons were changed—single wagons.

20 Q. Delivery wagons?

A. Yes, I think they were changed from \$10.00 to \$5.00.

Q. And laundry wagons, one horse?

A. Yes.

Q. But they were all minor instances, were they not?

A. Yes; no great amount involved in any one case.

30 Q. There were a number of these license fees that were raised this year, weren't there? For instance, the piers were raised, weren't they?

A. No. I voted for the piers to be raised, but they weren't. The heating company and the newspapers were taxed \$5.00 or \$10.00 each.

By Mr. Bourgeois:

Q. Were they taxed previous to that?

A. No, not the heating company.

By Mr. Schimpf:

Q. Telephone company is now \$250.00. That is right, is it not?

A. Yes.

Q. Telephone companies were added, heating companies were added. Do you know whether the telephone companies were raised or not?

A. No; but one other corporation was raised \$100.00. I think it was either the telephone company or the electric light company, to make them all on the same basis. One of them was raised.

Q. Gas plant, Public Service, is made \$300.00?

A. Yes.

Q. That was raised, wasn't it?

A. It seems to me that was \$250.00 and that the electric light company was \$300.00.

Q. The electric light plant is here at \$300.00.

Re-direct examination.

20

By Mr. Bourgeois:

Q. In these telephone companies the license fee is the same for both companies, without regard to how many phones they have, or how much business they do; is that true?

A. That is it.

Q. And all grocery stores are taxed the same tax without relation to where the stores are located, or the amount of business they do?

A. If it is merely a grocery store, it makes no difference whether it is on Baltic or Atlantic Avenue, unless they have some other lines like merchandise or clothing, or something like that.

Q. And it makes no difference whether it is at

Atlantic and North Carolina Avenues, the most populous section of Atlantic City, or Atlantic and Albany Avenue, the least populous portion, does it, about the license fee?

A. No, not in regard to where the store is located.

Q. And the license fee for rolling chairs is precisely the same, whether a man has ten or a hundred rolling chairs?

A. That is very true.

10 Q. Every chair exactly the same, and the same whether the business is located at Tennessee Avenue and the Boardwalk, which is the most populous part of the Boardwalk, or whether it is at Albany Avenue and the Boardwalk, which is the least populous part of the Boardwalk; that is true, is it not?

A. That is true; yes.

Q. Now, they raised the rolling chair fees, didn't they?

A. Yes.

20 Q. What discussion was there with regard to the raising of the fees on those chairs?

(Objected to as irrelevant.)

Q. Let me ask you, for the purpose of directing your attention to what I want—was there any discussion about the raising of the fees on these chairs, so as to compel them practically to charge a dollar

30 an hour; did that enter into the discussion of it?

(Objected to as irrelevant.)

A. Whether it was done to compel them or not, I wouldn't like to answer it in that way. The thought was to reduce the number of rolling chairs, and naturally when the reduction in chairs came about,

the prices would naturally go up. That was my impression of the general arguments and conversations relative to that matter.

Q. Do you remember the fixing of a license fee in open Council, on the first of May, for the Heinz Pier?

A. Yes.

Q. Do you remember about Deputy Mercantile Appraiser Rose telling the Commission that that pier did no business?

10

A. Yes. That is my impression, at that time.

Q. And do you remember who made the suggestion that it be taxed?

Mr. Schimpf: This is all objected to upon the ground of irrelevancy.

A. My recollection is that it was Mayor Riddle.

Q. And do you remember that he suggested that the fee be fixed at \$250.00?

20

A. Well, I don't recall. What is the fee now?

Q. \$100.00.

A. I don't remember whether it was \$200.00 or \$250.00.

Q. Do you remember that he suggested that the fee be placed at \$250.00, and I asked leave to address them as representing the company?

A. Yes; but I don't recall whether it was \$200.00 or \$250.00.

Q. And then do you recall the Mayor saying, 30
"We will fix it \$100.00?"

A. Yes.

Q. Is that the same method that was taken in fixing the other fees?

Mr. Schimpf: Objected to as irrelevant and im-

proper. The witness has already answered all of the questions with regard to how this ordinance came to be adopted and how the fees were fixed, and inasmuch as he is the witness of the prosecutor, he is now being cross-examined.

Q. Then suppose I change that. Was there any different method adopted for fixing the other fees than for fixing the Heinz Pier fee?

10

(Objected to on the same ground.)

A. Well, I don't quite get the drift of your question; whether you mean in public meeting or in private.

Q. I mean in public or private.

A. Well, that was the general method. In the private meeting the ordinance of last year was read over, and practically everything agreed to as of last
20 year, with the single exception of the rolling chairs, which are left for open discussion at the public meeting, and then at the public meeting these other changes were brought up that had been considered previously.

Q. The ordinance of last year was used without regard to the relation between one business and another, was it not?

Mr. Schimpf: Objected to because it is leading
30 and cross-examination.

A. Yes, just in the same way, I should say.

Q. Mr. Bacharach, it has been shown here that the rolling chair business is supposed to produce \$44,000.00 out of the \$135,000.00 anticipated mercantile tax; can you tell us why the rolling chair

business was increased, that is, the tax against the rolling chair business?

A. The argument was used that the expense of maintenance of the Boardwalk was getting so very much larger, and that they were using a great portion of the Boardwalk, and, of course, we required additional money this year to meet expenses and so forth, and they felt that they were the only ones that should pay for it, as I so thought.

Q. Was there any effort or investigation made to ascertain how the business done by the rolling chair people, compared with the business done by the hotels, for instance? 10

A. No.

Mr. Schimpf: That is objected to because this witness may not be in a position to answer. He may have made his own investigations, and the other members have made theirs.

Q. Was there any investigation made to ascertain how the business of the rolling chair people compared with the business of the bath-house people, or the pier people, or any of the other businesses? 20

A. No, I don't think that there was.

Re-cross examination.

By Mr. Schimpf:

Q. Mr. Bacharach, it is true, also, that there is no other business conducted on the Boardwalk except that of rolling chairs, is it not? 30

A. No other business conducted on the Boardwalk.

Q. That is, no traffic is had on the Boardwalk except that of rolling chairs and foot passengers?

A. None from which any money is collected.

Q. None from which any money is collected?

A. No, except the regular mercantile business on either side of it.

Q. And these businesses pay the license fees for their own private businesses?

A. Yes.

Q. And the city restrains any traffic on the Boardwalk except rolling chairs and foot passengers?

10 A. There is no other traffic.

Q. No other traffic is permitted there?

A. No.

By Mr. Bourgeois:

Q. Is there any business conducted on the streets of Atlantic City except the traffic of pedestrians and vehicles?

20

(Question repeated.)

A. No, I would say not, excepting vehicles of some kind.

Q. In other words, the streets of Atlantic City are used by pedestrians and vehicles?

A. They are presumed to be so used.

30 Q. And the Boardwalk, which is also a street, is likewise used by pedestrians and vehicles?

A. Yes.

Q. And rolling chairs?

A. Yes.

Q. Is there any business permitted to be transacted in the streets of Atlantic City?

A. To my recollection, no.

By Mr. Schimpf:

Q. Photograph peddlers of machines, orange merchants, trolley cars, busses and hucksters of all kinds in the streets of Atlantic City conduct a business under a license, do they not?

A. Well, they are supposed to be kept moving, yes.

Q. Supposed to be kept moving, but notwithstanding there are licensed lunch wagons that sell right out in the street, do they not? 10

A. Yes.

Q. And busses, trolley cars, commercial photographers, and peddlers of all kinds, who sell from door to door or who sell in the street, and orange merchants, et cetera, conduct their businesses in the streets of Atlantic City, do they not?

A. Yes.

Q. But that business, or none of them, are permitted on the Boardwalk, are they? 20

A. No, sir.

Q. The sole business permitted to be conducted upon the Boardwalk is the hiring of rolling chairs and the carrying of passengers, is it not?

A. Yes, as far as the Boardwalk is concerned.

Q. No trolley cars, busses, hucksters or any other form of carrying or selling of goods is permitted on the Boardwalk?

A. No.

30

By Mr. Bourgeois:

Q. Don't the photographers take photographs right on the Boardwalk?

A. On the Boardwalk, yes; but they are not supposed to be for sale to individuals. They sell them to the newspapers.

Q. But they sell to individuals, too, don't they?

A. Yes.

JAMES PETTINOS, a witness produced upon the part of the prosecutors, being duly sworn according to law, upon his oath, deposes and says:

Direct examination.

10

By Mr. Bourgeois:

Q. Mr. Pettinos, do you live in Atlantic City?

A. Yes, sir.

Q. And how long?

A. Ten years, about.

Q. What position do you hold?

A. Auctioneer.

Q. For whom?

20 A. Giustiniani, at present.

Q. Do you know the amount of business that Giustiniani does during the year?

(Objected to as irrelevant.)

Q. Approximately, how much business does he do?

A. \$40,000.00.

(It is admitted that \$250.00 is the license fee for
30 auction stores.)

Cross-examination.

By Mr. Schimpf:

Q. You don't know anything about the expenses of his business, or the net profit, do you?

A. Yes.

Q. What are they?

A. You can't say exactly what they would be in any one year. If I told you that they were profits now, they wouldn't be profits at all, but losses.

Q. You said you knew?

A. It is a loss, up to date.

By Mr. Bourgeois:

10

Q. What would it be for a year?

A. If they break even, they are lucky—any one on the Walk. That is a fact; if they break even they are lucky.

Recess to Thursday, May 29, 1913.

Bartlett Building, Atlantic City, N. J.,

20

Thursday, May 29, 1913.

Taking of depositions resumed at 7 P. M.

DAVID REED, a witness produced upon the part of the prosecutors, being duly sworn according to law, upon his oath deposes and says:

Direct examination.

By Mr. Bourgeois:

30

Q. Mr. Reed, you live in Atlantic City?

A. I do.

Q. And have lived here how long?

A. Thirty-two years.

Q. Your father's name is what?

A. Ezekiel C.

Q. And in what business is he engaged?

A. Bath-house business.

Q. Do you know how many rooms, bathing rooms, or bath-house rooms he has?

(Objected to as irrelevant.)

A. Possibly one hundred and fifty.

10 Q. And where is it located?

A. In the front of the Dennis Hotel on the Dennis property.

Q. Do you know what revenue he received from them last year?

A. The entire amount of the receipts?

Q. Yes.

A. About \$5,000.00.

Q. Do you know what the entire receipts of the Steel Pier were last year?

20

(Objected to as irrelevant.)

A. \$207,000.00.

Q. And do you know what the amount of their profit was, the net income?

A. \$72,000.00.

(It is admitted that the license fee of the Steel Pier is \$250.00.)

30

Cross-examination.

By Mr. Schimpf:

Q. How do you get that information, Mr. Reed?

A. About which?

Q. The Steel Pier income?

A. I have a statement submitted to me by Mr. Jackson—Mr. George W. Jackson, treasurer of the Steel Pier, a statement certified to by John Heinz & Company, public accountants and auditors of Philadelphia, who have audited their books and examined their accounts, submitting their report, from which I have taken my figures.

Q. But you personally don't know anything about it, do you? 10

A. No. I have a report here from Heinz, submitted by Mr. Jackson, being a certified copy of their entire business.

Q. Mr. Reed, do you know how much money the Steel Pier Company has invested in their property?

A. \$400,000.00, I think, is their capital stock.

Q. That isn't the amount the property is worth, is it?

A. That is the amount of the capital of the company. 20

Q. That isn't what I asked. I asked you whether or not you knew how much money they had invested in their property?

A. No, I don't think anybody does, Mr. Schimpf. I think that is a matter of opinion. They are asking \$949,000.00 for the proposition, as it stands today.

Q. So that that nets them a little over seven per cent., if that is a fair valuation of their property, doesn't it? 30

A. If that is a fair valuation.

Q. Do you know what the assessed valuation of their property is?

A. No, I don't.

Q. It is in the neighborhood of \$930,000.00, isn't it?

A. I don't know.

HERBERT W. HEMPLE, a witness produced upon the part of the prosecutors, being duly sworn according to law, upon his oath deposes and says:

Direct examination.

By Mr. Bourgeois:

10 Q. Mr. Hemple, you live in Atlantic City?

A. Yes.

Q. How long?

A. Five years.

Q. Are you connected with the Shill Rolling Chair Company?

A. I am secretary and treasurer of the Shill Rolling Chair Company.

20 Q. Will you tell what amount of business the Shill Rolling Chair Company did during the year 1912, that is, how much they received from their—what do you call it—chair account?

A. Yes.

(Objected to as irrelevant.)

A. \$154,376.60.

Q. Now, what was the total expense of operating the business during the same period, not including, however, any moneys paid for mercantile licenses to
30 Atlantic City?

A. \$131,489.05. That includes all taxes, not including the mercantile tax. Our mercantile tax was \$17,630.00 for last year.

Q. Do you know for what purposes the Boardwalk is used?

A. The Boardwalk, as I understand it, is to be

used for the pleasure of guests and the people of Atlantic City, as well as all business done on the Boardwalk.

Q. Tell us what is done on that Boardwalk in the business line.

A. Well, as a matter of business, there are several things done on the Boardwalk. There are flowers sold on the Boardwalk; newspapers sold on the Boardwalk, and laces.

Q. Now, Mr. Hemple, what about delivering along the Boardwalk or on the Boardwalk? 10

A. There are quite a few firms along the Boardwalk that may be only reached and have access over the Boardwalk. They must deliver their supplies over the Boardwalk; there is no other way to get at it.

Q. How about groceries, ice, and so on, delivered to the buildings on the Boardwalk between streets?

A. They must go over the Boardwalk for they can't be delivered in any other way. 20

Q. Do you know whether or not the buildings along the Boardwalk—are some of them built so as to open up right on the Boardwalk, so that people can stand on the Boardwalk and purchase from the business places along it?

A. I would say more than half of them are opened up on the Boardwalk, and most of them are right up to the Boardwalk.

Q. Is it possible for a person to stand on the Boardwalk and buy from the stores along the Boardwalk? 30

A. Yes.

Q. And have the goods delivered to him right on the Boardwalk?

A. Yes.

Q. Now, Mr. Hemple, there has been some state-

ment made here with relation to using the Boardwalk for business purposes, in connection with the rolling chair business. Will you state how and where the rolling chair business is conducted?

A. The rolling chair doesn't do business on the Boardwalk, any more than anybody else. We do our business on the properties that are leased from different people for the purpose of doing business on them. We don't do any business on the Boardwalk. Our chairs are run from the different locations that we rent and are hired, and the person who goes out in the chair tells the pusher where to take him, and we have no control over that chair from the time it leaves until it returns. That chair is at the disposal of the person in the chair and they have control of it.

Q. Are these chairs always used on the Boardwalk, or are they sometimes used to go off the Boardwalk?

20 A. Both.

Q. Both on and off the streets and highways of Atlantic City?

A. Yes.

Q. And when a man comes there to one of your stands and engages a chair, how long is he charged for?

A. From the time that the chair is away from the stand.

30 Q. In other words, from the time it leaves your stand until it gets back again it is his?

A. The man who takes that chair does have it from the time it leaves the stand until he returns, and the chair is at his disposal and at his orders all of the time it is away from the stand. We don't hire any chairs on the Boardwalk. We don't do any business on the Boardwalk.

(Mr. Hemple withdrew from the witness stand at this time in order that the deposition of Mr. Samuel M. Braunstein might be taken. After which, Mr. Hemple resumed the stand.)

SAMUEL M. BRAUNSTEIN, a witness produced upon the part of the prosecutors, being duly sworn according to law, upon his oath deposes and says: 10

Direct examination.

By Mr. Bourgeois:

Q. Mr. Braunstein, you live in Atlantic City?

A. I do.

Q. And have lived here how many years?

A. Seventeen years. 20

Q. You are in the store business, I think?

A. Yes.

Q. What kind of a store do you have?

A. A department store.

Q. Tell me what is the amount of business done in your department store—say within last year—1912.

(Objected to as irrelevant.)

A. Why, \$325,000.00. 30

(It is stipulated between counsel that the mercantile license fee of all department stores is \$100.00.)

No cross-examination.

MR. HEMPLE, resumed.

Cross-examination.

By Mr. Schimpf:

Q. Mr. Hemple, are vehicles of any description, excepting rolling chairs, permitted on the Board-
10 walk?

A. Rolling chairs and baby coaches.

Q. Rolling chairs and baby coaches?

A. Yes.

Q. When you spoke of deliveries being made over the Boardwalk, you mean by men carrying parcels and on foot, don't you?

A. When I say there are no vehicles, there are delivery carts around on the Boardwalk all of the time. They go up and down the Boardwalk all the
20 time.

Q. These delivery carts are pushed by hand, are they not?

A. Yes.

Q. And nothing is sold from them, is it?

A. Not to my knowledge.

Q. Ordinary vehicles, such as busses, wagons and so forth, are not permitted on the Boardwalk, are they?

A. No, sir.

30 Q. Are you quite correct when you say that flowers and laces are sold on the Boardwalk?

A. Yes.

Q. Do you know that flower vendors and lace vendors have been arrested for attempting to sell their wares on the Boardwalk?

A. I don't know about that.

Q. That they are not permitted to, and if they do so, it is only an incidental matter?

A. I don't know about that. I know they do it.

Q. Where is it done?

A. I have seen it done on the Boardwalk but can't say just when and where.

Q. It is not a common thing, is it?

A. Yes, I should say it is a common thing.

Q. Not one of the flower vendors who sometimes go there on Sunday and rent a doorway of a store 10 or something like that?

A. No. I have seen peddlars stand on the approaches, and as a matter of fact they sold on the Boardwalk.

Q. They do sell on the Boardwalk?

A. Yes.

Q. You gave us the total expenses of the Shill Rolling Chair Company as \$131,489.00. What do those expenses consist of, some of the items?

A. Rents, salaries, repairs, heating and every- 20 thing that goes to make it up.

Q. Does that include the purchase of new stock?

A. No.

Q. What account do you charge new rolling chairs to?

A. All of the chairs go into an account called the Plant Account.

Q. Is the Plant Account part of your Expense Account?

A. No, it is a permanent account. 30

Q. Do you separate the Plant Account at all during the year?

A. Would like to but don't.

Q. You never determine that?

A. No.

Q. And carried on your books at each original purchase then?

A. Yes.

Q. Do you charge any interest against it?

A. No.

Q. And all additions to your plant, such as rolling stock, is added to the Plant Account and no part of it is charged to expense?

A. No.

Q. And no depreciation is charged to expense?

A. No. I would like to do it.

10 Q. What is your office with the Shill Rolling Chair Company?

A. What do you mean—what office?

Q. What position do you hold?

A. Secretary and treasurer.

Q. As secretary and treasurer, you have charge of the books, haven't you?

A. Yes.

Q. You are familiar with them?

A. In every detail.

20 Q. How much of the amount, the expense of \$131,000.00 is charged to your rent account?

A. \$65,025.00, to be exact.

Q. And what part of your Expense Account is charged to salaries, or what part of the total expenses, is charged to salaries?

A. \$17,500.00.

Q. And does that \$17,500.00 include the officers' salaries?

A. That is the officers' salaries.

30 Q. That is the officers' salaries?

A. Yes.

Q. What about clerk hire, bookkeepers' salaries, and so forth?

A. That is included as help.

Q. As help?

A. Yes.

Q. But the \$17,500.00 is officers' salaries?

A. Yes.

Q. How many stockholders has the Shill Rolling Chair Company?

(Objected to as irrelevant and immaterial.)

A. Do you want to know exactly—the exact number?

Q. Oh, approximately. 10

A. It is a family concern.

Q. It is a family concern, a close corporation?

A. Yes.

Q. And the officers of the corporation represent the family stockholders, do they not?

A. Yes.

Q. So that the salary list of \$17,500.00 might properly be called a private matter, might it not?

A. No; a man is entitled to his hire.

Q. How many officers have you? 20

A. Five.

Q. Who are they and what offices do they hold?

A. Mr. Reed, president—Mr. D. C. Reed, president—I am mistaken about that salary list. It is \$16,000.00, in exact figures of the salaries. Mr. D. C. Reed is the president of the Shill Rolling Chair Company; H. E. Weisgerber, first vice-president and general manager; E. C. Reed, second vice-president and H. W. Hemple, secretary and treasurer.

Q. Five offices, but held by four men. 30

A. Yes.

Q. Do they draw equal salaries?

A. No.

Q. Now, outside of the Reed and Hemple families, are there any other stockholders?

A. Yes.

Q. How many?

A. The stock is held entirely by the Reed and Shill families, except one share.

Q. With the exception of one share?

A. With the exception of one share.

Q. Are the Hemples and Weisgerber related to the Shill families?

A. Yes; I married a Shill.

10 Mr. Bourgeois: All of this is objected to as not relevant.

A. —Weisgerber is a Shill on his mother's side.

Q. And the two Reeds are members of the same family?

A. Not the same families.

Q. But members of the same family?

A. Yes, father and sons.

20 Q. Do these four officers hold stock in the corporation?

A. Yes.

Q. Capital?

A. Yes.

Q. Do they receive dividends on that stock?

A. When there are any payable.

Q. Do they receive dividends in the same proportions as the other stockholders?

A. Yes.

30 Q. Their salaries are not deducted from their dividends?

A. No.

Re-direct examination.

By Mr. Bourgeois:

Q. You don't deduct the amount of salary?

A. The salaries of the officers is part of the expense of the corporation, and all of these officers are working officers.

Q. You state that you paid \$65,000.00 a year rent. Let's go a little further into this expense item. How much of the \$131,000.00 is what you call Help Account?

A. Well, I don't know. I haven't got —

Q. What I want to know is this. You needn't answer that. You pay your pushers for each hour that they work? 10

A. Yes.

Q. Do you charge that amount up to Help Account or is that deducted and not shown on your books at all?

A. It doesn't show on our books at all.

Q. You mean you take the net amount you get as your receipts?

A. Yes.

Q. And your help account is entirely for repair-men, bookkeepers and so on? 20

A. Yes, sir.

Q. And the stand man?

A. Yes, sir.

Q. How many stands have you in Atlantic City?

A. 25, I think, we have, but two or three of these are outlying stations that Mr. Rose has made us out licenses for.

Q. Mr. Hemple, do you pay rent for any places where you do not have chairs? 30

A. No.

Q. I don't mean stands. I don't mean whether you pay rent for stands where you have chairs, but in any place where you have chairs and don't pay fees?

A. Only when we store them.

Q. Then the twenty-five stations that you speak of, are the only stations for which you pay rent?

A. No, there are one or two other places that we pay rent for that we use for storage purposes.

Q. Where?

A. Adams Baths, during the winter time, we pay storage.

Q. Did you actually have chairs there? When was that?

10 A. We store all of our chairs in the winter time. We haven't sufficient room for storage. Every winter we have to hire storage to put our surplus chairs at.

Q. My question is, did you actually pay Al Adams rent for storage?

A. Yes. He made us get out.

Q. How many chairs did you have there?

A. I couldn't tell you.

Q. Can you tell approximately?

20 A. I filled his bath-houses up.

Q. Can you recall any other places where you stored chairs?

A. No.

Q. Outside of your stations?

A. I think that is all.

Q. Was that the only place outside of your stations?

A. Yes. Connecticut Avenue, just off the Boardwalk.

30 Q. And whose property is that?

A. That belongs to Judge Endicott.

Q. And you actually had chairs there while you paid rent?

A. Yes.

Q. So with these two exceptions, you paid no rent to anybody at any place, except the rents that are paid for your twenty-five stations?

A. That is all.

Re-cross examination.

By Mr. Schimpf:

(The City Solicitor thereupon proceeded to examine the witness on the amount of rent paid for each of the twenty-five stands occupied by the prosecutor, but counsel for the prosecutor suggested that it might do his clients harm if these prices were made public, and it was suggested that the witness furnish a written answer to each of the following questions): 10

Q. What rent do you pay at the Royal Palace Hotel stand?

A. \$2,000.00.

Q. What rent do you pay at the Seaside Avenue and Boardwalk stand?

A. \$750.00. 20

Q. What rent do you pay at the Rudolf Hotel stand?

A. \$3,500.00.

Q. What rent do you pay at the St. Charles Hotel stand?

A. \$1,875.00.

Q. What rent do you pay at the stand, Virginia Avenue and the Boardwalk?

A. \$9,300.00.

Q. What rent do you pay at the Bothwell Hotel stand? 30

A. \$200.00.

Q. What rent do you pay at the stand, East Side Pennsylvania Avenue and the Boardwalk?

A. \$5,500.00.

Q. What rent do you pay at the stand, West Side Pennsylvania Avenue and the Boardwalk?

A. \$3,500.00.

Q. What rent do you pay at the Haddon Hall stand?

A. \$2,500.00.

Q. What rent do you pay at the Chalfonte Hotel stand?

A. \$2,700.00.

Q. What rent do you pay at the stand, 1239 Boardwalk?

10 A. \$2,000.00.

Q. What rent do you pay at the Hotel Princess stand?

A. \$150.00.

Q. What rent do you pay at the Barney Cafe stand?

A. \$300.00.

Q. What rent do you pay at the Traymore Hotel stand?

A. \$4,000.00.

20 Q. What rent do you pay at the Brighton Hotel stand?

A. \$1,800.00.

Q. What rent do you pay at the Marlborough-Blenheim stand?

A. \$10,000.00.

Q. What rent do you pay at the Dennis Hotel stand?

A. \$6,500.00.

30 Q. What rent do you pay at the Shelburne Hotel stand?

A. \$2,500.00.

Q. What rent do you pay at the 2113 Boardwalk stand?

A. \$3,250.00.

Q. What rent do you pay at the Gladstone Hotel stand?

A. \$700.00.

Q. What rent do you pay at the Ostend Hotel stand?

A. \$850.00.

Q. What rent do you pay at the Islesworth Hotel stand?

A. \$1,200.00.

Q. Now, Mr. Hemple, was anybody else in the rolling chair business at the Royal Palace Hotel before you took that stand? 10

A. Not to my knowledge.

Q. Not to your knowledge?

A. No.

Q. Was anybody else in the stand at Seaside Avenue and the Boardwalk before you took it?

A. Yes, Bellis.

Q. Who?

A. Bellis.

Q. You bought the Bellis business out?

A. Bought their interest out. 20

Q. When you bought it out, did you have any agreement with them as to whether or not they should again go into business?

A. I don't remember.

Q. You don't remember?

A. No, sir; I don't think we did.

Q. Was anybody else at the Rudolf Hotel before you took that stand?

A. Yes.

Q. Who? 30

A. Eckstein.

Q. How much more rent do you pay for the Rudolf Hotel stand than he paid?

A. One man paid \$2,200.00 and Eckstein paid \$2,000.00. We are paying \$3,500.00.

Q. It will be \$1,500.00 more than for last year?

A. Yes, we have had it for a year.

Q. How about the St. Charles Hotel?

A. Nobody has ever been there that I know of but ourselves.

Q. No one but yourselves?

A. No.

Q. Isn't the St. Charles Hotel as valuable a stand as the Rudolf Hotel?

A. We don't think so.

10 Q. You don't think so?

A. No, sir.

Q. You pay a good deal more rent for the Rudolf stand than for the St. Charles, don't you?

A. Yes. The Rudolf has the cafe adjoining, which means quite an item in the rolling chair business. The St. Charles hasn't any. And then we have the storage at the Rudolf and at the St. Charles we have to buy our storage elsewhere, and we have only a platform at the St. Charles.

20 Q. At the Bothwell, was there anybody there before you?

A. I don't think so.

Q. What is your frontage at Virginia Avenue and the Boardwalk?

A. I think it is 31 feet.

Q. 31 feet?

A. I think so.

Q. What is the average price per foot front at Virginia Avenue for renting?

30

Mr. Bourgeois: Objected to unless he is an expert in the real estate business.

Mr. Schimpf: It doesn't matter whether he is or not.

Q. I ask, what is the average price charged there, if he knows?

A. Mrs. Lewis on the other corner has about as much room—less room than we have, which is 20 feet on the other side; \$7,475.00 per year.

Q. That is what she pays for 20 feet?

A. Yes. Our rent on Virginia Avenue includes storage capacity of all under that hotel,—there is quite a big place there 75 by 125 feet which fronts on Virginia Avenue there.

Q. Do you know what the average rents are at the Rudolf Hotel per foot? 10

A. I haven't the slightest idea.

Q. Was there anybody at the Bothwell Hotel before you went there?

A. Not to my knowledge.

Q. The east side of Pennsylvania Avenue and the Boardwalk. Did anybody have that before you?

A. Riddle's corner, isn't it?

Q. No, the east corner is the Seaside Land Company, isn't it?

A. That is Bellis. Bellis' old corner. 20

Q. And you bought his place out?

A. Yes.

Q. How much front foot space had you there?

A. I think our lease calls for 12 feet front.

Q. 12 feet front?

A. Yes.

Q. Do you know what property rents for in that neighborhood, per foot front?

A. Haven't the slightest idea.

Q. You have the property on the west side there, 30 on the same corner, haven't you?

A. Yes.

Q. How many feet front is that?

A. Our lease calls for six or seven feet front.

Q. Six or seven feet front?

A. Yes.

Q. That is only for a few feet in depth, isn't it?

A. Yes, sir.

Q. And how far after that do you run in depth?

A. I think our lease calls for 14 feet in depth and 50 feet long. With the exception of a fourteen foot space it is only six or seven feet wide. They included in that rent the Hotel Strand; all that Pennsylvania Avenue, Mr. Riddle's property.

Q. Included the Hotel Strand?

10 A. Yes.

Q. That is by a different owner, isn't it?

A. Yes, included in the lease to us.

Q. Was it occupied there, to your knowledge, before you?

A. No.

Q. Was the Chalfonte occupied before you?

A. No.

Q. Is Pennsylvania Avenue worth more than the Chalfonte?

20 A. No, sir; it isn't.

Q. What is your frontage at the Chalfonte?

A. We do business on the porch of the Chalfonte, right on the porch of the hotel proper.

Q. You lease half the entrance that runs back from the porch, do you not?

A. No; we don't use that except when chairs go in and out.

Q. 1239, who occupied that stand before you?

A. Frederick George.

30 Q. 1239 Boardwalk. You also purchased his business, did you not?

A. Yes.

Q. Did you purchase that with the agreement that he should not again engage in the business?

A. They have a term of years, I believe.

Q. How many years?

A. I am not sure how many.

Q. In what proportion of the amount paid to him, did you pay for the stock, and what proportion did you pay for the agreement that he shouldn't go into business again?

A. I couldn't tell you.

Q. Is that because you forget, or because you never knew?

A. I never knew. There was no proportion made.

Q. Just a lump sum?

10

A. So far as I know.

Q. The Hotel Iroquois was occupied before you went there?

A. I don't know. I think Shinn had chairs there once. I think he has now.

Q. I am speaking of the Princess, not the Iroquois?

A. No, I don't think anybody was at the Princess.

Q. You say nobody ever had any chairs at the Princess?

20

A. Not to my knowledge.

Q. Didn't you pay rent for the Princess Hotel?

A. We had chairs there.

Q. I thought you said you never had any?

A. I mean previous.

Q. You had chairs there?

A. Yes, had a stand there.

Q. Barnay's Cafe?

A. We have a stand there.

Q. You have a stand there now?

30

A. Yes. As soon as it is open we will have our chairs there.

Q. The Traymore. Was anybody there before you?

A. Not that I know of.

Q. The Brighton. Was anybody there before you?

A. No.

Q. Is the Traymore Hotel worth any more than the Brighton?

A. I won't say no. I will say, not to my knowledge.

Q. Is the Traymore worth any more than the Brighton Hotel?

A. Yes, considerably, as a rolling chair proposition. Each has a stand; at the Brighton it is in the

10 back.

Q. How far from the Boardwalk are the stands at the Brighton?

A. Possibly three hundred feet, I should say.

Q. You haven't any stand on the Boardwalk?

A. No, and that makes that stand a very inconspicuous stand and the earnings are very small in comparison with one on the Boardwalk.

Q. How about the Marlborough-Blenheim—where are the stands there?

20 A. In the Arcade and on the Ohio Avenue approach.

Q. Your stand at the Marlborough-Blenheim isn't on the Boardwalk at all, is it?

A. No, sir.

Q. How about 2113 Boardwalk, Mr. Hemple?

A. That is Young's Million Dollar Pier. We bought out Bailine & Sloss.

Q. What are the rents there, do you know, per foot?

30 A. I haven't the slightest idea.

Q. What is the frontage that you have there?

A. Our front calls for eleven feet there.

Q. Eleven feet?

A. Yes.

Q. What is the depth, about?

A. Two hundred and fifty feet, and it widens out when it gets forty feet back.

Q. Don't you think that you have fair returns for there?

A. It is not paying any more than before we got there. We bought the lease over.

Q. Does that give you any privileges at the pier entrance?

A. No.

Q. You are sure about that?

A. Yes.

Q. Don't you have privileges at that pier entrance? 10

A. We only have—we don't have any privileges there.

Q. Was anybody at the Gladstone Hotel before you went there?

A. Yes, Madison.

Q. How much more rent do you pay there than he did?

A. None.

Q. You got it for the same price that he did? 20

A. Yes, so I understand.

Q. Do you know what he paid?

A. No.

Q. The Ostend Hotel; was anybody there before you?

A. We bought over a lease.

Q. And who did you buy out there?

A. I forget the fellow's name, Gourley, I think.

Q. Illsworth Hotel. What stand have you in the Illsworth Hotel? 30

A. A stand in front, running the length of the property, and then we use the Illsworth Cafe in the winter time for storage.

Q. Was anybody there before you went there?

A. I think Madison was there at one time. I am not sure.

Q. Do you know whether or not he paid any more rent for the stand than you do?

A. I haven't the slightest idea.

Q. You say that the east side of Ohio Avenue and the Boardwalk is covered by the rent of the Marlborough-Blenheim. Is that correct?

A. Yes.

Q. Now, do you pay any rent to Harry J. Dynes, on the other side of St. Charles Place?

10 A. I beg your pardon. I didn't include that.

Q. Do you ever keep any chairs there?

A. Store them.

Q. Store them there when?

A. In the summer.

Q. During the summer?

A. Yes, and we have the best part of the storage in there from the St. Charles Hotel. We have no storage at the St. Charles at all. It is an open platform.

20 Q. What part of Dynes Hotel do you use for storage in the summer time?

A. Under the porch.

Q. On the basement floor?

A. Yes.

Q. Have we come to the Loraine?

A. No.

Q. What did you do? Did you rent or have any other privilege there?

30 A. No. Those total. The rent of the Raleigh should be included in the total rent.

Q. What about the Steel Pier? Do you pay them anything?

A. Not a cent.

Q. Have you any privileges that others don't have?

A. No, sir.

Q. Does their name appear in your books?

A. Not in any shape or form.

By Mr. Bourgeois:

Q. Mr. Hemple, do you pay at any place any more rent than you are obliged to pay, to secure the premises that you lease?

A. Not in any. In no instance do we pay any more. At several of our stations the landlords have told us that they had increased the prices for our stations above the prices that we paid. For instance we will take the Traymore Hotel. It is a matter of record that the Traymore Hotel—that Mrs. Clowney had in writing an offer for the Hotel Traymore rolling chair privilege, a thousand dollars more than the Shill Company at that time would give. 10

Q. And did that have the effect of raising your rent?

A. Not at all, for the owners thought we were paying sufficient as it was. We will take for instance the Royal Palace Hotel and Young's Hotel. They have a standing offer of \$500.00 more than we are paying them at the present time. 20

Q. You say that you pay \$1,500.00 more than Eckstein did. If that is so, it is \$1,500.00 more rent?

A. Mr. Eckstein had a lease on the Rudolf property, a four year lease which expired last year. The hotel as I understand it had given him to understand that they weren't satisfied with the service. 20

Q. I don't care about that. What about the rent?

A. They wanted to secure an additional rental on the stand and went into the open market for bids on their stand. I understand that they had a bid of \$500.00 more than had been offered.

Mr. Schimpf: Don't say it unless you know it.

Q. I want to know whether you helped fix that amount or whether it was fixed before you bought it.

A. We bought this lease from Mr. Bloch and he secured it from Mr. Rukeyser.

Q. And how much more did you pay than Mr. Bloch for the rental?

A. Not a cent. The lease was transferred to us. I don't know that it was any more. If so it wasn't in the lease.

10 Q. With regard to the number of stands. Why do you have so many stands?

A. Because there is a demand for the rolling chairs at the different points.

Q. Do you have any more stands than the demands of your business require?

A. No.

Q. I suppose they are an expense?

A. Yes, every stand is an expense.

Q. You have to have somebody to look after them?

20 A. We have a manager at each station.

Q. And up to the present time you have been obliged to pay a license to the city?

A. On each and every station.

Q. And you have to pay rents to the owners?

A. Yes.

Q. Do you know how the piers get the coal that they use on the outside of the Boardwalk, to them?

A. I don't know. I think most of them have their heating plants inside.

30 Q. If you don't know, that is all. Now, you say that the officers work. What work do the officers do; what work does Mr. Reed do?

A. Why let me answer in another way, Mr. Bourgeois.

Q. Yes.

A. We have an organization and have the Walk

divided up into sections. Mr. Reed takes a certain section of the Walk and looks after the business there.

Q. Looks after the entire business in that section?

A. Yes, and sees that the stations are working properly, that the men are working to the best advantage all together, and that the chairs are working properly.

Q. Is that true of the other officers?

A. Yes.

10

(It is admitted that the Act concerning and relating to cities, and regulating the government thereof, approved April 3, 1902, and published in Pamphlet Laws, p. 284, was adopted by the voters of Atlantic City.)

(It is also admitted that that was approved by the Act of 1912, commonly known as the Walsh Act, which was also adopted, and that Atlantic City is governed by a Board of Commissioners under the Walsh Act, and the amendments and supplements thereto.)

20

Mr. Bourgeois: I want to state to Mr. Schimpf, that we are going to show to the Court, that so far as we are concerned, we are willing that the testimony which we have taken on this application for the writ, may be used as the testimony under the writ, in the event that a writ is allowed, and our object is so as to not cause any delay in Atlantic City, more than is reasonable and necessary, because of this proceeding, to Atlantic City. And we are willing to stipulate with Mr. Schimpf, if he desires to have his testimony used likewise, that he may do so.

30

Mr. Schimpf: I refuse to consider the proposition.

By Mr. Coulomb:

Q. Mr. Hemple, how many chairs does your concern operate?

(Objected to as not re-direct examination.)

A. 942 double chairs and 100 single chairs were operated during 1912.

10

THOMAS W. LASSITER, a witness produced upon the part of the prosecutors, being duly sworn according to law upon his oath, deposes and says:

Direct examination.

By Mr. Coulomb:

20

Q. Mr. Lassiter, you are one of the prosecutors to one of these writs of certiorari?

A. Yes, sir.

Q. What is your business?

A. Rolling chairs.

Q. And where do you conduct your business?

A. At Tennessee Avenue and the Boardwalk.

Q. How many stands do you operate?

A. One.

30 Q. And the stand is at Tennessee Avenue and the Boardwalk?

A. Yes.

Q. How many chairs do you operate at that stand?

A. 102.

Q. How many double chairs?

A. 100.

Q. And how many single?

A. Two.

Q. Do you pay a license for that stand?

A. I do.

Q. How much is that license?

A. By the city?

Q. For the stand alone?

A. \$100.00, for the stand.

Q. That is in addition to the license that you pay
for each individual chair? 10

A. Yes.

Q. What amount of business did you do during the
past year?

A. The year 1912?

Q. Yes.

A. I have it here in the book.

Q. Will you refer to it?

A. (Witness examines book) I haven't it here.

Q. (Mr. Coulomb refers to affidavit) Mr. Las-
siter, in your affidavit, you say that the amount of 20
business that you did in the year 1912 was \$10,050.20.
Is that correct?

A. Yes.

Q. You say in your affidavit, that the actual ex-
pense of operating your business during that year
of 1912, excluding the payment of rent, State tax, et
cetera, but not including the payment of any mer-
cantile license, or tax, was \$8,010.40. Is that cor-
rect?

A. Yes. 30

Q. How much money have you got invested in
your business?

A. About \$13,000.00. \$12,000.00 or \$13,000.00.

Q. How much was your mercantile license tax for
each individual chair, that is, for the aggregate, dur-
ing the year 1912?

A. Why, \$1,610.00.

Q. \$1,610.00?

A. Yes, \$1,610.00.

Q. Mr. Lassiter, what were the net profits of your business last year?

A. Something less than a thousand dollars; I am not sure.

10 Q. Is part of the expense of that rolling chair business for you,—have you charged anything for yourself, as salary?

A. Nothing at all.

Q. So that the thousand dollars represented the total earnings and the net income from your business?

A. Yes.

Q. The profit?

A. Yes.

Q. How much is the increase proposed by the license fees?

20 A. \$5.00 per chair.

Q. How much?

A. \$5.00 per chair, I think.

Q. And how many chairs have you?

A. 102.

Cross-examination.

By Mr. Schimpf:

30 Q. Did you operate 102 chairs last year, Mr. Lassiter?

A. Until June.

Q. Until June?

A. Yes.

Q. And how many have you operated since that time?

A. 60.

Q. That is all that you have licenses for, isn't it?

A. 60.

Q. Now, when you state that you paid \$1,600.00 license fees last year, is that true or not? Your 1912 license?

A. Running out in June?

Q. Isn't last June 1912?

A. Yes, sir. My statement is made from January to January. The license is from June to June. 10

Q. Well, your statement was made out from January 1, 1912, until January 1, 1913, was it not?

A. Yes.

Q. Well, you didn't pay \$1,600.00 license fee during that time, did you?

A. Until June of last year?

Q. Was there any time between January, 1912, and January, 1913, that you paid \$1,600.00 license fees?

A. I paid \$1,600.00 license fee for the year 1912, 20 I think it was. It ran out anyway, on the first of June, last year.

Q. What did you pay last year, Mr. Lassiter?

A. Sixty licenses.

Q. And that amounts to what?

A. It amounted to \$900.00.

Q. Didn't you say in your affidavit, that you paid \$1,600.00 last year?

A. \$1,600.00, yes.

Q. Then you didn't pay that, did you? 30

A. A part of that year I operated 100 licenses.

Q. You only pay your license once a year, don't you, on the first of June?

A. Yes.

Q. The only time that you paid in 1912, was the first of June last year?

A. Yes, sir.

Q. And it was \$900.00 that you paid in 1912, wasn't it?

A. I didn't say in 1912.

Q. Did you pay more than \$900.00 on June 1, 1912?

A. No, I did not.

Q. Why did you say that you paid \$1,600.00 then?

A. I operated —

10 Q. I want to know why you said that you paid \$1,600.00 last year.

A. I will tell you if you will let me. I told you I operated a hundred licenses up until June of last year, and my statement was made up until January and one hundred licenses covers about half that year.

Q. Mr. Lassiter, you know there isn't an item in your book from January 1, 1912, until January 1, 1913, except the license you paid on June 1, 1912;

20 isn't that so?

A. From January, 1912, until January, 1913?

Q. You only paid one license, didn't you?

A. Only one, yes.

Q. And that license was \$900.00, not \$1,600.00?

A. Until June of last year?

Q. Don't you know what I am saying?

A. I know what you are saying.

Q. The license that you paid on June 1, 1912, was \$900.00 and not \$1,600.00?

30 A. I am operating that license now.

Q. Can't you answer my question, yes or no?

A. Yes.

Q. And you didn't pay any license between January 1, 1912, and June 1, 1912, did you?

A. January 1, 1912 and June 1, 1912?

Q. You never paid the city a cent, did you?

A. No.

Q. In 1912, when you paid your license on June 1st, you didn't pay the city \$1,600, did you?

A. In that year, yes.

Q. Didn't you just say now, in answer to my question, that you had a hundred licenses?

A. I operated a hundred licenses during the year.

Q. That doesn't amount to \$1,600.00, does it?

A. It does with the stand license and I operated those licenses until June of last year. 10

Q. You operated sixty after June of last year, making the license for them \$900.00, doesn't it?

A. The statement is made out.

Q. I am asking you. You paid \$900.00 for those licenses, didn't you?

A. I am operating under that license.

Q. You say that you have \$13,000.00 invested in the business there?

A. Yes, I have 102 chairs and other equipment.

Q. And the other equipment consists of what? 20

A. Robes and rain covers, umbrellas and so forth.

Q. How many robes have you got and how many rain covers have you?

A. I have fifty of those.

Q. Fifty rain covers?

A. Fifty rain covers.

Q. How many robes have you got?

A. I have twenty-four dozen of one kind—two gross of one kind and one dozen furs, and about six dozen of another kind of robes. 30

Q. It is fair to assume that you didn't pay more than the market value for those, did you?

A. Well, there is twenty-four dozen that aren't on the market. They were made.

Q. They had no market value—they were of a special value, were they?

A. Yes.

Q. What did you pay for them?

A. As near as I can remember, without looking at my files, about \$800.00 they were, or \$750.00, a gross.

Q. How old are they?

A. One gross is about two years old and another gross is a little over three years old.

Q. How long have you been in the rolling chair business?

10 A. Nine years.

Q. How many gross of robes have you bought in that time?

A. Well, I have bought those two gross and bought a great many different robes at different times. That is in dozen and two dozen lots.

Q. What are rain covers worth?

A. Well, I can't say what they are worth. I think they cost \$3.50 apiece.

Q. And how old are they?

20 A. About four years old.

Q. That is all that you have outside of your one hundred and two chairs, isn't it?

A. Well, I have parasols or umbrellas.

Q. Weren't they furnished with the chair?

A. No.

Q. They were a part of this equipment and for the same price of the chair?

A. No, sir.

Q. They were not?

30 A. No, sir.

Q. How much did they cost?

A. Twenty of them cost me \$10.00 apiece, and thirty—I don't remember just whether they were \$4.50 or not but I think I bought thirty more.

Q. Second hand or new?

A. New.

Q. How old are they?

A. Last summer a year ago.

Q. How old are your rolling chairs?

A. About twenty-five of them were made last year and the others were made at various times since 1907 until now.

Q. What did they originally cost you for each chair?

A. Various prices. Some of them cost me \$110.00 apiece.

10

Q. How much?

A. \$110.00 apiece.

Q. How many cost \$110.00 apiece?

A. Twenty-five.

Q. Are they the twenty-five that were made last year?

A. They were the twenty-five that were made last—yes, last year.

Q. Who made them?

A. Czeernski.

20

Q. What did the others cost?

A. About \$90.00 a chair for fifty, and somewhere between \$80.00 and \$85.00 for twenty-five more. I don't just remember. Something like that.

Q. Isn't it a fact that a lot of these chairs only cost \$65.00 apiece?

A. No, sir.

Q. Haven't you any chairs that you paid \$65.00 for?

A. No, I haven't but one chair that cost me less than \$75.00, and that is a single chair.

30

Q. What is the lifetime of a rolling chair?

A. I don't know. I dispose of my own chairs and replace them all the time.

Q. Mr. Lassiter, if the price of chairs—rolling chairs—was a dollar an hour, you would make more money, would you not?

A. That is a question I don't know how to answer.

Q. Did you make money when they were a dollar an hour?

A. I have made more since, but that is me, individually. Rolling chair stands are peculiar. A chair at the Marlborough-Blenheim would probably do better at a dollar an hour while chairs standing on the Boardwalk catering to excursionists, fifty cents appeals to them where a dollar wouldn't.

10 Q. Did you belong to the association that was formed among the rolling chair men some years ago?

(Objected to as immaterial and irrelevant.)

Q. What was the object of that association?

(Objected to as immaterial and irrelevant.)

A. To keep uniform prices, I suppose, and give
20 good service.

Q. And the uniform price to be made was one dollar an hour, was it not?

A. It was.

Q. Well, did you think at that time that you would make more money if the price was less?

(Objected to as immaterial and irrelevant.)

A. I did not.

30 Q. You did not?

A. No.

Q. Why don't you raise your price today?

(Objected to as immaterial and irrelevant.)

A. It is impossible for one to raise his price without a combination of the entire rolling chair people.

Q. It is because of the competition among the others, is it not, Mr. Lassiter, that you don't raise your price today?

(Objected to as immaterial and irrelevant.)

A. If you put it that way, I guess that is it.

Q. And if the price was raised, you would make more money, wouldn't you?

10

(Objected to as immaterial and irrelevant.)

A. That I can't say.

Q. You can't say?

A. No.

Q. What does your experience in the business lead you to believe?

20

(Objected to as immaterial and irrelevant.)

A. My experience in the business is simply to have a stand on the Boardwalk and appeal to the passing public.

Q. No, the question is, what does your experience in the business lead you to believe—that if the price was changed, whether or not it would increase your profits?

30

(Objected to as immaterial and irrelevant.)

A. For a time, I believe it would be better—for one or two years, and after that I think it would be very bad.

Re-direct examination.

By Mr. Coulomb:

Q. Mr. Lassiter, the statement from which you made up your affidavit and the testimony that you have given tonight, with reference to your payment of license fees and the revenue, and so on, was made up for what period of time?

10 A. From January, 1912, to January, 1913.

Q. You say that during that time you have charged yourself with having paid \$1,600.00 for mercantile licenses. How do you make that up?

A. I make that out from having paid the mercantile license in June, 1911, covering the period until June, 1912.

Q. From June, 1911, you had your mercantile license, had you?

A. Yes.

20 Q. At that time, for how many chairs did you pay?

A. I didn't pay it all at once, but for the year, for different periods, I paid a license for a hundred chairs—double chairs, and one single chair, \$1,510.00, and \$100.00 for the stand license, making \$1,610.00 for the year.

Q. When you made this statement, did you include the \$900.00 license fee that you paid in June, 1912?

30 A. I did not.

Q. In paying the license fee as part of the expense of your business, did you distribute that over the entire year?

A. Yes, I judge that I did.

Q. Does the net profit from your business, that you have told us, include the operation of the one

hundred and two chairs? I mean, is that the profit derived from the one hundred and two chairs?

A. The profit derived during the year from January, 1912, to January, 1913.

Q. And part of that time you operated one hundred and two chairs?

A. One hundred and two chairs and part of the time sixty chairs, which I am operating now.

10

ARNOLD S. RUKEYSER, a witness produced upon the part of the prosecutors, being duly sworn according to law upon his oath, deposes and says:

Direct examination.

By Mr. Coulomb:

Q. Mr. Rukeyser, you are manager of the Hotel 20 Rudolf, are you not?

A. Yes.

Q. At New Jersey Avenue?

A. Yes.

Q. Has the Shill Rolling Chair Company a stand at your place?

A. Yes.

Q. What rent do they pay?

A. \$3,500.00.

Q. And how much space do they occupy?

30

A. They occupy all of the lower porch running about, I should say, two hundred feet. Some might not be quite that large, but the entire length of our porch on the New Jersey Avenue side of the hotel, besides a stand that they have in front of our hotel on the Boardwalk, with space in front of the stores,

besides, for, I think four or six chairs, and a space for, I suppose, ten or fifteen chairs on the Boardwalk stands. I suppose that they have about seventy-five chairs on the lower porch; that is the lower porch on the New Jersey Avenue side.

Q. How long have the Shill Rolling Chair people been occupying these?

A. Since the first of June, 1912, I think it was.

Q. Who occupied the premises before that time?

10 A. Eckstein, with other people.

Q. Do the Shill Rolling Chair people pay more than the Eckstein people did?

A. Yes.

Q. How did they come to pay more rent?

A. Well, we thought the stand was worth more money and we had offers from other concerns up as high as \$4,000 for it.

Q. Rolling Chair people?

A. Yes.

20 Q. How many, if you can recall?

A. I had calls from three different agents, representing three different concerns in Atlantic City.

Q. Do you recall how much money they offered?

A. The highest was \$4,000.00.

Q. Were there any between \$2,400.00 and \$3,500.00?

A. One at \$3,500.00 and one at \$4,000.00.

Q. Is there a cafe in your hotel?

A. Yes.

30 Q. Do you know what volume of business is done there at the station at the Hotel Rudolf?

A. By the Shill people?

Q. Yes.

A. No, I do not.

Q. What is the amount of business that your hotel does a year?

(Objected to as immaterial and irrelevant.)

A. We will exceed \$400,000 a year.

Q. And how much license fee do you pay?

A. What kind of a license do you mean?

Q. Not the cafe license—the mercantile license?

A. I think \$200.00 a year, and fifty cents a room, I think, is the taxation.

Q. It amounts to \$200.00 a year?

A. Yes, and each one of the rooms at fifty cents. 10

Cross-examination.

By Mr. Schimpf:

Q. Mr. Rukeyser, there were three agents representing three different parties who made offers for the rolling chair stand, you say. How do you know they want it for a rolling chair stand?

A. They said they did. They gave their names at the time. 20

Q. Who were the agents?

A. I couldn't give you the names just now.

Q. You don't know the names of the parties whom they represented?

A. I believe one was the party that had the rolling chair stand in front of the Million Dollar Pier, Bailine & Sloss.

Q. What agent represented the Shill Company—any? 30

A. No.

Q. You didn't in fact rent to the Shill Company, did you?

A. Not originally.

Q. They rented from Bloch?

A. Yes.

Q. And Bloch was a rolling chair manufacturer in Philadelphia?

A. Yes.

Q. Came and offered you that much more money?

A. Yes.

Q. Bloch made the offer to you—you didn't offer the premises to him, did you?

A. No.

10 Q. Did you know at the time that the Eckstein Rolling Chair Company was indebted to Bloch in a large sum of money?

A. Yes.

Q. Bloch hasn't any business in Atlantic City, has he?

A. No, I don't think he has.

Q. He doesn't operate any rolling chair stands here himself, does he?

A. I don't think so.

20 Q. Did you know at the time that he did not, in fact, intend to operate that stand?

A. I did not.

Q. Didn't he tell you so?

A. No.

Q. Didn't he give you any reason why he wanted Eckstein's lease?

A. No.

Q. Was it necessary for you to assent to the assignment of the lease to the Shill Rolling Chair Company, by Bloch?

30 A. Well, I had been asked to assign it.

Q. I mean by the terms of the lease, was it necessary that your assent be obtained before it could be assigned?

A. Yes.

Q. And did you know at the time that you leased the premises to Bloch, that the Shill Rolling Chair people were in any way interested in the matter?

A. I don't recall that, Mr. Schimpf. Bloch was a friend of mine and I had given him the preference.

T. TITUS BROWN, a witness produced upon the part of the prosecutor, being duly sworn according to law upon his oath, deposes and says:

Direct examination. 10

By Mr. Coulomb:

Q. Mr. Brown, what is your business?

A. Busman at present.

Q. Do you operate your bus in Atlantic City?

A. I do.

Q. You pay a license tax?

A. I do.

Q. How much license tax do you pay? 20

A. Ten dollars.

Q. Where do you operate your bus?

A. On the streets of Atlantic City.

Q. When does your license begin and when does it end?

A. It starts in June and will be due pretty soon again in June for the following year.

Q. Can you tell us the amount of business that you have done for the time that the present tax has been in force, from 1912 to the present time? 30

(Objected to as immaterial and irrelevant.)

A. I can't say exactly. Between eight and nine hundred dollars.

Q. How much?

- A. Between eight and nine hundred dollars.
 Q. Does that represent your net profit?
 A. No, the total amount of business.

Cross-examination.

By Mr. Schimpf:

10

Q. You are obliged to pay out of that, stable rent?

A. Yes.

Q. Horse hire?

A. Yes.

Q. Repairs to bus?

A. Yes.

Q. Harness?

A. Yes.

20 Q. Do you care for your bus yourself?

A. Yes.

Q. You cannot operate your bus on the Boardwalk?

A. No.

Q. And in addition you are obliged to pay a license fee for yourself to drive the bus?

A. No; just ten dollars.

Q. That is, bus and driver?

A. Yes.

30 Q. If you have any additional drivers, they have to pay a license fee, don't they?

A. I don't understand that. I never had to.

Q. You don't know what your net profits are, do you, Mr. Brown?

A. No, I can't say what my net profits are.

Re-direct examination.

By Mr. Coulomb:

Q. That is what you are doing for a living?

A. Yes, that is what I am doing for a living.

PROSECUTORS REST.

10

DAVID REED, re-called.

Direct examination.

By Mr. Schimpf:

Q. Mr. Reed, you have been in the rolling chair
business a long while, haven't you? 20

A. As long as I can remember, almost.

Q. And about how many years is that?

A. I should say seventeen or eighteen years.

Q. Seventeen or eighteen years?

A. Yes.

Q. And during all of that time, the rolling chairs
have been licensed, haven't they?

A. Yes. 30

Q. And what was that license seventeen or
eighteen years ago?

A. It started without anything. At first, they did
not have any license the first few years. Then they
started at two dollars per chair, and then were raised
to five dollars, and from five to ten dollars, and from
ten to fifteen dollars.

Q. Tell me when the first raise was made, if you can. I am not particular about the actual year, but how many years did they operate at two dollars before raising them to five dollars?

A. That was in the days of the single chairs.

Q. In the day of single chairs?

A. Yes. I think the price of double chairs was five dollars.

Q. And that was how many years ago?

10 A. Probably back in 1902—1901 or 1902.

Q. How long after that was the license fee on double chairs raised to ten dollars?

A. Probably 1905 or 1906.

Q. 1905 or 1906?

A. Yes.

Q. This was afterwards raised to what?

A. Fifteen dollars.

Q. Fifteen dollars?

A. I think to ten in 1905.

20 Q. To ten?

A. Yes.

Q. And then, when was it raised to fifteen dollars?

A. In the years 1907 or 1908.

Q. In the years 1907 or 1908?

A. Yes.

Q. When the license fee was originally made ten dollars in 1905, do you know what the population of Atlantic City was?

30 A. I cannot say.

Q. Do you know approximately what it was?

A. I think it would be safe to say 35,000—30,000 or 35,000.

Q. Do you know what the assessed valuation of Atlantic City was, approximately, at that time?

Mr. Coulomb: Objected to as immaterial and irrelevant, and an improper way of proving.

Q. Do you know what kind of a Boardwalk Atlantic City had then?

A. The same Boardwalk that we have today, with the exception that it was forty feet wide instead of sixty.

Q. And how was it lighted in those days?

A. Under the same conditions, except that we did 10 not have the string lights.

Q. Wasn't it, in fact, lighted by arc lights, on wooden poles, located quite a distance apart?

A. Yes. Same as today. There was one fixed at every half square for lighting the intersection of each street, and in the middle of each street.

Q. That would make two lights to the block?

A. Yes.

Q. Since that time, the Boardwalk has been widened twenty feet, hasn't it? 20

A. Yes.

Q. Also, it has a new concrete foundation built under it, hasn't it?

A. Yes.

Q. This has been there several years, hasn't it?

A. Yes.

Q. And the present system of electric lighting was recently installed, wasn't it?

A. Yes.

Q. Do you know approximately how much they 30 cost?

A. I haven't the slightest idea.

Q. You know it is now lighted by expensive lighting standards with five lights to a pole, instead of one?

A. Yes.

Q. Do you know anything at all about what it costs to maintain the Boardwalk a year, to illuminate, and clean it, and repair it?

(Objected to as immaterial and irrelevant.)

A. Yes, approximately, \$135,000.00. I think they are the figures quoted by the city.

10 Q. When you first went into the rolling chair business, there was nothing but single chairs provided, were there?

A. Yes.

Q. Those chairs were approximately twenty-four inches wide, weren't they?

A. I suppose they were twenty-four inches, but they had a wide wheel, and without rubber rims, but the same space as it is now.

Q. And only seated one person?

A. Yes.

20 Q. How much did they get per hour?

A. Fifty cents.

(Objected to as immaterial and irrelevant.)

A. —yes, with the attendant. Only twenty-five cents without the attendant.

Q. Twenty-five cents without attendant, and fifty cents with?

A. Yes.

30 Q. The same price that you get today for double chairs with the attendant?

A. Yes.

Q. And then when the double rolling chairs first came into style, how much did you get per hour?

(Objected to as immaterial and irrelevant.)

A. One dollar.

Q. One dollar per hour?

A. Yes.

Q. And that was with the attendant?

A. Yes.

Q. That was about what time?

A. 1901, I think. The first double chair,—let me go back a little further. We had what were called a foot to foot rolling chair, a double chair, up until 1901, and then the first side double chair was built in 1901. 10

Q. How many companies were in the rolling chair business at that time?

(Objected to as immaterial and irrelevant.)

A. Well, there was E. C. Reed, The Shill Company, Mrs. Smith, and Bellis, and there were probably two or three other small firms, and there were two or three other small companies outside of that who might have had a half a dozen or a dozen chairs. 20

Q. You were then connected with E. C. Reed?

A. Yes.

Q. Your father, wasn't he?

A. Yes.

Q. When did the Reed and Shill Companies consolidate?

A. On the first of January, 1911.

Q. The first of January, 1911?

A. Yes,—no, 1912, I will correct that. 20

Q. They have only been consolidated a little over a year, haven't they?

A. Yes, a little over a year.

Q. Didn't you have an oral agreement between yourselves at that time?

(Objected to as immaterial and irrelevant.)

A. There was no agreement. There was another company, the Reed & Shill Company.

Q. The Reed & Shill Company was composed of practically the same people as the Shill Company today?

A. No.

Q. Who composed it?

10 A. It was a private agreement between Harry Shill, E. C. Reed and also the stockholders of the company. The Shill Company had nothing to do with it.

Q. There was another Shill Rolling Chair Company, then, was there?

A. Yes.

Q. Was that Harry Shill's Company?

A. That was Harry Shill's Company, and the Shill Rolling Chair Company, of which he was a part owner.

20 Q. But that stock was held by his family, wasn't it?

A. By the family, yes.

Q. Now, Mr. Reed, in 1906, the City of Atlantic City passed an ordinance, which has been admitted in evidence, permitting the rolling chairs to charge a dollar an hour?

A. That's right.

Q. Weren't you interested in the passage of that ordinance?

30 (Objected to as immaterial and irrelevant.)

A. I don't think I was, Mr. Schimpf. I think the city brought that up themselves.

Q. Didn't you, at that time, advocate the ordinance?

A. Yes, I advocated that.

(Objected to as immaterial and irrelevant.)

Q. At that time the rolling chair people were all charging a dollar per hour, were they not?

A. Yes.

Q. When did the first break come in prices?

(Objected to as immaterial and irrelevant.)

A. 1909. I think 1909 or 1910. 1910, I think. 10

Q. Do you know the history of that break?

A. What do you mean by "the history"?

Q. Do you know what caused it?

A. Yes.

Q. Well, tell me the cause.

(Objected to as immaterial and irrelevant.)

A. Well, some of our competitors cut the price. The price was cut to seventy-five cents by Mrs. Clow- 20
ney, and then two or three of the others broke away, and made their prices fifty cents per hour, and then there was a general cut along the line.

Q. The Shill Company had dropped the price to fifty cents?

A. No.

(Objected to as immaterial and irrelevant.)

Q. Wasn't the Shill Company, at that time, giving 30
a private rebate to customers?

(Objected to as immaterial and irrelevant.)

A. What do you mean by private rebates?

Q. I mean letting some of the customers have the chairs for less than one dollar an hour.

A. We gave some of our customers who rode every day, by the year, a discount on their monthly statement.

Q. Wasn't it a fact that on the same day that Mrs. Clowney cut her price to seventy-five cents per hour that the chairs operated by E. C. Reed and Shill Company were cut to fifty cents?

(Objected to as immaterial and irrelevant.)

10

A. No, sir.

Q. That wasn't the fact?

A. No, sir.

Q. Wasn't it after that that the association of rolling chair men was formed?

(Objected to as immaterial and irrelevant.)

A. Before that.

20

Q. Were you a member of that association?

A. Yes.

Q. And the association went to a great deal of trouble to keep the price up to one dollar?

A. Yes.

(Objected to as immaterial and irrelevant.)

Q. And you are still one of them?

30

(Objected to as immaterial and irrelevant.)

Q. During all of the time that the chair price cutting has been going on, the city has had an ordinance permitting the price of one dollar to be charged for chairs?

A. That's right.

Q. Is it your opinion from your experience in the rolling chair business that the companies can make more money if they charge one dollar per hour?

(Objected to as immaterial and irrelevant.)

A. As a rule, I should say they would not.

Q. Well, wouldn't the Shill Company and the other people make more money at one dollar per hour?

10

A. I think not.

Q. Take a time ten years ago, for instance, how much rent would twenty-four stands or twenty-five stands cost?

(Objected to as immaterial and irrelevant.)

A. Under the same conditions as they are today?

Q. Under the conditions as they were ten years ago?

20

A. It depends upon where the stands were located.

Q. Exactly where your stands are located now.

A. Some would not be located there now. Some of the stands were not there.

Q. Take the same number of feet beach frontage, it would not have cost more than fifty or sixty per cent. of what it would today—property in Atlantic City in ten years has gone up at least forty per cent., hasn't it?

30

A. I suppose.

Q. A good deal has gone up one hundred per cent., hasn't it?

A. Yes.

Q. More?

A. I do not know what you mean.

Q. Property prices—Boardwalk stores?

A. Yes.

Q. And the real reason why the Shill Company does not make any money, if they do not, is because of the high rents that they pay, is it not?

(Objected to as immaterial and irrelevant.)

10 A. It would be better to reduce the license than the rent.

Q. You pay more rents than you do license, don't you?

A. Yes, and get more for our money.

Q. Do you remember when the stand license was first made a part of the mercantile ordinance?

A. Yes.

Q. Do you remember whether or not you were interested in the passage of that ordinance?

20 (Objected to as immaterial and irrelevant.)

A. Yes.

Q. You thought that was a good thing, did you not, at the time?

(Objected to as immaterial and irrelevant.)

A. A good thing for the city to raise a revenue for the city.

30 Q. You advocated that, did you not?

A. No.

Q. Weren't you present in Council the night it was passed?

A. Yes, present at the meeting.

Q. Did you not urge the members of Council to pass that ordinance?

A. Urged them to pass that ordinance rather than increase our license to twenty dollars, as they thought of doing. They complained of the evil of the little fellows coming down the Boardwalk at night who had chairs back of doorways, in front of stores, and the intention was to stop them.

(Objected to as immaterial and irrelevant.)

Q. On the Boardwalk?

10

A. Yes. They overcharged their patrons, and were a nuisance to the Police Department and the city advocated that they do away with these little door-way stands, and would probably do away with that nuisance.

Q. And you agreed with it,—this proposition?

A. Agreed to that rather than the increased license fee of twenty dollars.

Q. Then you wanted that in order to eliminate competition?

20

(Objected to as immaterial and irrelevant.)

A. It didn't affect me at all, for we had no doorways that they could get into.

Q. Then, notwithstanding the stand license, and the increased license, there are more people in the business than there were then?

A. Yes, I think so.

Q. And more stands are operated now than before?

30

A. Yes, because the town is larger and the demand greater.

Q. The demand is greater?

A. Yes, and there are more chairs on the Boardwalk.

Q. More now than there were then?

A. Yes.

Q. And the necessity for regulation is as great as it was then?

A. I do not think that it is as great.

Q. Isn't that based on the fact that the city has been so careful, that it is not so great?

A. Yes, as well as care exercised by the owners. I know it is part of our business to protect the patrons of the city as much as we can, and we give them as much consideration as we do our business.

10 Q. How many men are employed by the rolling chair companies on rush days?

A. What do you mean?

Q. I mean the attendants of the chairs.

A. About eighteen hundred or nineteen hundred.

Q. Now, Mr. Reed, you say it isn't a fact that the Shill Rolling Chair Company and the Reed Rolling Chair Company reduced their price to fifty cents on the same day that Mrs. Clowney reduced hers to seventy-five?

20

(Objected to as immaterial and irrelevant.)

A. No, sir.

Q. Did you conduct the negotiations with Mr. Bloch for the Rudolf Hotel stand?

A. No.

Q. Did you have knowledge of these negotiations?

30 A. Yes.

Q. You are in the business of manufacturing rolling chairs, are you not?

A. Yes.

Q. Did you buy seventy-five chairs from Mr. Bloch?

(Objected to as immaterial and irrelevant.)

Q. —along with the lease of the Rudolf Hotel?

A. Yes.

Q. That was one of the conditions of the sale of the lease, was it not?

(Objected to as immaterial and irrelevant.)

A. Yes.

Q. How much did you pay for those seventy-five chairs? 10

(Objected to as immaterial and irrelevant.)

A. It would be rather hard to calculate that, because we supplied a great deal of material; there were special wheels and heads put in and supplied by us.

Q. Do your books show what the amount was that you paid?

A. No, because all of that material that was supplied came out of the stock that we had on hand. 20

Q. How much money did you pay to Bloch?

(Objected as as immaterial and irrelevant.)

A. I do not think I can answer that.

Q. The books show it, don't they?

A. Yes.

Q. Did you pay him anything in addition to that for the lease? 30

A. No.

Q. You used to have that lease at the Rudolf Hotel, did you not?

A. No.

Q. Didn't the Shill Rolling Chair Company have it?

A. Yes.

Q. How many years did they have it?

A. I can't tell you that; probably five or six years.

Q. And what years were they?

A. Probably ten or twelve years ago.

Q. As far back as that?

A. Yes. Grist took it, and he was there some four or five years.

10 Q. You bought Grist out, didn't you?

A. No; we bought his chairs, we did not buy his lease, for at that time we were not able to make a satisfactory lease with the present manager of the hotel, at that time.

Q. That is what I am getting at. What rent did he want, at that time?

(Objected to as immaterial and irrelevant.)

20 A. I do not remember.

Q. You do not remember that?

A. No, I don't remember that.

Q. Do you know when that was?

A. I do not believe I can answer the exact time.

Q. How is that?

A. I do not think I can answer the exact time, I am a little hazy on that.

30 Q. Now, your company bought out Saslaff, Ratner, Bellis, Grist, Haskins, George, Bailine & Sloss, and Gourley, did they not?

(Objected to as immaterial and irrelevant.)

A. Yes.

Q. And within what periods of years did you buy out these concerns?

A. You mean as a whole?

Q. When did you buy the first and last—that is what I mean. Between what years did you buy them out?

A. 1907 to 1912.

Q. Did you make an agreement with them, signed by them, that they would not go into business again?

(Objected to as immaterial and irrelevant.)

10

A. Yes.

Q. And what was the period of time?

A. I don't recall.

Q. Well, was it five years or more?

A. I think it was.

Q. More, or how much more?

A. About five years, I should say.

(Objected to as immaterial and irrelevant.)

20

Cross-examination.

By Mr. Coulomb:

Q. The information that you gave with respect to maintaining the Boardwalk, I think, was \$135,000.00 per year, was it not?

A. Yes.

Q. Was that the information that you got through Mr. Beyer?

30

A. Through their pamphlet, I think. I may be in error.

Q. That includes interest on bonds, and things like that?

A. Yes, that is what I read in the pamphlet.

MR. HERBERT W. HEMPLE, recalled.

Direct examination.

By Mr. Schimpf:

Q. Mr. Hemple, do you recall what was paid for the stand lease at the Hotel Rudolf?

10 (Objected to as immaterial and irrelevant.)

A. No.

Q. Do you remember how much was paid Mr. Bloch for the seventy-five chairs?

(Objected to as immaterial and irrelevant.)

A. No, but I think that they were about six thousand
20 sand dollars.

Q. About six thousand dollars, you think?

A. In rough figures.

Q. For seventy-five chairs?

A. Yes.

Q. What part of them did you furnish yourselves?

A. We furnished the heads, wheels, tires, etc.

Q. Heads, wheels and tires? That means the whole under rating, doesn't it?

A. No.

30 Q. What is the head?

A. We had a head of our own. It is a swivel on the front wheel, that is the head. It is a bearing in the head.

Q. You paid him about six thousand dollars for them?

A. Yes.

Q. Didn't you folks try to make a lease with Rukyser at the time you bought Grist out?

(Objected to as immaterial and irrelevant.)

A. No.

Q. Who did conduct this?

A. Mr. Harry Shill; he is dead.

Q. Do you know from your examination of the books of the Shill Company how much the Shill Company paid there when they were there? 10

A. No; but I think it was eighteen hundred dollars. I am not sure; that is a guess. I really am not sure.

Q. When you took it in 1912, you bought the seventy-five chairs for six thousand dollars, and paid thirty-five hundred dollars a year rent?

A. Yes, we thought it was a good business investment, but it has not turned out to be so far.

Q. Hasn't that been because Mr. Eckstein went across the Boardwalk? 20

A. That's right.

Cross-examination.

By Mr. Coulomb:

Q. Mr. Hemple, what is the average value of your chairs, the full size chairs?

A. We think our chairs are worth more than anybody else's, that we make ourselves, because we make them better, put more time on them and have better materials in them and make them better. 30

Q. Well, the average value or price of a chair that you would build for yourself?

A. We build our own chairs as much as we can.

We wouldn't build a fine chair, I don't think, for less than one hundred and twenty-five dollars. A bus chair would cost a good deal more money than the open chair. Mr. Lassiter said he paid \$110.00. We can't build one of our own use for less than \$150.00.

Q. What do you mean by a bus chair?

10 A. All enclosed. We couldn't build one for \$110.00 and wouldn't try to. We consider that the materials that we put in our chairs, better materials, make them worth more, and our chairs prove that. They stand the wear better than any other chairs manufactured by anybody else.

Re-direct examination.

By Mr. Schimpf:

20 Q. Mr. Hemple, don't you sell chairs to other rolling chair dealers?

A. Very, very little. I don't think we have sold a chair outside of Atlantic City. We don't care to manufacture them at all. They have been sold in Atlantic City but very few outside of Atlantic City.

J. M. McDUELL, a witness produced upon the part of the respondent, being duly sworn according to
30 law upon his oath, deposes and says:

Direct examination.

By Mr. Schimpf:

Q. Mr. McDuell, you are in the rolling chair business in Atlantic City?

A. Yes.

Q. Where are your places located?

A. At present 2519 Boardwalk, at the corner of Iowa Avenue and the Boardwalk; one at the Savoy Hotel, which I will operate the first of June, and at 4400 Boardwalk.

Q. Now, none of these places are in what might be called the central part of Atlantic City, are they?

A. No, sir.

Q. They are in what is known as the lower Boardwalk, aren't they? 10

A. Chelsea, and lower Chelsea.

Q. The calls for the chair business aren't as great as around Virginia Avenue, and Tennessee Avenue, are they?

(Objected to as leading.)

A. No, sir; they are not. We pick up parties down there that walk down, and becoming tired, take a chair back. 20

Q. And how long have you been in the chair business?

A. Six years this coming February.

Q. How many chairs did you have when you started?

A. Three.

Q. And how many have you now?

A. Well, when the new chairs come in, seventy double chairs. 30

Q. Do you intend to operate all of those seventy-five chairs?

A. I hope to.

Q. It is your present intention to do so, is it?

A. Yes.

Q. And you expect to pay a license fee of twenty dollars apiece, do you?

A. Yes. That is what I understood and have made provisions for it.

Q. Has your business, from three chairs to seventy-five, been increased out of the proceeds of the chair business?

(Objected to as immaterial and irrelevant.)

A. Solely.

10 Q. And is it, in your opinion, a fair fee for double rolling chairs—that is \$20.00, or, is it, in your judgment, prohibitory or confiscatory?

(Objected to as immaterial and irrelevant.)

A. I think it is fair for the protection given by the city, the improvements of the Boardwalk, and so on; protection by the police.

20 Q. And you believe that you can make a reasonable profit at \$20.00 a chair?

A. My books have shown it, to this date.

(Objected to as immaterial and irrelevant.)

A. —which I have from the first day I went in business.

Q. Now, do you know anything about the prices charged for rents along the Boardwalk?

30 A. No, because I have never interested myself in obtaining any one else's property, or stand, except my own in renting my stations.

Cross-examination.

By Mr. Coulomb:

Q. How much rent do you pay for 2519 Boardwalk?

(Objected to as immaterial and irrelevant.)

A. If you will allow me to reserve my right, I would rather not answer that.

Mr. Schimpf: That is objected to on the ground that it is not cross-examination, and he hasn't been asked any such question, and it is an effort to pry into his private affairs.

10

Q. How much rent do you pay for the four stands that you operate in gross?

Mr. Schimpf: Objected to on the same ground as urged in the other question.

The Witness: Do I have to answer that?

Mr. Schimpf: I don't think you do. It is not a part of the direct examination and it seems to me that the Master ought to rule upon it.

20

Mr. Coulomb: The point is that he has testified as to the amount of money he is expecting to make out of his rolling chair business; that he has made all of his money and derived his income from the rolling chair business, and that he can run his business profitably by paying a fee of twenty dollars a chair, and I think I have a right to find out what the expense of his business is per year.

30

The Master: Have I any right to rule?

Mr. Schimpf: I imagine that you have in a matter of this kind, for it involves contempt if the question isn't answered, and it seems to me that that does give the Master the right to rule.

The Master: I wish you would take it up with the Judge and get an order for him to answer.

Mr. Coulomb: Do you want it to go upon record that upon the advice of counsel he declines to answer that question?

The Master: I don't think that I will rule.

10 Mr. Coulomb: Does counsel say that the witness refuses to answer?

Mr. Schimpf: He can answer if he wants to.

The Witness: I have a stand that is in litigation and it would be impossible for me to figure it out owing to injunction proceedings upon that particular stand, that is now operating, it would be a hard matter to render that.

20

Q. 4400 Boardwalk?

A. Yes.

Q. Leaving that out of consideration, what is the gross amount of rent paid for the three other stands?

A. My main stand—I pay rent upon another building for which I sublet the delicatessen store and room on the opposite side, adjacent, and I have to figure my living out of it and my cigar store and
30 rolling chair stands.

Q. You conduct another business at that place?

A. Yes.

Q. Where?

A. 2519 Boardwalk.

Q. Leaving that out of consideration, what do you pay for the other two?

A. Do you want me to go into details?

Q. I want details or not at all. You certainly can tell me.

A. I can't do that without the figures.

Q. Is any other business conducted there; do you lease and sublet those two stores at Iowa Avenue and the Savoy Hotel?

A. No, sir; I don't do any subletting there, I rent them.

Q. Iowa Avenue and the Boardwalk? 10

A. Yes; Iowa Avenue and the Boardwalk.

Q. And the Savoy Hotel?

A. Kenton Hotel, now.

Q. What is the rent that you pay for these two stands?

A. Can't I give the three as a whole, approximately?

Q. How much did you pay in license fees in the last year?

A. Last year I operated forty chairs, double 20 chairs, at \$15.00 per chair, and five single chairs.

By Mr. Schimpf:

Q. At \$10.00 a chair?

A. Yes.

By Mr. Coulomb:

Q. That is \$50.00? 30

A. If it amounts to that.

Q. How many station taxes do you pay?

A. For each stand?

Q. Do you pay four station taxes?

A. Not as yet, for I am not yet operating four.

Q. Are you operating three?

A. I am paying for two, at present, having been held up at 4400, and I am not operating the Kenton Hotel.

Q. Don't you operate chairs at 4400?

A. Yes.

Q. But you haven't paid the station tax there?

A. I have been held up on it.

Q. Do you operate the Kenton Hotel now?

A. No, sir. I store chairs in the back, but none
10 in the front.

Q. What is the cost of operating your rolling chair business alone, outside of the license?

Mr. Schimpf: That is objected to upon the same ground as the objections raised in the other questions as to the rents.

A. Having a family to support, my expenses in that line are unlimited.

20 Q. So that you can't tell us what your total expenses are, aside from licenses for operating chairs?

A. Not unless I figure it.

Q. Can't you tell us approximately?

A. I board my son there at the rate of fifty dollars a month, board him and his family and that will average twelve hundred dollars for his services. The manager at Iowa Avenue at two dollars a day in the season, according to the business, I pay him; and the main stand at 2519 Boardwalk, I operate
30 that myself, with a manager on a Sunday if the business warrants it.

Q. What were the gross receipts from your rolling chair business last year?

Mr. Schimpf: Objected to upon the same ground as the objections to the other questions.

The Witness: Do I have to answer that?

Mr. Schimpf: I don't think it is a proper question, Mr. McDuell.

A. I have got in my books each month, and would have to total each month to find out the total for the twelve months. That is, I have it in the book, but I don't just exactly remember which page.

Q. Have you got your books with you? 10

A. No, sir.

Q. Do you know what you were called upon to testify here to-night?

A. How is that?

Q. Do you know why you were called upon to testify here to-night?

A. Yes; but I wasn't told to bring my book.

Mr. Schimpf: The witness was called as an expert upon rolling chairs, and whether the fee is a proper one, and whether or not the business can be successfully operated under it. 20

Mr. Coulomb: I move then that his testimony be stricken out, if he is called purely as an expert.

Re-direct examination.

By Mr. Schimpf:

Q. Mr. McDuell, let me ask you another question. In your opinion, would more money be made out of the rolling chair business if higher prices were paid for it? 30

(Objected to as immaterial and irrelevant.)

A. That would be a very difficult matter to decide, not knowing just what would take place. I feel that at a dollar it would be better for everybody, for everybody would maintain their stand and they would get better stands. If everybody maintained that price, we would have less chairs to operate on the Boardwalk, and the Boardwalk would be freer from the number of rolling chairs, and there would be less expense.

10

By Mr. Coulomb:

Q. In other words, they wouldn't do as much business?

A. The volume of business would be less and there would be less expense.

Q. They wouldn't operate as many chairs?

A. No, sir.

20

LEOPOLD B. ECKSTEIN, a witness produced upon the part of the respondent, being duly sworn according to law upon his oath, deposes and says:

Direct examination.

By Mr. Schimpf:

30 Q. Mr. Eckstein, are you an officer of the Eckstein Rolling Chair Company?

A. Yes.

Q. And prior to the formation of that company you were in business under your own name?

A. Yes.

Q. And how long have you been in the rolling chair business?

- A. A little over six years.
- Q. Continuously?
- A. Yes, sir.
- Q. In Atlantic City?
- A. In Atlantic City.
- Q. On the Boardwalk?
- A. Well, I travelled on the road for two years, two or three years, but I stayed there myself; my son used to run it for me.
- Q. You were in the business? 10
- A. Yes.
- Q. And you had the stand that the Hotel Rudolf had, did you not?
- A. Yes.
- Q. And for how many years were you there?
- A. Four years.
- Q. What years?
- A. Why, up until June, 1912.
- Q. Up until June, 1912?
- A. Yes; four years, up to that time. 20
- Q. What rent did you pay there?
- A. Two thousand dollars.
- Q. During all of that time?
- A. Yes, sir.
- Q. When did you first hear from the proprietor that you were to pay more rent?

(Objected to as immaterial and irrelevant.)

A. I didn't hear anything at all. The stand was **30** gotten in an underhand way.

Q. And they didn't give you any notice that they wanted any more rent for it?

A. No, sir.

Q. They didn't give you the refusal of the place?

A. No, sir.

Q. Bloch, who has been spoken of here, went into it at the time?

A. Not at that time.

Q. Did you have any dispute with him?

(Objected to as immaterial and irrelevant.)

A. The way it was, I owed him something around thirty-three hundred or four thousand dollars.

10 Q. Thirty-three hundred or four thousand dollars?

A. Yes.

Q. And there were two or three rolling chair concerns that went to Bloch?

(Objected to as immaterial and irrelevant.)

Mr. Coulomb: Never mind about that, that is all hearsay.

20

Q. At any rate, you got out of there because your lease was cancelled?

A. Yes.

Q. Now, from your experience in the rolling chair business, do you think that a fee of twenty dollars a chair a fair fee for the city to charge?

(Objected to as immaterial and irrelevant, and further on the ground that he hasn't shown himself
30 qualified to testify relative to that.)

A. Yes.

Q. You don't think it prohibitory or confiscatory, do you?

A. No, sir.

Q. Do you intend to operate as many chairs this year as you did last year?

A. Yes.

Q. And at the increased fee?

A. Yes.

Q. Do you know what rent was paid at the Rudolf station before you took the station?

(Objected to as immaterial and irrelevant.)

A. Yes, sir; fifteen hundred dollars.

Q. And that was only four years ago; was it? 10

A. Yes, sir; four years ago.

Q. When you were first in the business, the price of chairs was a dollar an hour, wasn't it?

A. Yes.

Q. Do you remember when the rate was cut?

A. Well, they have been cutting it all of the time, ever since I have been in the business.

Q. They put up signs on their stands, don't they?

A. They have them at fifty cents an hour.

Q. Didn't they use to have them once at a dollar 20
an hour?

A. Yes.

Q. And exhibited so that you could see it?

A. Yes.

Q. Do you remember when Mrs. Clowney put out a sign at seventy cents?

A. I don't remember whether it was two or three years ago; it was on New Year's Day.

Q. You remember the time, do you?

A. Yes. 30

Q. What happened on the other rolling chair stands on that day?

(Objected to as immaterial and irrelevant.)

A. Not on that day, but a few days after, they called a meeting, but I didn't attend.

Q. You didn't attend?

A. No, sir.

Q. What happened after the meeting, anything?

A. They cut the price to fifty cents an hour, all of the chair stands.

Q. They did that immediately after the meeting?

A. Yes, sir.

Cross-examination.

10

By Mr. Coulomb:

Q. Did you cut to fifty cents an hour?

A. Yes.

Q. Immediately?

A. Yes, when they all put the price down, I cut, too.

Q. How long were you at the Hotel Rudolf?

A. Four years.

20

Q. When did you leave there?

A. June 1, 1912. In fact, May 31st, at midnight.

Q. How much space did you have across from the Rudolf?

A. All the space I want to occupy at present.

Q. You store your chairs there?

A. Yes, sir.

Q. What are they doing there now?

A. They are going to tear it down.

30 Q. So that you are doing business on the Boardwalk, aren't you?

A. I do business off the Boardwalk, not on the Boardwalk.

Q. How many chairs do you operate?

A. Fifty-four double, and I have got three single chair licenses, but have ten singles altogether. I have sixty-four chairs and operate fifty-seven.

- Q. How many stations do you operate?
A. Just one stand.
Q. What is the gross amount of business that you do in a year?
A. That I refuse to answer.
Q. What is the gross amount of your expenses for the year?
A. I can't tell you.
Q. What is the net amount of your receipts a year? 10
A. I refuse to answer that.

(Objected to as the other questions were objected to.)

MR. MULFORD ROSE, recalled.

Direct examination.

20

By Mr. Schimpf:

(Blank tax bill of 1912 was offered in evidence and by stipulation, received for the purpose of showing the city appropriations for the year 1912-1913.)

(Tax bill marked "Exhibit R-3.")

Q. Mr. Rose, what office do you hold in the employment of the City of Atlantic City? 30

A. Member of the Detective Bureau and Deputy Mercantile Appraiser.

Q. How are the mercantile licenses fixed?

A. Prior to the present year, by the City Council. This year, by the City Commission.

Q. By ordinance?

A. Yes, by ordinance.

Q. What method do you use in fixing these fees, if you use any?

A. It depends in a great measure whether or not there is more need of police protection, and also for safe-guarding the public, and the amount of money required to do this. Some businesses would not require any, other businesses require quite a lot.

10 Q. Those businesses, then, that require a minimum police regulation for public safety are taxed low?

A. Less than the others.

Q. And the others are taxed more?

A. Yes.

Q. The license fees are made higher?

A. Yes.

20 Q. Is it true, or is it not true of business in Atlantic City, that all businesses in Atlantic City are classified?

A. They are.

Q. Is it true or not true that they are all charged upon exactly the same basis?

A. As near as can be.

Q. No discrimination is exercised against the proprietor of one store over another, where they transact the same business?

(Objected to as immaterial and irrelevant.)

30

A. No, sir.

Q. Mr. Rose, it was testified to by Mr. Hemple that flowers and laces are sold on the Boardwalk. Is that true?

A. It is not.

Q. Have there ever been any arrests for attempts to sell them?

A. There have been and the persons fined.

Q. How?

A. The persons fined.

Q. Persons were fined?

A. Yes.

Q. The arrests resulted in convictions?

A. Yes.

Q. And is a close supervision exercised over the Boardwalk to prevent business being transacted there?

10

A. Yes.

Q. Now, will you state whether or not any vehicles are allowed on the Boardwalk except the rolling chairs and baby carriages?

A. No.

Q. And are any sales permitted to be made on the Boardwalk except for newspapers?

A. Not any.

Q. How many rolling chair stands are there in Atlantic City?

20

A. Sixty-three or four. Sixty-four, I think.

Q. And how many firms or corporations are there conducting the business of rolling chairs?

A. Twenty-two, I think.

Q. Twenty-two?

A. Yes.

Q. Did you attend any meeting of the Commissioners when this ordinance was under consideration?

A. Yes, sir.

30

Q. Do you know from what they said what their object was in the passage of this ordinance?

(Objected to as immaterial and irrelevant.)

Q. Do you know?

A. For raising revenue, and because of the increased expense in maintaining the Boardwalk and properly policing the same.

Cross-examination.

By Mr. Coulomb:

10 Q. Mr. Rose, is it permissible or do you allow flower vendors to sell flowers at the corners of the streets on the Boardwalk?

A. It is positively prohibited and not allowed since June first, 1912.

Q. Do you allow people, who, for instance, rest their flower baskets on the rail that forms the angle where the approach and the Boardwalk meet, to sell flowers?

A. No; arrests have been made for it.

Q. It is rather frequently done, is it not?

20 A. It is not. I challenge any one to show me one.

Q. Mr. Rose, people can make purchases on the Boardwalk by standing on the Boardwalk and buying from stands along the Boardwalk?

A. Yes.

Q. Aren't there push carts allowed on the Boardwalk?

A. Yes, some few. Push carts go early in the morning, and make deliveries to persons living there.

30 Q. Isn't coal and other materials of that sort delivered to the piers across the walk?

A. I never saw any. There might be one place only, and that would be the Million Dollar Pier, and that would only have been this last year, because formerly they got their heat from the city, and this year they are heating from their own plant. That would be the only one that I know of.

Q. Does every rolling chair stand that does business pay a license tax?

A. To the best of my knowledge. None have escaped me, I am sure.

Q. Can you account for Mr. McDuell not paying his license at 4400 Boardwalk?

A. I think we have his check for his license at 4400 Boardwalk. We received it with the understanding that he would pay for his license if he stays there. He does not know whether he will 10 stay there or not.

Q. In other words, you have not used this check?

A. No.

Q. But he is doing business there?

A. I don't know. I haven't been down there for a week or two weeks.

Re-direct examination.

By Mr. Schimpf:

20

Q. Mr. Rose, were you present at the meeting of the Board of Commissioners when this ordinance was passed on final reading?

A. Yes.

Q. And was there, or was there not, a public hearing on the subject of rolling chair business?

A. I think so.

Q. Do you remember who were present that day?

A. Mr. Reed, Mr. David Reed, Mr. Weisgerber 30 and Mr. Bourgeois.

Q. Did the Commissioners give any opportunity to any of these persons to speak on the question before the ordinance was passed?

A. I think Mr. Bourgeois spoke. In fact, I am quite sure that he spoke on the question.

Q. He did address the Commissioners on the subject, then, did he?

A. Yes.

Q. And urged his reasons for leaving the license fee as it was?

A. Yes.

Q. Then the Commissioners had his argument all the time before them at the time this ordinance was passed, did they not?

10 A. Oh, yes.

Re-cross examination.

By Mr. Coulomb:

Q. Did they invite Mr. Bourgeois to make his statement before them?

A. I am not quite clear, but I think Mayor Riddle did.

20 Q. You were present there, at the time?

A. I was present; yes.

Q. Didn't Mr. Bourgeois first request the privilege of speaking?

A. It might be so. I may be mistaken about it, so much took place that day, I am not entirely sure.

30 Mr. Schimpf: We have been expecting a witness and a very important one. He was here the other day but doesn't seem to be here to-night. I want to suggest this: that if we can produce him at a future time, we don't want to hold up the transcript or the printing of this testimony, but if I can produce him in time to have his testimony taken, probably we will have that done and hand it to you for your book.

DEFENDANT'S TESTIMONY.

JOHN M. McDUELL, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct examination. 10

By Mr. Schimpf:

Mr. Schimpf: I want to introduce in evidence the ordinances of the city regulating the rolling chair business on the Boardwalk.

Q. Mr. McDuell, you are in the rolling chair business in Atlantic City?

A. Yes, sir. 20

Q. How long have you been in that business?

A. About seven years this February coming.

Q. When you started in that business how many chairs did you operate?

A. Three.

Q. How many do you have now?

A. Seventy-nine double chairs and about six single chairs.

Q. Has the increase in your chairs been the result of the profits of the rolling chair business? 30

A. Positively.

Q. How many stations do you operate?

A. At present four.

Q. Do you pay the city a license for those stations?

A. Have been paying.

- Q. How much?
- A. One hundred dollars each.
- Q. And do you pay a license for your chairs?
- A. Every chair I operate.
- Q. How much for each chair?
- A. Twenty dollars double and fifteen single.
- Q. How much do you charge an hour for your chairs?
- A. Thirty cents per hour for two and fifty for three in the chair.
- 10 Q. And how long have you been charging those prices?
- A. Since September, 1913.
- Q. Is your business profitable at those prices?
- A. It is shown such through the bank account.
- Q. Will you just state whether it is or not?
- A. It is profitable.
- Q. And can you pay the license fee exacted by the city and still make a profit on your business?
- 20 A. At the present renting I can.
- Q. Do you know the Shill Company, Mr. McDuell?
- A. Yes, sir, I know them as a competitor.
- Q. Do you know who their officers are? Do you know who the officers of the Shill Company are?
- A. There are several, but I don't know every one's position.
- Q. Well, whether you know their positions or not, if you know them as officers of the Shill Company will you state their names?
- 30 A. Mr. Hempel, Mr. David Reed, Mr. Weisgerber. That is about all I know as the company.
- Q. Do you know Mr. Ezekiel C. Reed?
- A. Yes, sir, I do.
- Q. Do you know whether or not he is an officer of the Shill Company?
- A. I do not, sir.

Q. Do you know whether he is interested in the business conducted by the Shill Company?

A. Only through his approach to me.

Q. Did you have a conversation with him this summer regarding the rolling chair business?

A. By his approaching me and my answering in return.

Q. Will you state what he said to you and what you answered him concerning the business?

A. Old gentleman Reed, you mean? .

10

Q. Yes.

A. He came to my station at Hartford Avenue, and opened conversation for the purpose of getting together and raising the price upon rolling chairs from thirty cents, which I told him that I had nothing in return to say to him regarding that, that I operated my own chairs and it was up to him to operate his own, and he stated that he had fifty thousand dollars to lose in the rolling chair business and that he intended to put them at fifteen cents and giving it all to the pusher. In return I said, "I think you will get rid of your fifty thousand easy enough if you start it." With that he left me. 20

Q. Did he make any suggestion to you about buying you out?

A. No, sir.

Q. Did any of the other officers of the Shill Company whom you have mentioned ever suggest buying you out?

A. No, sir, not directly.

30

Q. Well, did they indirectly?

A. Well, I was asked to name a price if I wanted to sell out.

Q. Who were you asked by?

A. Mr. Hempel.

Q. Did you make a price?

A. No, sir; I had none.

Q. You have had a good deal of competition from the Shill Company, have you not, Mr. McDuell?

A. I would consider it such.

Q. What was the character of that competition?

A. Well, a portion of it was hearsay.

Q. Don't give us the hearsay. Only tell me what you know.

A. Meeting my prices I would suppose was competition.

10 Q. Did they ever erect any stands near yours?

A. No, nothing new, nothing more than what they had already been operating.

Q. Most of their stands are located in a very populous part of the Boardwalk, are they not?

A. Most prominent places that could be had, in my judgment.

Q. And where are your stands located?

A. One at Bellevue Avenue and the Boardwalk; 20 one at Iowa Avenue and the Boardwalk; one at Hartford Avenue and the Boardwalk; and I had one at the Imperial Hotel, on Maryland Avenue, which I have closed and now operate on the Boardwalk in Mr. Myer's property at Missouri Avenue.

Q. All of those stands are in what is known as the Chelsea District, are they not?

A. Well, Chelsea starts at Texas Avenue and below.

Q. Bellevue Avenue is a half block this side of 20 Texas?

A. Yes, sir.

Q. The character of the Boardwalk there —

A. From Florida Avenue it is considered, as a rule, the Chelsea District.

Q. So that all of your stands, except the Missouri Avenue station, are in the Chelsea District?

A. Chelsea District.

Q. The Missouri Avenue station is a new one?

A. Is a new one for the purpose of catching the trade coming from the pier who live in Chelsea.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. McDuell, do I understand from you that 10
you would not sell your business at any price?

A. Well, I wouldn't say that.

Q. Then what am I to understand from your testimony when you said to Mr. Reed that you had no price?

A. I had not considered selling. Do you wish me to give the conversation that I gave him regarding why I would not?

Q. No, not unless it is important, but it probably is not. You had not considered at all selling, and 20
you did not want to sell?

A. Didn't care to sell.

Q. When you started in the rolling chair business in Atlantic City, who were the other people that were in that business?

A. Pretty much everyone that is in there now, with the exception of Mr. Hess, who has gone in since.

Q. Who were the people in that business down in the lower end of the town at that time, at the time 30
you went in it?

A. Mr. Mason, Mr. Myers, Mr. Seidel and the Shill Company. There was a Mr. Gourley who has sold out since, and Mr. McManus. It will call for a little thinking to get it all together.

Q. What was the price per hour for chairs when you went into the business?

- A. One dollar for two people.
- Q. And how long did that continue to be the price?
- A. I don't know the exact date. Until Mrs. Smith reduced it to seventy-five cents, and possibly twenty-four hours following, it was reduced to fifty.
- Q. When was that?
- A. Possibly Mr. Hempel could give that date. I don't know just exactly.
- Q. Can you give it? Can you give it approximately?
- 10 A. Well, I would imagine some four years or four and a half years ago.
- Q. From that time the price remained fifty cents until when?
- A. The signs represented fifty cents.
- Q. Until when?
- A. Until I made a sign of thirty.
- Q. Yes, but aside from your sign, the price continued at fifty cents until what time?
- 20 A. Supposedly at fifty cents until I reduced it in September of 1913.
- Q. When you reduced it in September, 1913, to thirty cents, was it reduced all along the Boardwalk, or was it still retained at fifty cents above a certain —
- A. At places and spots.
- Q. Where was it retained at fifty cents?
- A. All of the Shill stands, with the exception of the Brighton Avenue.
- 30 Q. All excepting Brighton Avenue?
- A. Yes, sir.
- Q. And some of the other stands, too, weren't they?
- A. I don't think there was any other stands but Mr. Seidel and myself, and then Mr. Mason, after Mr. Seidel went on to the Shill Company's station at

Brighton Avenue, Mr. Mason saw competition coming and so told me that he couldn't stand it, and he dropped to thirty.

Q. Now, when was that?

A. Well, I suppose Mason about the middle of October.

Q. Of this present year?

A. No; 1913.

Q. Now, how long did you operate your chairs at thirty cents an hour before the price was dropped 10 generally to thirty cents an hour?

A. It never has been dropped generally.

Q. Isn't it now thirty cents an hour?

A. Some places.

Q. Isn't it all of the places?

A. I understand that the Blenheim and Shelburne and other places it is fifty, Park Place. That is only my knowledge of hearsay.

Q. Now, Mr. McDuell, what was the amount of your income, I mean your gross income, from the 20 rolling chair business that you operated, between June first, 1913, and June first, 1914?

A. I wouldn't be able to give you that only by summing up the books, which I have each month totalled.

Q. Will you do that for us so we can find out something about it?

A. Gladly.

Q. Will you also find out for me the amount of your gross receipts for the months of September and 30 October of 1914 as compared with your gross receipts for the months of September and October of 1913 and for the months of September and October of 1912?

A. Well, I would state for your information, that I increased my chairs each year, which would probably give you a complication.

Q. No. If you will tell us the number of chairs, we can figure somewhat about it.

A. You see, I added in 1913 twenty-five chairs to my lot.

Q. I want to see how the year's business, one year compares with another.

A. You could drop that number of chairs and make the calculation. That is right.

10 Q. Will you tell me what is the amount of rent you pay for your Bellevue Avenue station?

A. You wouldn't compel me to do that, would you, because the Shill Company testified to all theirs as a whole.

Q. Well, will you tell me the amount of rent that you pay for all your stations complete, the whole four of them, are there?

Mr. Schimpf: That is objected to as immaterial, irrelevant and incompetent.

20

A. Fifteen hundred and twenty-five dollars.

Q. Fifteen hundred and twenty-five dollars for four stations?

A. Yes, sir. I am calculating on the Imperial Hotel, which I have given up. The present station costs me a little more than I paid, but I have just entered into a new agreement the first of the month.

Q. Will you again tell me where these stations are? One at Iowa Avenue?

30 A. Yes, sir.

Q. And one at Bellevue Avenue?

A. Main station.

Q. One at Missouri Avenue?

A. On the Boardwalk a couple of doors east.

Q. And the other is where?

A. Hartford Avenue.

Q. And the four of them, the rent amounts to fifteen hundred and twenty-five dollars?

A. Fifteen hundred and twenty-five dollars.

Q. From whom do you lease the Iowa Avenue station?

Mr. Schimpf: That is objected to.

A. From Lamponi.

Q. That is what company?

10

A. Mr. Lamponi. I make the checks payable to him personally.

Q. Isn't that property owned by a corporation of which he and Mr. Riddle are the owners?

A. That I know not. My whole transaction was with Mr. Lamponi.

Q. Eden Company.

A. I don't know that my lease stipulates any Eden Company at all.

Q. But it is that same property?

20

A. Well, I can't say that it is. It is on the opposite side of the street.

Q. Is it the property that Lamponi bought and sold a half interest in it to Mayor Riddle and afterwards they formed a corporation and they together own all the stock?

A. That I couldn't answer intelligently.

Q. Now, from whom do you rent the Hartford Avenue station?

A. From Mayor Riddle.

30

Q. Do you pay rent for that?

A. So stipulated and agreed before a nail was ever driven.

Q. I didn't ask you that.

A. I pay rent for the Hartford Avenue station.

Q. Pay rent for Hartford Avenue?

A. Yes, sir.

Q. That particular station, Mr. McDuell, I would like to know the amount of the rent of, because I want to check up the rent with the rent of another piece of property that he rents for the same purpose. Will you tell me what it is, please?

Mr. Schimpf: That is objected to. I do not think you are obliged to answer that question.

10

A. I don't know of any one who has answered one of that kind.

Q. Oh, yes; Shill's gave the rent for all of them. Every stand they gave Mr. Schimpf the rent for.

Mr. Schimpf: It was with the understanding that nobody should hear anything about it.

Mr. Bourgeois: I am willing that Mr. McDuell shall do that.

20

A. Put the amount on a piece of paper?

Q. And hand it to the stenographer.

(Witness complied and the card read "\$100.00.")

Q. Now, Mr. McDuell, you stated that you have been paying station license. What do you mean by saying that you have been paying station license?

30

A. That I haven't paid any this year.

Q. You have previous to this year paid a station license?

A. Every station I have.

Q. Last year included?

A. Last year.

Q. Then you stated that the license was twenty dollars a chair. Do you have any single chairs?

A. Yes, sir, I have about six or seven, I don't know just which.

Q. Do you operate them?

A. Not every one. Only those that are licensed.

Q. How many are licensed?

A. I think it is three.

Q. How many of the double chairs are licensed?

A. Sixty-eight.

Q. Have the license fees for those chairs been paid this year?

10

A. Every penny.

Q. And have you an agreement with the City Commissioners or with the mercantile appraiser's office that in the event that these suits are decided against the city, that you shall have the license moneys paid by you returned to you?

Mr. Schimpf: That is objected to. I have no objection to saying that there was a conditional receipt given to all persons who paid their licenses.

20

A. That is correct.

Q. Where is the receipt? Have you got a receipt?

A. I have that at home.

Mr. Schimpf: I will give you a copy of the resolution of the Commissioners authorizing the mercantile appraiser to issue those receipts, and a copy of the receipt.

30

Q. Do you have such an agreement as that with regard to your station license also?

A. No, sir.

Q. Mr. McDuell, can you tell me why it is that you have not paid the station license, when everybody else has?

A. I simply haven't paid it.

Q. Not because you didn't have the money?

A. No.

Q. Just because you didn't want to pay?

A. Didn't care to pay it.

Q. Did the city bring any proceeding against you for violating the ordinance that requires that a station license shall be paid?

10 Mr. Schimpf: That is objected to for the same reason. There may be such a proceeding now, you cannot tell.

A. No, sir.

Q. Is there any proceeding pending now against you?

A. Not to my knowledge.

Q. Mr. McDuell, has the city made any demand on you for the payment of the station license this year?

20 A. I think I was told that the license was due for the station.

Q. Who told you that?

A. I think Mr. Mulford Rose notified me they were due.

Q. That is all he did, just advised you they were due?

A. Yes, sir.

Q. Did he tell you they would want you to testify in this suit?

30 A. No, sir.

Q. Tell me why it was that the station license was not paid. Didn't he make any demand that you should pay it?

A. Well, in my opinion I consider that it is not legal. The station license I do not consider is legal. It is the double taxation, in my opinion, and for that reason I did not pay it.

Q. Now, Mr. McDuell, you testified on behalf of the city in the suit between the Shill Rolling Chair Company and Atlantic City last year, didn't you?

A. Yes, sir.

Q. Who is the owner of the Bellevue Avenue station property?

A. Richard McAllister, the coal man.

Q. And in that particular property you have your own home, I think, don't you?

A. No, sir.

Q. What do you rent from McAllister? You rent more than just the little stand where you have your chairs?

A. Yes, sir, I rent the entire property.

Q. How much do you receive rent back for that property? I mean the rent that you receive from it when you sublet it.

10

Mr. Schimpf: That is objected to.

A. It has been different each year that I have sublet it. I have only rented it three times.

Q. How much the last time was received from it?

20

By Mr. Schimpf:

Q. When was the last time?

A. The last time was in the month of May, I think it was.

Q. Of this year?

A. Of this year.

30

Mr. Schimpf: It is objected to as irrelevant, immaterial and incompetent.

By Mr. Bourgeois:

Q. What I want to get, Mr. McDuell, is how much

you received from that property in rental from subletting it, say from June, 1913, to June, 1914, the gross amount?

A. I am allowed to stipulate the amount of expense of improvements that I put on to that, am I?

Q. I have no objection.

A. That would come out of it.

Q. Yes, I have no objection to your doing it.

A. I would have to make a statement of the expense, because I did quite a little building there, which the permit shows.

Q. Can you tell me approximately how much you got out of it?

A. Well, I would imagine I got out of it about four hundred dollars, that is, taking the expenses out of it, four hundred dollars clear.

Q. What, approximately, did you get out of it between June, 1912, and June, 1913?

A. A party I leased it to at six hundred dollars went out on me and left half of it owing and I had to take it and run it myself.

Q. So in the two years you have got about seven hundred dollars?

A. Seven hundred dollars.

Q. After your tenant went out on you, did you use the entire building for the rolling chair business?

A. I used it all and consumed it under my own management, operated it as best I could do.

Q. Then that four hundred dollars that you received helped to reduce the amount of your rent of fifteen hundred and twenty-five dollars, didn't it?

A. That much, yes.

Q. What other business do you conduct in your Bellevue Avenue property beside simply the rolling chair business?

A. Cigar business. Have a cigar store.

Q. You conduct that in connection with your rolling chairs?

A. Yes, sir.

Q. And you have conducted that business how long?

A. I have handled cigars ever since I have been in the building, about six years.

Q. Mr. McDuell, is it not a fact that you have means independent of the rolling chair business?

A. Have a position that I have held for twenty- 10
seven years with one firm.

Q. An income?

A. Yes, sir.

Q. Independent of the rolling chair business?

A. Yes, sir.

Q. And that income is amply sufficient to meet your needs without regard to the rolling chair business?

A. No, sir; my expenses exceeds that by a thousand dollars a year. 20

Q. The expense of your family?

A. Exceeds the salary or revenue that I derive from this firm.

Q. I want you to figure out for me the expense of operating the business.

A. You want me to figure that out and bring it in?

Q. Yes. You can tell me approximately what the expense of the business each year is?

A. Yes, sir, and if you wish to, I will be glad to give you a statement of what my salary is. I can show then what the rolling chair business is doing for itself. 30

Q. I don't want to know anything about your private affairs. I simply want to know what the rolling chair business does.

A. That is the way I was going to get at it, to show you it was taking care of itself.

Q. You do it just whatever way you want, only I don't want you to feel I am trying to pry into your private affairs. I don't wish to do that. I want those two months for the three years, you know, so I can compare them. That is September and October of 1912, 1913 and 1914, and want to know how many chairs you had for each of those years.

A. 1913 was the greatest, best business.

10 Q. And won't you tell me, also, what the rate per hour was? For instance, 1912, I think was fifty cents?

A. Everything was fifty cents except September of last year, 1913, which it has been thirty cents ever since with me, with the exception of two weeks.

November 7th, 1914.

20 Statement showing net receipts taken in on Rolling Chairs for the months of Sept. and Oct. only in the years of 1912, 1913 and 1914. No expenses are figured against this other than attendants or pushers' com. taken out. The net amount taken in show as follows:

	Sept. 1912	Oct. 1912
	50 ct rate	50 ct rate
	2 Stations	2 Stations
	\$512.35	\$111.45
	<hr/>	<hr/>
	Sept. 1913	Oct. 1913
	30 ct rate took effect	30 ct rate
	after Labor day.	
	4 Stations	3 Stations
	\$852.55	\$390.80
	<hr/>	<hr/>
	Sept. 1914	Oct. 1914
	30 ct rate	30 ct rate
	4 Stations	4 Stations
	\$919.60	\$214.45

30

BERNARD MORWITZ, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct examination.

By Mr. Schimpf:

Q. You are in the rolling chair business in Atlantic City? 10

A. Yes, sir.

Q. How long have you been in that business?

A. Eleven years.

Q. How many chairs do you operate, Mr. Morwitz?

A. I operate seventy-two doubles and three singles.

Q. How many stations do you operate?

A. Three. 20

Q. How many chairs did you have when you started?

A. I started with twelve chairs.

Q. And has the increase in chairs been the result of the profits of the rolling chair business?

A. Yes, sir.

Q. Have you any other income except the income you derive from that?

A. No, sir.

Q. Are you a man of family? 30

A. Yes, sir.

Q. Do you pay your license fees to the city?

A. Yes, sir.

Q. Did you pay your fees this year?

A. Yes, sir.

Q. Twenty dollars for each double chair and fifteen for each single?

A. Yes, sir.

Q. Did you pay your station licenses?

A. Yes, sir.

Q. A hundred dollars for each station?

A. Yes, sir.

Q. And can you earn a profit on your business, paying those licenses?

A. I have made a profit until now, I don't know whether it will be or not. Every year I have worked
10 on a profit.

Q. Mr. Morwitz, when you first started in the chair business, what was the price of a double rolling chair?

A. One dollar per hour.

Q. When did it drop and how much?

A. Well, I haven't got it so—over three years ago it dropped to fifty cents.

Q. Has it since dropped to thirty cents?

A. Since dropped to thirty cents, yes.

20 Q. What is the cause of those drops in price?

A. The cause of it? The same cause as any other business, competition.

Q. Among the rolling chair men themselves, is it not?

A. Among the rolling chair men themselves.

Q. Do you think twenty dollars for a double chair and fifteen dollars for a single chair is too high a fee to charge for the privilege of operating those chairs on the Boardwalk?

30 A. No, sir, I wouldn't if it would be a dollar an hour or fifty cents an hour.

Q. That is in the control of the rolling chair men themselves, is it not?

A. Yes.

Q. The city permits by its ordinance a charge of a dollar per hour for a double rolling chair?

A. Yes, sir.

Q. And if a rolling chair man rents his chair for less than that, it is his own wish?

A. Yes, sir.

Cross-examination.

By Mr. Bourgeois:

Q. Do you think that twenty dollars for a double chair and fifteen dollars for a single chair is too high a license for rolling chairs, considering the condition that now exists in Atlantic City? 10

A. Yes, sir.

Q. Do you think that twenty dollars a chair for a double chair and fifteen dollars a chair for a single chair is too much license to pay if you can get but thirty cents an hour for the chairs?

A. I can't intelligently answer that, because we will have to operate a year to find out, find out the profit. I can't tell you. 20

Q. Can you at the present time receive or get more than thirty cents an hour for two passengers?

A. No.

Q. That is the limit of your price?

A. It is out of question.

Q. Why not?

A. Because my next competitor takes them for thirty cents.

Q. Who is your next competitor? 30

A. Everybody. I don't know exactly who it is. It doesn't make any difference.

Q. Who was the man that first started the thirty cent rate?

A. I don't know. The conditions. I don't think any man brought it about. Every one of them had

been sending out chairs for thirty cents without a sign, I guess.

Q. What makes you think that?

A. Why, when they were competing among themselves they had a sign for fifty cents, but they sent out a chair for thirty cents just the same.

Q. Mr. Morwitz, why do you say that? Do you know, or is that just your belief?

A. No, no, I know it from good experience.

10 Q. Who do you know it from? Who did it?

A. Well, those that are in the chair business.

Q. Tell us some of them.

A. I refuse it.

Q. You cannot?

A. Not that I cannot. I refuse, if I am not compelled to.

Q. Certainly. Tell us.

A. Am I compelled to answer that question?

20 Mr. Schimpf: I do not think it is a competent question, but I have not objected to it.

Q. Who, Mr. Morwitz? Do you mean to say that all the people engaged in the chair business that advertised fifty cent chairs rented those chairs out or hired them out for less than fifty cents?

A. They did.

Q. All of them?

30 A. Well, not all. I don't know. I couldn't say all, but they did, some of them did.

Q. Some of them did?

A. Yes.

Q. Now, Mr. Morwitz, how much money have you taken in this year from the first of June until the present time in your rolling chair business?

A. I am not prepared to answer that.

Q. You have the amount? Your books will show how much you have taken in?

A. I don't carry no books.

Q. Don't carry any books?

A. No.

Q. How are you able to know how much money you make?

A. My bank account.

Q. Will your bank account show how much you have taken in?

10

A. Yes.

Q. How do you know what your expenses are?

A. Well, I know what I have to pay out every year.

Q. Up to the present time has your rolling chair business this year been self-sustaining?

A. It will be till January first. My figuring shows that I have worked at a profit until January first, although we haven't yet January.

Q. Of this year?

20

A. Yes, but what it will be next year I can't tell.

Q. In other words, whether or not your business will be self-sustaining from January until June, you don't know?

A. I don't know.

Q. What was the amount of business you did last year? Take the whole year through, June of 1912 to June of 1913.

A. I am not prepared to answer that question.

Q. How much money did you make for yourself, over and above your expenses, during that year between June of 1913 and June of 1914?

30

A. Can't tell exactly now, because I haven't got the figures, but every year I was in the chair business I paid all my expenses and I had some money left in the bank over and above expenses.

Q. How much money did you have left in bank?

A. I couldn't tell you that.

Q. Are you a married man?

A. Yes.

Q. How many stations do you have?

A. I have three.

Q. Where were they?

A. The locations are States Avenue and the Boardwalk, Connecticut Avenue and the Board-

10 walk, Rhode Island Avenue and the Boardwalk.

Q. Didn't you receive a fifty-cent rate this year up until the first of September, Mr. Morwitz?

A. No, we are working, if I am correct, I can't give the exact dates, we started, I believe, around May, May, I think it was, we started on the thirty-cent rate, and then again for August we had a fifty-cent rate, only for August.

Q. What is the amount of rent you pay for your three stations?

20 A. I don't want to answer that question.

Q. Can't you tell me the amount for the three of them, the total amount?

A. I can, but I don't want to.

Q. Well, I want to know. If you don't want these folks to know, you can whisper it to the stenographer's ear.

(Witness whispers to the reporter, "Thirty-five hundred dollars.")

30 Q. You live in the station at Connecticut Avenue, don't you?

A. Yes.

Q. So that the rent that you have paid includes your house rent as well as your station rent?

A. Yes, sir.

Q. Did I understand you to say that you considered the payment of twenty dollars for a double chair and fifteen dollars for a single chair to be entirely fair and proper at the time you paid it?

A. Yes, sir.

Q. You didn't know what your business was going to be then, but you thought it was all right?

A. Yes, at that time, according to the prices then, it was all right.

Q. And you felt that inasmuch as you were doing 10 business, it was your duty to pay that to the city for the privilege?

A. And I paid it.

Q. Did you get a guarantee from the city that if the ordinance was set aside, they would return to you the money?

A. Yes, sir.

Q. Why did you take that guarantee, if you thought the twenty dollars and fifteen dollars were proper charges, and that it was proper that you 20 should pay it to the city?

A. Because I don't want to throw money away. If other people don't pay, I don't want to pay myself.

Q. Even though you owe it, you don't want to pay unless they do?

A. Certainly not.

Q. Did you pay your stand licenses?

A. Yes, sir.

Q. And did you have a guarantee for that, too? 30

A. It is included in the guarantee.

Q. What did you think about the stand license? Do you think a hundred dollars a station is an entirely fair charge or tax for a station license?

A. The amount is fair. It is all right, yes.

Q. If the amount is fair —

A. But the legality of it is for lawyers to decide.

Q. You think the amount is all right?

A. Yes.

Q. Then tell me why you took an agreement to get your hundred dollars back again if the amount was all right, in the event that the ordinance was set aside.

A. For the same reason, because McCloskey didn't pay it.

10 Q. How is that?

A. For the same reason I stated before.

Q. In other words, you think the charge is all right and it is a debt that is justly due to the city, but you don't want to pay it?

A. Oh, no.

Q. You don't want to pay it if the ordinance is not valid?

A. I want to pay it if everybody else pays it.

20 Q. And if everybody else does not pay it, you don't want to pay it, even though you owe it, even though the city ought to have it?

Mr. Schimpf: I object to that.

Q. How many chairs do you say you went into business with?

A. Twelve.

Q. And how many have you now?

A. Seventy-two doubles and three singles.

30 Q. How many had you last year?

A. Seventy-two doubles. I had some more singles, but I didn't license them this year.

Q. In other words, you thought fifteen dollars apiece was too much license to pay on the singles?

A. No, I saw that there was no demand for single chairs.

Q. How many chairs did you have the year before last?

A. I really don't remember that. I must look that over. I guess it is a record with the mercantile appraiser.

Q. Did you buy any chairs—I don't mean how many you took out a license for. Did you buy any chairs during the year 1912?

A. Yes.

Q. Did you buy any more than you discarded? 10
Did you increase the number?

A. I bought some chairs, yes, sir.

Q. I know, but you discarded some, too, probably?

A. Yes.

Q. Did you increase the number you had or just simply buy to take the place of those?

A. Just the same amount I had before.

Q. When was it you increased the number of your chairs? Eleven years ago would make 1903.

A. Every year I increased my chairs. 20

Q. Mr. Morwitz, isn't it a fact that the rolling chair business was very, very much better, say from 1903 up to 1910, than it has been since that time?

A. Without a doubt.

Q. And the rolling chair business in Atlantic City each year since 1910 has been growing less and less and less profitable, hasn't it?

A. But that hasn't got nothing to do with the city. That is our own fights among ourselves.

Q. I am asking you if it is not a fact. 30

A. Yes, it is less profitable; that is right.

Q. Now, Mr. Morwitz, when did you first find out you were going to testify in this case? When were you first spoken to about it?

A. Spoken last time when it was postponed, last week.

Q. When before that?

A. I don't remember.

Q. Were you spoken to about it at the time you paid your license?

A. No.

Q. Just afterward?

A. Well, just lately.

Q. You were not subpoenaed to come here? You came voluntarily?

10 A. No, I came here just voluntarily.

Q. Who wanted you to come? Who asked you to come?

A. Mr. McDuell asked me to come this morning. He 'phoned me and I came up here.

Q. Mr. McDuell asked you to come in behalf of the city?

A. No, not exactly that. He told me to come up here.

Q. Mr. Rose didn't come and ask you at all?

20 A. Mr. Rose, I believe, asked me once. He asked me once, I believe, a month ago or something.

Q. Months ago?

Mr. Schimpf: A month ago, he said.

Q. Didn't Mr. Rose come along the Boardwalk and ask, I think, all of you, including you, that paid your license, before you paid your license at all, if you would testify in this matter?

30 A. No.

Q. Did not?

A. No, not that I remember, no. Before I paid my license?

Q. Yes, before you paid your license at all.

A. No, I don't think so, no. Before I paid my license Mr. Rose hasn't seen me, I guess, at all.

By Mr. Schimpf:

Q. Mr. Morwitz, did any member of the city government offer you any inducement or promise of any kind to come here and testify?

A. No, sir.

By Mr. Bourgeois:

Q. Didn't Mr. Rose tell you that if you would 10
come up and testify in this cause that if the ordinance was set aside, that you would get your money back?

A. Mr. Rose? Why, I have got the receipt to that effect.

Q. Before that? You didn't get that receipt until you paid your money. Didn't he before that time tell you that?

A. I don't recollect that.

Q. What?

20

A. I can't recollect that statement.

DAVID C. REED, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct examination.

30

By Mr. Schimpf:

Q. Mr. Reed, you are the treasurer of the Shill Company, are you not?

A. No; its president.

Q. You are its president?

A. Yes.

Q. What position does Ezekiel C. Reed hold in the company?

A. Second vice-president.

Q. Now, since October, 1913, you have been making some investments in the rolling chair business, have you not, by purchasing the businesses of other people in that business?

A. 1913?

10 Q. Yes, since October, 1913.

A. Yes, I think we bought out Madison.

Q. Did you buy out Eckstein?

A. Yes.

Q. George Mason?

A. Yes.

Q. Herman Shane?

A. Yes.

Q. Francis George?

A. No.

20 Q. A. Lambert?

A. No.

Q. Do you know who did buy out George or Lambert?

A. We bought George out years ago, several years ago. We didn't buy him out. We took over his stock under a leasehold.

Q. How about Lambert?

A. There isn't anybody by the name of Lambert to my knowledge.

30 Q. Did you try to buy out John Garey?

A. No.

Q. Mr. Reed, are rents any less this year than they were last?

A. No.

Q. Have they increased any?

A. Yes.

Q. You pay the increase rather than give up the places, don't you?

A. Wherever they are profitable, yes. The chances are we will give some up this year. We are thinking about it very seriously.

Q. You are not thinking about going out of the rolling chair business, though, are you?

A. No, not entirely.

Cross-examination.

10

By Mr. Bourgeois:

Q. Mr. Reed, have taxes gone up as well as rents this year?

A. They have.

Q. I don't mean the mercantile taxes. They have got them pretty high, but the other taxes.

A. Real estate tax?

Q. Real estate tax and every other sort of tax. 20

A. I guess they have.

By Mr. Schimpf:

Q. Mr. Reed, it is a fact that the rate for real estate tax is the same as last year, isn't it?

A. Yes, but I rather imagine the assessments will be higher.

Q. Don't imagine. Tell what you know.

A. The rate is the same. 30

By Mr. Bourgeois:

Q. Mr. Reed, does the income of the rolling chair business increase in proportion to the rentals?

A. Assuredly not.

Q. Does the income of a rolling chair business increase in proportion to the increase in the mercantile tax rate during the past two years?

A. No.

Q. Has it been the same ratio or has it been an inverse ratio?

A. Inverse ratio.

Mr. Schimpf: I object to all this.

10

Q. Has the rolling chair business been increasing during those few years, or has it been decreasing, that is, the profitableness of it?

Mr. Schimpf: I object on the ground that it is not cross-examination.

A. The profits have been decreasing.

20

MULFORD T. ROSE, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct examination.

By Mr. Schimpf:

30 Q. Mr. Rose, you are the Deputy Mercantile Appraiser of the city, are you not?

A. Yes, sir.

Q. And as such you have active charge of the collection of mercantile license fees, do you not?

A. Yes, sir.

Q. Did you ever make any promise or inducement

on behalf of the city to either Mr. McDuell or Mr. Morwitz to testify in this case?

A. Never.

Q. Have they been treated with any different policy by your office than any other person in the business?

A. Not any.

Q. Did you ever offer any inducement or promise to any one on behalf of yourself or the city to testify in this case?

10

A. No.

Cross-examination.

By Mr. Bourgeois:

Q. Why—Mr. Rose, you say you have not treated McDuell or Morwitz or Garey different from what other people have been treated?

A. That is so.

20

Q. Why haven't you collected Mr. McDuell's station license?

A. Because I haven't saw fit to go into court with him yet.

Q. Well, has there ever been any other year when you have allowed people to refuse to pay their licenses, mercantile licenses, for a period of five months?

A. Yes. Nearly every person in the mercantile business in Atlantic City.

30

Q. Rolling chair?

A. Everybody of all kinds of business, and rolling chair as well.

Q. When you have known that they were resisting payment because they thought it was not a prop-
er —

A. I don't know what they knew, whether it was proper or not, but because of other work I had to do in connection with the office.

Q. Tell me why it is in this case Mr. McDuell has not been compelled to pay his station license.

A. Because I have been too busy with other matters.

Q. Couldn't have worked it in at all?

10 A. I possibly could have, but I have a whole lot of work to do that you are not familiar with.

Q. Do you think you were not influenced at all by the fact that he was going to come and testify?

A. Positively not.

Q. And were not influenced at all by the fact that he rents property of the Mayor?

A. Didn't know it until it was testified here tonight.

20 Q. Won't you tell us, please, how it is you found time to bring all of my clients, eleven of them, into court in a bunch on two charges for each one of them, within probably two or three weeks after the first of June, and you found time to bring Mr. Washington's three clients in on two counts against each of them, and Mr. Garrison's client on two in, and couldn't find time to bring poor Mr. McDuell in for his one count?

A. Because of the fact that they had said positively that they didn't intend to pay until such action was taken.

30 Q. Mr. McDuell has said that he concluded that was not right.

A. He has not refused to pay as yet, except when I have notified him twice he has not paid, but that doesn't say I won't take action against him.

Q. What did you think when you notified him twice and he didn't pay? Did you think that meant he would pay?

A. I just thought he would after a little while, and in fact, I am sure he will after a little while.

Q. In other words, you think that now since you have his testimony, you are rather freer to go after him?

A. Oh, no, just as free before. I have nothing in common with Mr. McDuell.

Q. What about the station that Mr. McDuell has given up? Are you going to collect that station license from him? 10

A. Most assuredly. I have the evidence that he operated that chair stand.

Q. When did you get the evidence?

A. In early July.

Q. What did you get it for?

A. For the purpose of taking action against him in case he didn't pay it.

Q. Do you mean to say that after you have the evidence since early July, you have not had time to institute that proceeding? 20

A. I might have had the time, but never saw fit to do it.

By Mr. Schimpf:

Q. Mr. Rose, you were instructed by me, were you not, to bring these actions against the Shill Rolling Chair Company and all of the rest of Mr. Bourgeois' and Mr. Washington's and Mr. Garrison's clients?

A. I was. 30

Q. That was the reason you brought them so promptly?

A. Principally so.

By Mr. Bourgeois:

Q. Did the City Solicitor give you instructions to

bring actions against specific persons or the clients of specific persons?

A. No, sir.

Q. Gave you instructions to bring them against all that did not pay?

A. All.

Q. Didn't that include Mr. McDuell?

A. I presume it did.

10

JOHN M. MCDUELLE, recalled.

Direct examination.

By Mr. Schimpf:

Q. Mr. McDuell, I asked you in the course of your examination whether or not you had met with any
20 competition by the Shill Company, and your answer, I believe, was that they met your prices. Did they do anything else to compete with you?

A. Well, I overlooked that by not testifying to the Bartram Avenue station, in which, after I went down there, they got to work immediately and went on the other corner against me.

Q. At the Bartram Avenue station—that is away down —

A. I was at Columbia and they went to Bartram.

30 Q. That is away down in the residential section of Chelsea?

A. 4400.

Q. Where there are no stores on the Boardwalk for blocks?

A. No stores whatever.

Q. You erected a little canvas covered stand?

A. Yes, sir.

Q. How long after you erected that stand was it before the Shill Company erected one on the next corner?

A. I should imagine it was forty-five or sixty days following.

Cross-examination.

By Mr. Bourgeois:

10

Q. Before you went down to Bartram Avenue the Shill Rolling Chair Company had a station further down, didn't they?

A. Had a station—their last station was the Ostend Hotel.

Q. That is below Bartram Avenue, isn't it?

A. No.

Q. They had a station below you, and then you went down below them?

20

A. I went as many as ten blocks below them.

Q. And then they went below you?

A. One block.

Q. They still were below you after the thing got all straightened out?

A. I had contemplated going there for four years, and in fact had gone to Mayor Bew and tried to get the franchise for Ventnor. I really had it in mind for four years, until I found a place. In fact, another party found it for me and put me on the spot.

30

Q. Why did you want to go down below them?

A. I knew there was a class of people there that, when they rode, that one chair there was equal to three chairs in the central part of the Boardwalk, that they would ride further and longer.

Q. Why did you suppose the Shill people wanted to go down still below you?

A. I imagine for the cause they told me, that they were going to have part of it themselves, they weren't going to let me have all of it.

Q. They were going to have some of that trade?

A. Exactly it.

Q. And before you moved down there they had practically all of it? Their station was the first one
10 those people came to?

A. I never considered there was much of it. I watched it pretty close.

Q. Yet you thought there was enough to warrant you going down?

A. Yes, sir, I think there is plenty of it there yet, at times.

20 I hereby certify that the foregoing is a true and correct transcript of the testimony taken before me in the before-mentioned cases.

CLAUDE W. MYROSE,
Supreme Court Examiner.

OFFICE OF THE MERCANTILE APPRAISER
of the
CITY OF ATLANTIC CITY

RECEIVED of
the sum of _____
in payment for _____ licenses to operate
_____ single and _____ double
chairs, which licenses are numbered from _____ 10
to _____ inclusive.

The sum so received is in payment of the license fee required by Sections 1 and 4 of an ordinance entitled "An ordinance governing, regulating and fixing fees of mercantile licenses in Atlantic City, N. J., and regulating the businesses licensed," passed at a regular meeting of the City Commission May 14th, 1914, and approved May 20th, 1914; and is issued subject to the following conditions:

20
First: If the Supreme Court of New Jersey, or the Court of Errors and Appeals, should an appeal be taken to the said last mentioned court, shall determine that the ordinance so far as it affects the operation of rolling chairs, is invalid, then and in that event the City of Atlantic City will return to the person named in this receipt, the sum herein set forth, either from the contingent appropriation or from a special appropriation to be hereafter made.

30
Second: If the Supreme Court of New Jersey, or the Court of Errors and Appeals, in the event of an appeal being taken to the last mentioned court, shall determine that the fee set forth in said ordinance for the operating of rolling chairs is unreasonable to some extent but not entirely invalid

then the city will return to the person named in this receipt a sum equal to the difference between the amount of the fee fixed in said ordinance and the amount determined to be reasonable by the court; said last mentioned sum shall be payable from the same appropriation or appropriations as are mentioned in the preceding paragraph.

10

OFFICE OF THE MERCANTILE APPRAISER
of the
CITY OF ATLANTIC CITY

RECEIVED of
20 the sum of
in payment for a license to run and conduct a rolling chair stand, station or place from which rolling or invalid chairs are hired at

in the City of Atlantic City.

The sum so received is in payment of the license fee required by Sections 1 and 4 of an ordinance entitled "An ordinance governing, regulating and fixing fees of mercantile licenses in Atlantic City, N. J., and regulating the businesses licensed,"
30 passed at a regular meeting of the City Commission May 14th, 1914, and approved May 20th, 1914; and is issued subject to the following conditions:

First: If the Supreme Court of New Jersey, or the Court of Errors and Appeals, should an appeal be taken to the said last mentioned court, shall de-

termine that the ordinance so far as it affects the operation of rolling chairs, is invalid, then and in that event the City of Atlantic City will return to the person named in this receipt, the sum herein set forth, either from the contingent appropriation or from a special appropriation to be hereafter made.

Second: If the Supreme Court of New Jersey, or the Court of Errors and Appeals, in the event of an appeal being taken to the last mentioned court, shall determine that the fee set forth in said ordinance for the operation of rolling chairs is unreasonable to some extent but not entirely invalid then the city will return to the person named in this receipt a sum equal to the difference between the amount of the fee fixed in said ordinance and the amount determined to be reasonable by the court; said last mentioned sum shall be payable from the same appropriation or appropriations as are mentioned in the preceding paragraph. 10

20

No. 1.

NEW JERSEY SUPREME COURT.

10	ATLANTIC CITY, <i>Complainant,</i> <i>Respondent,</i> vs. SHILL ROLLING CHAIR COM- PANY, <i>Defendant,</i> <i>Prosecutor.</i>	}	ON CERTIORARI. ORDER.
----	--	---	--------------------------

Allocatur having been allowed in the above stated
 20 cause:

It is, on this second day of July, nineteen hun-
 dred and fourteen, on motion of Bourgeois & Cou-
 lomb, attorneys of prosecutor, ORDERED that prose-
 cutor and respondent have leave to take depositions
 on two days' notice, to be read upon the argument
 of the said cause.

CHAS. C. BLACK,
Justice of the Supreme Court.

30

No. 2.

NEW JERSEY SUPREME COURT.

ATLANTIC CITY,
*Complainant,
Respondent,*

vs.

SHILL ROLLING CHAIR COM-
PANY,

*Defendant,
Prosecutor.*

ON CERTIORARI. 10
ORDER.

Allocatur having been allowed in the above stated cause:

IT IS, on this second day of July, nineteen hundred and fourteen, on motion of Bourgeois & Coulomb, attorneys of prosecutor, ORDERED that prosecutor and respondent have leave to take depositions on two days' notice, to be read upon the argument of the said cause.

CHAS. C. BLACK,
Justice of the Supreme Court.

20

30

No. 1.

NEW JERSEY, ss.

[SEAL]

THE STATE OF NEW JERSEY to
Martin E. Keffer, Recorder of
Atlantic City, and Atlantic City,
a municipal corporation of the
State of New Jersey, Greeting:

We being willing, for certain reasons, to be certified of a certain conviction, order and proceeding given and made before you, Martin E. Keffer, Recorder of Atlantic City, on the twenty-fourth day of June, nineteen hundred and fourteen, in a certain proceeding wherein Atlantic City was prosecutor and Shill Rolling Chair Company was defendant, for an alleged violation of an ordinance of Atlantic City, entitled, "An Ordinance governing, regulating and fixing fees of mercantile licenses in Atlantic City, New Jersey, and regulating the businesses licensed," passed at a meeting of the City Commissioners held on the fourteenth day of May, nineteen hundred and fourteen, as well as of the ordinance aforesaid, the record or minutes of the meetings at which it was introduced and passed, do command you and each of you, that you severally send under your seal to the Justices of our Supreme Court of Judicature, at Trenton, on the eighteenth day of July, nineteen hundred and fourteen, the aforesaid conviction, order and proceedings, with all things touching and concerning said conviction of conducting a chair station without a license, as well as the ordinance aforesaid, together with the minutes of the City Commission of the meetings at which it was introduced and passed, together with all things touching and concerning the same, as fully and entirely as they before you severally remain, by whatsoever names the parties may be called therein, to-

gether with this writ, that we may further cause to be done thereon what of right we shall see fit to be done.

WITNESS William S. Gummere, Chief Justice of our Supreme Court, at Trenton, the thirtieth day of June, nineteen hundred and fourteen.

BOURGOIS & COULOMB,
Attorneys of Prosecutor.

WM. C. GEBHARDT,
Clerk.

10

No. 2.

NEW JERSEY, ss.

[SEAL]

THE STATE OF NEW JERSEY to
Martin E. Keffer, Recorder of
Atlantic City, and Atlantic City,
a municipal corporation of the
State of New Jersey, Greeting:

We being willing, for certain reasons, to be certified of a certain conviction, order and proceeding given and made before you, Martin E. Keffer, Recorder of Atlantic City, on the twenty-fourth day of June, nineteen hundred and fourteen, in a certain proceeding wherein Atlantic City was prosecutor and Shill Rolling Chair Company was defendant, for an alleged violation of an ordinance of Atlantic City, entitled, "An Ordinance governing, regulating and fixing fees of mercantile licenses in Atlantic City, New Jersey, and regulating the businesses licensed," passed at a meeting of the City Commissioners held on the fourteenth day of May, nineteen hundred and fourteen, as well as of the ordinance aforesaid, the record or minutes of the meetings at which it was introduced and passed, do command you and each of you, that you severally send under

20

30

your seal to the Justices of our Supreme Court of Judicature, at Trenton, on the eighteenth day of July, nineteen hundred and fourteen, the aforesaid conviction, order and proceedings, with all things touching and concerning said conviction of operating a rolling chair without a license, as well as the ordinance aforesaid, together with the minutes of the City Commissioners of the meetings at which it was introduced and passed, together with all things touching and concerning the same, as fully and entirely as they before you severally remain, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereon what of right we shall see fit to be done.

WITNESS William S. Gummere, Chief Justice of our Supreme Court, at Trenton, the thirtieth day of June, nineteen hundred and fourteen.

WM. C. GEBHARDT,
Clerk.

20 BOURGEOIS & COULOMB,
Attorneys of Prosecutor.

(Ordinance Bound In In Sheet Form).

Copy.

30 CITY OF ATLANTIC CITY
[SEAL]
DEPARTMENT OF CITY GOVERNMENT

I, DANIEL H. V. BELL, Clerk of the City of Atlantic City, in the County of Atlantic, State of New Jersey, Do Hereby Certify, that the foregoing is a true

AN ORDINANCE

Governing, Regulating and Fixing Fees of Mercantile Licenses in Atlantic City, New Jersey, and Regulating the Businesses Licensed.

Section 1. The Board of Commissioners of the City of Atlantic City do ordain: That no person shall engage in or carry on any business, profession, trade or calling in Atlantic City, nor aid or assist as employe, clerk or otherwise in carrying on any such business, etc., or in using any wagon, vehicle, stand, store or other place or thing, nor sell or offer for sale any goods or thing for which a license is required by the terms of this ordinance, unless a license as herein provided for shall have been first obtained therefor.

Applications for license shall be made to the Mercantile Appraiser of Atlantic City, and no license shall be granted until payment for the same shall have been made. Every license shall specify by name the person, firm or corporation to which it shall be issued, the business, trade or profession or calling for which it is granted and the location at which such business, trade or profession or calling is to be carried on. No license shall be granted under this ordinance for any theatre, scenic theatre, moving picture show, electric illusion or other like exhibition or amusement until the Chief of the Electrical Bureau, Building Inspector and Chief Engineer of the Fire Department certify in writing to the Mercantile Appraiser that the applicant has complied with all the ordinances and regulations respecting protection of life and property relating to such places. No license shall be issued to conduct any business on the ocean or seaward side of the Boardwalk over or upon any land in said location which has been acquired by the city for beach front public park purposes or over or upon any land oceanward from the said Boardwalk subject to covenants and conditions contained in any deeds or agreements establishing the sixty feet wide street on the ocean front, known as the Boardwalk, except upon piers erected upon such lands, provided, however, that upon such piers no license shall be issued except for purposes heretofore authorized by law to be licensed. The certificate of license shall be conspicuously displayed on the premises where the business, etc., is conducted. Licensees having no local place of business shall exhibit their license when requested to do so by officers of the Mercantile Appraiser's office and of the Police Department.

Sec. 2. That all license fees shall be due and payable to the Mercantile Appraiser at his office on the first day of June in each year, and all such licenses shall expire on the first day of June following such payment.

Sec. 3. That in case any person after having been duly licensed to conduct any of the businesses, trades, professions or callings herein required to be licensed desires to add to such licensed business, etc., and conduct therewith any other business, trade, profession or occupation not included in any classification for which his existing license was issued, he shall pay an additional fee amounting to one-half of the amount prescribed by this ordinance for the business, trade, profession or occupation so added, and be entitled to and receive thereupon a new certificate including the new business, etc. No such person shall conduct any such additional business, etc., without having first secured such license as herein provided for.

Sec. 4. That the license fees to be paid annually as above provided to Atlantic City for conducting the businesses, trades, professions or occupations herein named at the places to be designated in the license certificate issued therefor, if so designated, shall be as follows: The names used being a designation of the businesses, trades, professions or occupations required to be licensed.

Auction stores and places where goods are regularly sold at auction, each \$250.00
 Auctioneers 25.00
 Automatic weighing machines, and all other automatic machines, up to 30, each 2.00
 And 25c each additional machine.
 Automobiles, Taxicabs, used for hire, each 25.00
 Automobile Garages, or places where automobiles are stored or housed by others than owners for compensation, as follows:
 Garage with capacity for housing ten or with less machines. 25.00

Garage with capacity for housing any number exceeding ten and not exceeding twenty machines 60.00
 Garage housing more than twenty machines. 100.00
 Automobile Exchange or Salesrooms, each 25.00
 Amusements: Cable roads or amusements run by the use of boat or car; switchbacks; revolving swings or other contrivances; observation towers; shoot the chutes; toboggan slides; flying horses; bicycle track; the Old Mill; Looking Glass or Slot Illusion Show; performing animals, each 150.00
 Amusements other than above classified, excepting freak and side show. 50.00
 Art Glass Ware. 10.00
 Baby coach stands, or store, each. 10.00
 Bakery 15.00
 Barrel Wagon. 25.00
 Barber Shop (selling cigars). 5.00
 Bath Houses, each Bathroom. .25
 Bath Houses, in Hotels and Boarding Houses, each room. .25
 Boarding Houses, Hotels, Restaurants, Barber Shops selling cigars only, from case. 5.00
 Boarding Houses, Cottages, Hotels, Inns and Taverns, for each sleeping room. .50
 Bottlers of soft drinks, wholesale, not paying liquor license. 50.00
 Bottling Agents or Representatives selling or delivering soft drinks 50.00
 Bowling Alleys, each alley. 5.00
 Brick, Lime and Cement Dealers. 25.00
 Brick, lime and cement or mortar. 25.00
 Brick dealers. 15.00
 Brick yards. 15.00
 Baseball and Athletic Grounds. 25.00
 Bill and Sign Posting. 50.00
 Bread, Pastry, Ice Cream and Confectionery 25.00
 Boots, Shoes and Clothing. 20.00
 Boots and shoes and dry goods. 20.00
 Boots and shoes. 15.00
 Butter, Eggs and Poultry. 15.00
 Bicycles and bicycle supplies. 10.00
 Cart (one horse) each. 5.00
 Cart (two horse) each. 10.00
 Circus 300.00
 Coal or Ice Wagons or Carts, each 15.00
 Coal Yards, each. 25.00
 Cleaning and Pressing of Clothing 10.00
 Carpet Cleaning Establishments. 10.00
 Carpet Cleaning by Vacuum Machines, each machine. 15.00
 Crematory or Reduction Plant. 100.00
 Carriage and Wagon Making. 15.00
 Clothing, alone. 15.00
 Clothing and Ladies' and Gents' Furnishing Goods. 20.00
 Clothing, Gents' Furnishing Goods and Boots and Shoes. 30.00
 Clothing and Goods as above in this subdivision specified and other goods. 60.00
 Confectionery 10.00
 Confectionery and Cigars. 15.00
 Confectionery and Fruit. 25.00
 Confectionery, cigars and produce 20.00
 Confectionery and Ice Cream. 15.00
 Confectionery, Ice Cream and Soft Drinks 20.00
 Confectionery, Ice Cream, Soft Drinks and Cigars. 25.00
 Cigars and Tobacco, retail. 10.00
 Cigars and Tobacco, wholesale. 15.00
 Cigars and Tobacco, wholesale and retail 20.00
 Cigars and post cards. 15.00
 Cigars and stationery. 15.00
 Delivery Automobiles used to deliver goods in any business hereby licensed. 10.00
 Delivery Wagons used to deliver goods in any business hereby licensed, one horse, each. 5.00
 Two horse, each. 10.00
 Delivery Wagons, other than above, including automobiles. 25.00
 Distillers and Rectifiers. 50.00
 Delicatessen 35.00
 Delicatessen and Restaurant. 35.00
 And an additional fee as herein provided for Restaurants.
 Department Stores. 100.00
 Dry Goods and Notions. 15.00
 Dry Goods and Notions and Ladies' or Gents' Furnishing goods. 20.00
 Dry Goods, Notions, Ladies' or Gents' furnishing goods, boots and shoes. 30.00

Dry Goods, Ladies' Clothing, Ladies' or Gents' Furnishings, Millinery and Notions. 40.00
 Dry Goods and goods as above specified in this subdivision and other goods, other than department store. 60.00
 Drugs 15.00
 Drugs, Fancy Goods, Soda Water and Cigars. 25.00
 Drugs, wholesale and retail, Fancy Goods, Soda Water and Cigars. 35.00
 Electric Supplies. 15.00
 Electrical Supplies and Hardware 20.00
 Electrical Supplies and Automobile Supplies. 20.00
 Electric Sign Advertising Company 100.00
 Electric Advertising Sign, 50 bulbs or more, not advertising place to which it is attached. 20.00
 Employment agencies. 25.00
 Express, one horse wagon, each. 10.00
 Express, two horse wagon, each. 15.00
 Exhibitions 25.00
 Flower Vendors, who shall not vend on the Boardwalk or approaches thereto. 35.00
 Flour and Feed. 25.00
 Feed and Hay. 15.00
 Three, Five and Ten Cent Stores. 75.00
 Fruit Store. 25.00
 Fruit Stand. 15.00
 Fruits and Soft Drinks. 20.00
 Fruit and Delicatessen. 50.00
 Fruit, Delicatessen and Groceries. 60.00
 Furniture 15.00
 Furniture and Carpets and Stoves 35.00
 Furniture and Carpets. 30.00
 Furniture, Carpets and Clothing. 35.00
 Furniture, Carpets, Clothing and Jewelry 40.00
 Fish, Oysters and Clams. 25.00
 Flowers and Plants. 10.00
 Gas Supplies and Fixtures. 15.00
 Groceries 10.00
 Groceries and Produce, wholesale or retail. 15.00
 Groceries and Produce, Poultry and Meats. 20.00
 Groceries and goods as above specified and other goods. 25.00
 Groceries and Dry Goods. 15.00
 Groceries and Cigars. 15.00
 Groceries, Produce and Cigars. 20.00
 Groceries, Produce, Meats and Cigars. 25.00
 Groceries, Dry Goods, Shoes and Cigars 30.00
 Gents' Furnishing Goods, Hats and Caps 15.00
 Gents' Furnishing Goods and Shoes 20.00
 Gents' Furnishing Goods, Hats, Caps and Millinery. 25.00
 Gents' Furnishing Goods, Ladies' Hats, Lace Goods and Jewelry. 30.00
 Gents' Furnishing Goods, Hats, Caps, Ladies' Coats, Hats and Shoes 30.00
 Gents' Furnishing Goods and Stationery 15.00
 Gents' Furnishing Goods, Dry Goods and Notions. 20.00
 Ice Plant, public service, 50 tons or over, daily capacity. 50.00
 Ice Cream Parlors. 10.00
 Information Bureau. 10.00
 Imported Linens, Laces and Jewelry 30.00
 Linens, Silks, Embroideries and other clothes or notions. 25.00
 Jewelry, Leather Goods, Novelties and Optical Supplies 15.00
 Jewelry 12.00
 Jewelry and goods as above specified in this subdivision and other goods 25.00
 Jewelry, Leather and Silk Goods. 25.00
 Junk Dealer. 75.00
 Junk Dealer buying on streets with wagon. 80.00
 Keys, Locksmith and Bell Hanging Supplies. 10.00
 Keys, Locksmith and Bell Hanging Supplies, Hardware and Sporting Goods. 15.00
 Laundry Plants, having steam or electric power. 20.00
 Laundry Collection and Distributing Agencies, each place. 10.00
 Laundry Delivery Wagon (one horse) 5.00
 Laundry Delivery Wagon (two horse) 10.00
 Livery Stable. 50.00
 Livery Stable and Automobile Garage combined. 50.00
 And in addition the sum proportioned hereinbefore for automobile garage.
 Lunch Stands. 10.00
 Lunch Stands and Soft Drinks. 15.00
 Lumber Yards. 35.00
 Lumber Yard and Mill. 50.00
 Lumber and Brick Yard. 50.00
 Lumber Yard, Brick Yard and Mill 65.00
 Lunch Rooms and Soft Drinks. 15.00
 Ladies' Suits and Shirt Waists. 20.00
 Ladies' Suits, Shirtwaists and Fur Goods 25.00

Ladies' Suits, Dry Goods, Notions, Gents' Furnishing Goods and Fur Goods 35.00
 Ladies' Millinery and Furnishings 15.00
 Ladies' Clothing and Fur Goods. 20.00
 Ladies' Millinery and Goods as above specified in this subdivision and other goods. 50.00
 Ladies' Gowns, Millinery, Fancy Goods and Ladies' Furnishings. 20.00
 Manufacturing Jewelers. 15.00
 Milk Wagons, each. 10.00
 Milk Depot. 10.00
 Musical Instruments and Music. 10.00
 Meats 10.00
 Meats, Provisions or Produce. 15.00
 Meats, Butter and Eggs, Poultry, Provisions or Produce. 25.00
 Newsstand 5.00
 Newspaper Publishers. 10.00
 Odd Pins, each table. 5.00
 Ocean Pier, not including theatres, moving picture shows, exhibition or other amusement upon piers, for which extra fees are charged for admission. 250.00
 Ocean Pier for advertising purposes 100.00
 Oyster Depot. 10.00
 Oyster Stand, Ice Cream and Confectionery 15.00
 Oyster Wagon (selling on streets) 10.00
 Optical Goods, Eyeglasses. 15.00
 Optical Goods and Photographers' Supplies 15.00
 Oils, Gasoline, Petroleum, etc., Storage Plant. 100.00
 Oils, Gasoline, Petroleum Wagons, etc. 15.00
 Peddlers of Baskets. 50.00
 Peddlers of Sandwiches from Baskets or Trays. 25.00
 Peddlers of Candy from Baskets or Trays. 25.00
 Peddler, book or magazine. 50.00
 Peddler, jewelry and diamonds. 100.00
 Peddler, foreign and domestic linens, laces, embroideries, silks and other like goods and clothing, cloth and furs. 100.00
 Peddlers of Keys or Bell Hanging Supplies, with or without wagon 50.00
 Peddlers of Meats without license for store, each wagon. 10.00
 Peddler of Produce, hucksters (one horse) 10.00
 Peddler of Produce, hucksters (two horses) 15.00
 Peddlers with basket, pack, wheelbarrow, pushcart or wagon, selling any article not hereinbefore provided for, except farm produce 100.00
 Peddlers with wheelbarrow or pushcart selling farm produce. 10.00
 Peddlers with wheelbarrow or pushcart selling sea food not caught by the peddler. 25.00
 Peddler of House Furnishing Goods and Clothing. 100.00
 Peddlers of Balloons. 50.00
 Peddlers with wagon, pushcart or basket selling Pies, Cakes and Bread 25.00
 Photographic Establishments. 15.00
 Pool and Billiard Tables, each. 5.00
 Produce, Meats or other provisions, sold from railroad cars or depots 25.00
 Produce sold at wharf, dock or boat, each dealer. 10.00
 Plumbing, steam or gas fitting supplies 15.00
 Plumbing Supplies, Tinware and Hardware 20.00
 Plumbing Supplies, Tinware, Hardware, Ship Chandlery, Paints and Oils, Sporting Goods. 30.00
 Plumbing Supplies, Hardware, Metals, Household Goods, China, and Crockery, when sold with other goods. 100.00
 Paints and Oils. 15.00
 Patent Medicines. 15.00
 Restaurants having less than thirty tables. 10.00
 Restaurants having thirty tables and not more than fifty. 25.00
 Restaurants having more than fifty tables. 50.00
 Reclining, Observation or Beach Chairs used for hire, each chair or seat. 1.00
 Rolling Chairs used for hire, each as numbered (single). 15.00
 Rolling Chairs used for hire, each as numbered (double). 20.00
 Rolling Chairs, private use by owner, by special permit secured from the Mercantile Appraiser 1.00
 Real Estate. 10.00
 Rugs, Oriental or others. 25.00
 Rolling Chair Station, Stand or Place from which rolling or invalid chairs are hired, each. 100.00
 Saddle Horses (over 4 feet high) 10.00
 Saddle Horses (under 4 feet high) 5.00
 Signs, wood or metal, advertising other than the place to which it is attached under 50 running feet 15.00
 And over 50 running feet. 25.00

Second Hand Clothing.....	75.00
Second Hand Furniture.....	75.00
Stationery and Toys.....	15.00
Scales for Weighing, not auto- matic	10.00
Ship or Boat Yards.....	10.00
Shows, side and freak, each.....	200.00
Shooting Galleries.....	25.00
Shuffleboard, each board.....	5.00
Soft Drink Stands, each.....	10.00
Soft Drink and Ice Cream Stands, each	15.00
Stock Brokers and Dealers in Stocks	100.00
Storage Houses.....	25.00
Stone Yard.....	10.00
Street Cars, using City Streets, each	50.00
Hack, Omnibus, Carriage used for hire (one horse) and driver, each	10.00
Hack, Omnibus, Carriage used for hire (two horses) and driver, each	12.00
Hokey-pokey Dealers, Ice Cream or Peanut Vendors, each wagon or cart.....	75.00
Hot Houses, each.....	10.00
Hardware	10.00
Hardware, Tinware, Paints, Oils, Tin Work, Plumbing Supplies, Wall Paper, Housefurnishing Goods	40.00
Hardware, Tinware, Ship Chand- lery and Sporting Goods.....	15.00
Hardware, Tinware, Stoves and Plumbing Supplies and Paint..	30.00
House Furnishing Goods (not in- cluding carpets).....	15.00
Hides, Tallow and Fats, each wag- on	25.00
Ice Cream Manufacturers.....	20.00
Ice Cream Stand.....	10.00
Ice Plant, public service, under 50 tons daily capacity.....	25.00
Skating Rinks.....	50.00
Skee Ball Exercising Game, each alley	5.00
Spectacle and Eyeglass Stand....	50.00
Scenic Theatres, Moving Picture and Stereopticon Shows, Elec- tric Illusion, Stereopticon Ad- vertising by electricity or other- wise, except open-air shows....	150.00
Same, open-air shows.....	100.00
Exhibiting Baseball Electric Score Board	150.00
Shells and Novelties.....	15.00
Ship Chandlery.....	10.00
Stoves and Plumbing Supplies...	15.00
Stationery	10.00
Selling Hay, Grain or Feed from Railroad Cars or Depots.....	25.00
Stores other than those designated or classified above.....	10.00
Sewing Machines.....	10.00
Saddlery and Harness.....	10.00
Tailoring	10.00
Tailoring, Cleaning and Pressing.	15.00
Tailoring, Gents' Furnishings, Hats and Caps.....	20.00
Teas, Coffees and Spices.....	10.00
Tinware, Cooking Utensils.....	10.00
Theatre, Opera House, Garden where intoxicating liquors are not sold each.....	250.00
Traveling Musicians, each.....	25.00
Traveling and Soliciting Photogra- phers, each camera.....	100.00
Traveling Opticians.....	50.00
Undertakers' Establishments....	15.00
Umbrella Stands.....	10.00
Variety Stores and Bric-a-Brac..	15.00
Wall Paper.....	10.00
Wood Yard.....	10.00
Wagons selling soft drinks or cooked goods on streets.....	250.00
Wagons for sale of sandwiches only	50.00
Wagons or vehicles for advertis- ing purposes.....	50.00
Any place of business, for which a license fee of Ten Dollars (\$10) is charged, and which carries additional wares not classified or specified in the ordinance, an ad- ditional fee of Five Dollars (\$5) shall be charged.	

Sec. 5. And Be It Further Ordained, That all persons owning rolling chairs, express wagons, huckster wagons and one-horse carts, shall be assigned and furnished with a number by the Mercantile Appraiser for each rolling chair, express wagon, huckster wagon and one-horse cart, licensed as aforesaid, which number shall be set opposite the name of the owner of the rolling chair, express wagon, huckster wagon and one-horse cart, so licensed, in a Book of Licenses, to be kept by the said Mercantile Appraiser; said number so assigned shall

be securely fastened by nails, screws or rivets in plain view on each express wagon, huckster wagon and one-horse cart. Upon each rolling chair said number so assigned, shall be securely fastened by nails, screws or rivets in plain view on the outer left-hand side of the body of said chair, at a point above the level of the seat of said chair. Such number and fastenings used to secure it shall at no time be removed from any of said vehicles nor attached to any other similar vehicle after having been once so fastened. And it shall be unlawful for any person or persons to use any rolling chair, express wagon, huckster wagon or one-horse cart or to allow any rolling chair, express wagon, huckster wagon, or one-horse cart to be used on any public highway or walk in Atlantic City, unless the number assigned as aforesaid shall at all times be in plain view on said rolling chair, express wagon, huckster wagon, one-horse cart aforesaid.

License for private rolling chairs or invalid chairs shall be applied for personally by the owner thereof, and the Mercantile Appraiser may require affidavit as to ownership. If any such private chair be at any time used for hire, the license shall thereupon become void and the number issued therefor be forfeited and taken up. In case any badge or plate so issued shall be found to be in the possession of any person not having a license and be used by him in conducting any such business, such person using such badge or plate shall be subject to the penalties by this ordinance provided.

Sec. 6. And Be It Further Ordained, That no license shall be granted for any rolling chair, unless such chair shall have guards over the wheels thereof, so that the wheels thereof shall not come in contact with persons passing the same.

Sec. 7. And Be It Further Ordained, That no person or persons be allowed to transact any business under any license granted under this ordinance except the business for which such license was specially granted, and that no more than two persons be allowed to each huckster wagon, which said persons shall at all times keep within one city block or square with the wagon, and one person to each hack or omnibus.

Sec. 7½. And Be It Further Ordained, That all licenses issued between the first day of January and the first day of June following in any year, shall be issued for one-half the fees mentioned in Section 4 hereof, said licenses to expire on the first day of June following such payment in accordance with the provisions of Section 2 of this ordinance.

Sec. 8. And Be It Further Ordained, That the fees herein imposed for such licenses are imposed for revenue.

Sec. 9. And Be It Further Ordained, That any person or persons who shall violate any of the provisions of this ordinance, shall upon conviction thereof be subject to a fine of Ten Dollars (\$10) for each offence or violation and shall in default of the payment of said fine be imprisoned either in the City or County jail until such fine and costs shall be paid.

Sec. 10. And Be It Further Ordained, That the Mayor, or other proper officer, be and he is authorized and directed to use such of the police force of the City as is necessary to execute and enforce this ordinance and to enforce all necessary and lawful police regulations that may best facilitate the carrying on of the business of cars used for local passenger traffic and as may best protect and facilitate the carrying on of several businesses, trades and occupations licensed by this ordinance.

Sec. 11. And Be It Further Ordained, That the license to peddle goods, wares and merchandise, flowers or other articles shall not permit the peddling of any such article upon the Boardwalk, the approaches thereto, or upon any platforms or buildings connected with said Boardwalk. All peddling upon such structures being hereby expressly prohibited.

Sec. 12. And Be It Further Ordained, That all ordinances or parts of ordinances inconsistent with the terms of this ordinance be and the same are hereby repealed to the extent of such inconsistencies and this ordinance shall take effect immediately.

An Ordinance Governing, Regulating and Fixing Fees of Mercantile Licenses in Atlantic City, N. J. and Regulating the Businesses Licensed.

Mercantile Licenses

Atlantic City, N. J.

NOTICE.—The within-mentioned Licenses are due and payable on June 1st. All persons doing business without a License after that date render themselves liable to the penalty expressed in Section 7 of this Ordinance.

C. C. FORTNER, Mercantile Appraiser,
City Hall
Office Hours, 9 A. M. to 4 P. M.

WM. RIDDLE, Mayor.

Passed at a Regular Meeting of the City Commission May 14, 1914.
Approved May 20, 1914.

ALBERT BEYER,
Acting Mayor,

J. B. THOMPSON,
WM. H. BARTLETT,
Commissioners of Atlantic City.

Attest:
DANIEL H. V. BELL,
City Clerk.



copy of an Ordinance passed by the Board of Commissioners of the City of Atlantic City, on the fourteenth day of May, A. D. 1914, and approved by the Board of Commissioners of said city, on the twentieth day of May, 1914, as taken from and compared with the original now on file in my office.

In Testimony Whereof I have hereunto set my hand and affixed my official seal at Atlantic City, this twenty-fifth day of July, 1914.

City Clerk.

10

Regular meeting of the Board of Commissioners held April 16, 1914.

President Riddle presiding.

Present: Messrs. Bacharach, Bartlett, Beyer, Thompson and Riddle (5). Absent, (0).

20

ORDINANCE No. 11
First Reading.

By Director Albert Beyer, entitled

An Ordinance governing, regulating and fixing fees of mercantile licenses in Atlantic City, New Jersey, and regulating the businesses licensed.

Ordinance was read the first time and passed on first reading by the following vote: Ayes, Messrs. Bacharach, Bartlett, Beyer, Thompson and Riddle (5). Nays, (0).

30

Regular meeting of the Board of Commissioners held May 7, 1914.

Vice President Beyer presiding.

Present: Messrs. Bacharach, Bartlett, Thompson and Beyer (4). Absent, Mr. Riddle (1).

ORDINANCE No. 11

Amended.

Ordinance No. 11 was amended as follows: Section 4 line 37 after the word "Alleys" insert the words "each alley." Insert line "292½ Skee Ball Exercising Game, each alley \$5.00."

Upon motion of Mr. Beyer this Ordinance was amended by the following vote: Ayes, Messrs. Bartlett, Beyer and Thompson (3). Nays, Mr.
10 Bacharach (1).

ORDINANCE No. 11

Second Reading.

An Ordinance governing, regulating and fixing fees of Mercantile Licenses in Atlantic City, New Jersey, and regulating the businesses licensed.

Ordinance was read the second time and passed on second reading by the following vote: Ayes, Messrs. Bartlett, Beyer and Thompson (3). Nays,
20 Mr. Bacharach (1).

Regular meeting of the Board of Commissioners held on May 14, 1914.

Vice President Beyer presiding.

Present: Messrs. Bacharach, Bartlett, Beyer and Thompson (4). Absent, Mr. Riddle (1).

ORDINANCE No. 11

Third Reading.

30 An Ordinance governing, regulating and fixing fees of Mercantile Licenses in Atlantic City, New Jersey, and regulating the businesses Licensed.

Ordinance was taken up and read the third time. Upon the question, "Shall this ordinance pass?" it was decided by the following vote: Ayes, Messrs. Bartlett, Beyer and Thompson (3). Nays, Mr. Bacharach (1).

CITY OF ATLANTIC CITY

[SEAL]

DEPARTMENT OF CITY GOVERNMENT

I, DANIEL H. V. BELL, Clerk of the City of Atlantic City, in the County of Atlantic, State of New Jersey, Do Hereby Certify, that the foregoing is a true copy of a portion of the minutes of regular meetings of the Board of Commissioners held April 16, 1914, May 7, 1914, and May 14, 1914.

In Testimony Whereof I have hereunto set my hand and affixed my official seal at Atlantic City, this twenty-fifth day of July, 1914.

10

City Clerk.

Copy.

*To the Honorable the Justices of the Supreme Court
of Judicature of New Jersey:*

In obedience to the command of this writ, to the City of Atlantic City, a municipal corporation of the State of New Jersey, directed, I, Daniel H. V. Bell, Clerk of the City of Atlantic City, within named, do hereby certify and send to you, the Honorable Justices of the Supreme Court of Judicature of New Jersey, within named, the ordinances, with the records of the meetings at which the said ordinance was introduced and passed, together with all things touching and concerning the passing, approving and enacting of said ordinance, as fully and entirely as they remain before me.

20

30

In Witness Whereof, I have hereunto set my hand and seal this twenty-fifth day of July, in the year of our Lord, one thousand nine hundred and fourteen.

CITY OF ATLANTIC CITY,

By

DANIEL H. V. BELL,

City Clerk.

Case No. 1.

RECORDER'S COURT,
OF THE CITY OF ATLANTIC CITY, N. J.
before MARTIN E. KEFFER, Recorder.

10

STATE OF NEW JERSEY }
ATLANTIC COUNTY } ss.
ATLANTIC CITY }

ATLANTIC CITY

vs.

20 SHILL ROLLING CHAIR Co. }
Defendant. }

Atty. for City, THEODORE W. SCHIMPF, ESQ.
Atty. for Deft., GEORGE A. BOURGEOIS, ESQ.

30

Be It Remembered, that on the 12th day of June,
A. D. 1914, at Atlantic City aforesaid, before me,
Martin E. Keffer, Recorder of the City of Atlantic
City aforesaid, came Mulford T. Rose, and com-
plained and made oath that on the 10th day of June,

1914, at the City of Atlantic City aforesaid, to wit, at 935 Boardwalk, the Shill Rolling Chair Company did run and conduct a rolling chair station, stand or place from which rolling or invalid chairs were hired without a license first had and obtained, all of which is contrary to sections 1 and 4 of an Ordinance of the City of Atlantic City, entitled "An ordinance governing, regulating and fixing fees of mercantile licenses in Atlantic City, N. J., and regulating the businesses licensed," passed at a regular meeting of the City Commission May 14th, 1914, and approved May 20th, 1914. Afterwards, to wit: on the 24th day of June, A. D. 1914, the said defendant appeared in court by the appearance of Herbert W. Hemphill, one of the officers of said defendant corporation, and the said complaint having been read to the said Herbert W. Hemphill, an officer of the defendant corporation, and the said Herbert W. Hemphill then and there being present, and the said defendant being called upon to plead, pleaded not guilty. Mr. Bourgeois thereupon offered the following objections:

10

20

1. Because the license fee prescribed by said ordinance is excessive and unreasonable.

2. Because there is no power in Atlantic City to license the place where said business is conducted and also impose a license upon the conducting of said business.

30

3. Because the license fee or tax prescribed by said ordinance and imposed upon the rolling chairs and rolling chair business amounts to a confiscation of defendant's business and property.

4. Because the ordinance is unreasonable and

void in that it is not general and uniform in its application to the various businesses of the same class.

5. Because it does not apply equally to all businesses and subjects mentioned therein.

6. Because said ordinance is void in that it is special and discriminates against rolling chair businesses in favor of other businesses in Atlantic City.

10

7. Because the license fees and tax fixed by said ordinance constitute double taxation in that the ordinance first licenses the businesses and then presumes to require a license to conduct the businesses.

8. Because the act which presumes to authorize Atlantic City to fix the amount of the fees is unconstitutional.

20

9. Because the Legislature is without power to authorize a municipal corporation to pass ordinances that are special in substance, effect and operation.

10. Because it violates the constitutional provision that taxes shall be levied pursuant to uniform rules.

30

11. Because it violates the constitutional provision that all property shall be assessed at its true value.

12. Because there was no ordinance in existence requiring a license to be procured.

13. Because the Legislature of the State of New

Jersey was without power to pass a law authorizing the imposition of the licenses prescribed in the ordinance.

14. Because the ordinance is in restraint of trade and against public policy.

15. Because the act under which the ordinance is drawn violates Section 1 of Amendment 14 of the United States Constitution which provides that each State shall guarantee to its citizens equal protection under the laws. 10

16. Because the fees imposed by said ordinance are a tax levied for revenue purposes and not under the police power.

17. Because the ordinance violates the legislative provision that all property shall be assessed at its true value. 20

18. Because the ordinance aforesaid is not a taxing ordinance, but an ordinance to regulate under the police power, and the fees imposed thereunder are unreasonable.

19. Because the ordinance, if a taxing ordinance, imposes a direct tax on the various businesses and property mentioned in it, and is void. 30

20. Because said ordinance is a discriminating trade regulation and void.

The Recorder denied the motion.

Mr. Schimpf offered the following ordinance:

“An Ordinance governing, regulating and fixing

fees of mercantile licenses in Atlantic City, New Jersey, and regulating the businesses licensed. Passed at a regular meeting of the City Commission May 14th, 1914, and approved May 20th, 1914.”

Thereupon the following person was sworn and testified as follows:

MULFORD T. ROSE, sworn.

10

By Mr. Schimpf:

Q. Mr. Rose, you are the deputy mercantile appraiser of the City of Atlantic City?

A. Yes, sir.

Q. Do you know whether or not the Shill Rolling Chair Company did, on the 10th day of June, 1914, at 935 Boardwalk, operate a rolling chair stand, station or place for the hire of rolling and invalid

20

chairs?

A. They did.

Q. Do you know whether or not rolling chairs were hired from that stand that day?

A. They were.

Q. Whose name was on the place?

A. Shill Rolling Chair Company.

Q. And was the same name on the chairs?

A. Yes, sir.

Q. Was the place licensed by the mercantile department?

30

A. No, sir.

Q. Had no license at all under this ordinance?

A. No.

Q. You say you saw rolling chairs hired there?

A. I hired one there myself.

Q. You hired one yourself?

A. Yes.

Q. For how much?

A. Thirty cents.

Q. For one hour?

A. Yes.

(No cross-examination by Mr. Bourgeois.)

City Rests.

(Mr. Bourgeois offers no defence, but renews his objections which were overruled and exception allowed.) 10

Thereupon, I, the said Martin E. Keffer, Recorder of the City of Atlantic City, upon the testimony aforesaid, having duly considered the same, and the weight to which the testimony in the case was entitled, did find the defendant to be guilty of the offence charged, and did adjudge that said defendant, on the 10th day of June, A. D. 1914, at the City of Atlantic City aforesaid, to wit, at 935 Boardwalk, did run and conduct a rolling chair station, stand or place from which rolling or invalid chairs were hired without a license first had and obtained, as set forth in the complaint and testified to, in violation of said sections and ordinance hereinbefore set forth. 20

And I do adjudge that the said defendant pay a fine of ten dollars (\$10.00).

(Ten dollars fine paid under protest by Mr. Bourgeois.) 30

In Witness Whereof, I, Martin E. Keffer, Recorder of the City of Atlantic City, to this record of conviction have set my hand and seal at Atlantic City, N. J., the 24th day of June, A. D. 1914.

MARTIN E. KEFFER, [SEAL]

Recorder of the City of Atlantic City, N. J.

Case No. 2.

RECORDER'S COURT,
OF THE CITY OF ATLANTIC CITY, N. J.
before MARTIN E. KEFFER, Recorder.

10

STATE OF NEW JERSEY }
ATLANTIC COUNTY } ss.
ATLANTIC CITY }

ATLANTIC CITY

vs.

20 SHILL ROLLING CHAIR Co. }
Defendant. }

Atty. for city, THEODORE W. SCHIMPF, Esq.
Atty. for deft., GEORGE A. BOURGEOIS, Esq.

30 Be It Remembered, that on the 12th day of June, A. D. 1914, at Atlantic City aforesaid, before me, Martin E. Keffer, Recorder of the City of Atlantic City aforesaid, came Mulford T. Rose, and complained and made oath that on the 10th day of June, A. D. 1914, at the City of Atlantic City aforesaid, to wit, at 935 Boardwalk, the Shill Rolling Chair Com-

pany did rent a double rolling chair without a license first had and obtained, all of which is contrary to sections 1 and 4 of an Ordinance of the City of Atlantic City, entitled "An ordinance governing, regulating and fixing fees of mercantile licenses in Atlantic City, N. J., and regulating the businesses licensed," passed at a regular meeting of the City Commission May 14th, 1914, and approved May 20th, 1914. Afterwards, to wit: on the 24th day of June, A. D. 1914, the said defendant appeared in court by the appearance of Herbert W. Hemphill, one of the officers of said defendant corporation, and the said complaint having been read to the said Herbert W. Hemphill, an officer of the defendant corporation, and the said Herbert W. Hemphill then and there being present, and the said defendant being called upon to plead, pleaded not guilty. Mr. Bourgeois thereupon offered the following objections:

10

20

1. Because the license fee prescribed by said ordinance is excessive and unreasonable.

2. Because there is no power in Atlantic City to license the place where said business is conducted and also impose a license upon the conducting of said business.

3. Because the license fee or tax prescribed by said ordinance and imposed upon the rolling chairs and rolling chair business amounts to a confiscation of defendant's business and property.

30

4. Because the ordinance is unreasonable and void in that it is not general and uniform in its application to the various businesses of the same class.

5. Because it does not apply equally to all businesses and subjects mentioned therein.
6. Because said ordinance is void in that it is special and discriminates against rolling chair businesses in favor of other businesses in Atlantic City.
7. Because the license fees and tax fixed by said ordinance constitute double taxation in that the ordinance first licenses the businesses and then presumes to require a license to conduct the businesses.
- 10 8. Because the act which presumes to authorize Atlantic City to fix the amount of the fees is unconstitutional.
9. Because the Legislature is without power to authorize a municipal corporation to pass ordinances that are special in substance, effect and operation.
- 20 10. Because it violates the constitutional provision that taxes shall be levied pursuant to uniform rules.
11. Because it violates the constitutional provision that all property shall be assessed at its true value.
- 30 12. Because there was no ordinance in existence requiring a license to be procured.
13. Because the Legislature of the State of New Jersey was without power to pass a law authorizing the imposition of the licenses prescribed in the ordinance.

14. Because the ordinance is in restraint of trade and against public policy.

15. Because the act under which the ordinance is drawn violates Section 1 of Amendment 14 of the United States Constitution which provides that each State shall guarantee to its citizens equal protection under the laws.

16. Because the fees imposed by said ordinance are a tax levied for revenue purposes and not under the police power. 10

17. Because the ordinance violates the legislative provision that all property shall be assessed at its true value.

18. Because the ordinance aforesaid is not a taxing ordinance but an ordinance to regulate under the police power, and the fees imposed thereunder are unreasonable. 20

19. Because the ordinance, if a taxing ordinance, imposes a direct tax on the various businesses and property mentioned in it, and is void.

20. Because said ordinance is a discriminating trade regulation and void.

The Recorder denied the motion.

30

(Mr. Schimpf offered the following ordinance):
"An Ordinance governing, regulating and fixing fees of mercantile licenses in Atlantic City, New Jersey, and regulating the businesses licensed. Passed at a regular meeting of the City Commission May 14th, 1914, and approved May 20th, 1914."

Thereupon the following person was sworn and testified as follows:

MULFORD T. ROSE, sworn.

By Mr. Schimpf:

Q. You are the deputy mercantile appraiser of Atlantic City?

10 A. Yes, sir.

Q. Did you, on the 10th day of June, 1914, rent a double rolling chair from the Shill Rolling Chair Company at 935 Boardwalk, Atlantic City?

A. I did.

Q. How long did you rent it for?

A. An hour.

Q. What price did you pay for it?

A. Thirty cents.

Q. Was the chair licensed?

20 A. No.

Q. No license had been obtained under this ordinance for the hire of that chair?

A. No.

City Rests.

(Mr. Bourgeois offers no defence, but renews his objections which were overruled and exception allowed.)

30

Thereupon, I, the said Martin E. Keffer, Recorder of the City of Atlantic City, upon the testimony aforesaid, having duly considered the same, and the weight to which the testimony in the case was entitled, did find the defendant to be guilty of the offence charged, and did adjudge that said defendant,

on the 10th day of June, A. D. 1914, at the City of Atlantic City aforesaid, to wit, at 935 Boardwalk, did rent a double rolling chair without a license first had and obtained, as set forth in the complaint and testified to, in violation of said sections and ordinance hereinbefore set forth.

And I do adjudge that the said defendant pay a fine of ten dollars (\$10.00).

(Ten dollars fine paid under protest by Mr. Bourgeois.) 10

In Witness Whereof, I, Martin E. Keffer, Recorder of the City of Atlantic City, to this record of conviction have set my hand and seal at Atlantic City, N. J., the 24th day of June, A. D. 1914.

MARTIN E. KEFFER, [SEAL]
Recorder of the City of Atlantic City, N. J.

REASONS.

NEW JERSEY SUPREME COURT.

10	ATLANTIC CITY, <i>Respondent,</i> vs. SHILL ROLLING CHAIR COM- PANY, <i>Prosecutor.</i>	}	ON CERTIORARI. REASONS. CASES NO. 1 AND 2.
----	--	---	--

To Atlantic City:

20

Take Notice that the following are the reasons which will be relied upon for setting aside the conviction of prosecutor before Martin E. Keffer, Recorder of Atlantic City, for alleged violation of an ordinance entitled, "An Ordinance governing, regulating and fixing fees of mercantile licenses in Atlantic City, New Jersey, and regulating the businesses licensed," passed May fourteenth, nineteen hundred and fourteen:

20

1. Because the license fee prescribed by said ordinance is excessive and unreasonable.

2. Because the license fee prescribed by said ordinance and imposed upon the rolling chairs and rolling chair business amounts to a confiscation of prosecutor's business.

3. Because the license fee prescribed by said ordinance and imposed upon the rolling chair stations is a tax upon property and is not levied pursuant to the requirements of the constitution and statute that property shall be assessed under uniform rules at its true value.

4. Because the ordinance is unreasonable and void in that it is not general and uniform in its application to the various businesses of the same class. 10

5. Because there is no power in Atlantic City to license or tax the place where a business is conducted and also license or tax the conducting of the business in said place.

5½. Because said ordinance is void in that it does not apply equally to all businesses and subjects mentioned therein.

6. Because the act which presumes to authorize Atlantic City to fix the amount of the license fees or taxes is unconstitutional. 20

6½. Because the Legislature is without power to authorize a municipal corporation to pass ordinances that are special in substance, effect and operation.

7. Because said ordinance violates the constitutional and statutory provision that property shall be assessed for taxation under uniform rules at its true value. 30

8. Because said ordinance is void in that the Commissioners of Atlantic City had no power to ordain the penalty mentioned therein.

9. Because the conviction is void in that the Recorder of Atlantic City had no power to impose and enforce the penalty mentioned in said ordinance.
10. Because said conviction is a nullity in that the Recorder of Atlantic City failed to impose the penalty provided in said ordinance.
- 10 11. Because the Legislature of the State of New Jersey was without power to pass a law authorizing the imposition of the licenses prescribed in the ordinance.
12. Because the ordinance is in restraint of trade and against public policy.
13. Because the act under which the ordinance is drawn violates Sec. 1 of Amendment 14 of the United States Constitution, which provides that each State shall guarantee to its citizens equal protection under the laws.
- 20 14. Because the fees imposed by said ordinance are taxes levied for revenue purposes and not under the police power.
15. Because the taxes imposed on rolling chairs, rolling chair business, and rolling chair stations are levied for revenue purposes, and under the guise of regulation amount to a prohibition by taking said rolling chairs, rolling chair business and rolling chair stations out of existence.
- 30 16. Because the ordinance, if a taxing ordinance, imposes a direct tax on the various businesses and property mentioned in it, and is void.
17. Because said ordinance is a discriminating trade regulation, and is void.

Dated July 22, 1914.

BOURGEOIS & COULOMB,
Attorneys of Prosecutor.

NEW JERSEY SUPREME COURT.

FEB. TERM, 1915.

10

SHILL ROLLING CHAIR

COMPANY, et al.,

Prosecutors,

vs.

ATLANTIC CITY.

Argued February 18, 1915. Decided June 1915. 20

1. Under the conditions found existent in this case, license fee of \$15 per single rolling chair per annum and \$20 per double chair, to be operated on Atlantic City boardwalk, and \$100 for each renting stand for such chairs per year, held not unreasonable or confiscatory.

2. The imposition of a fee for the stand as well as for each chair is authorized both by the language of the charter act of Atlantic City, P. L. 1902, p. 284, and by the licensing act P. L. 1912, p. 209.

3. Such fees are not a property tax. 30

4. The ordinance prescribing said license fees is not in illegal restraint of trade.

5. An ordinance prescribing alternative penalties, one of which is not authorized by the statute on which it is based, will not be set aside in toto in advance of imposition of the unlawful penalty, the latter being separable.

On certiorari to convictions of violating ordinance of Atlantic City.

Argued February 7, 1915, before Justices Swayze, Parker and Kalisch.

For the prosecutors, Bourgeois & Coulomb, Garrison & Voorhees, and Lee F. Washington.

10 For the defendants, Theo. W. Schimpf.

The opinion of the court was delivered by PARKER, J.

These writs, eleven in number, bring up the convictions of various proprietors of rolling chairs and stands where the same are rented in Atlantic City, for failing to pay the license fees prescribed by an ordinance of that city passed May 14, 1914, and approved May 20, entitled, "An ordinance governing, regulating and fixing fees of mercantile licenses in Atlantic City, N. J., and regulating the businesses licensed." The
 20 charter act of the city will be found in P. L. 1902, p. 284, although the city later adopted commission government under the so-called "Walsh Act" of 1911, P. L. p. 462. The ordinance in question is based either on subsection XXVII of section 14 of the 1902 act, which will be found copied in *Atlantic City v. Hemsley*, 76 N. J. L. at p. 355, or on the license act, P. L. 1905, p. 360, as amended in 1908, p. 588, and again in 1912, p. 209, and which purports to repeal all inconsistent legislation. It will be observed on a reading of these acts that the city is empowered among other things to impose license fees for vehicles used for the transportation of passengers; the owners and drivers of vehicles; the places of business in which or at which the
 30 different kinds of businesses are to be carried on; and that the fees for such licenses may be imposed for revenue. The powers conferred are very broad and sweeping, and advantage has been taken of them so fully that no doubt a very large proportion of the municipal revenue is derived from license fees; for the ordinance contains an alphabetical list of businesses, several hundred in number, being with amusements

and auctioneers, and ending with wagons, wall papers and wood yards. Some of the annual fees run as high as \$250, many are \$100. As to rolling chairs, pushed by an attendant, and which are the only passenger vehicles on the boardwalk, the fee was fixed at \$15, for each single chair, \$20 for each double chair, and \$100 for each stand where the chairs are kept for hire. Anyone who has been to Atlantic City knows that the number of these chairs are very large, that the stands are numerous, and it is in evidence that the stand privileges rent for high prices, in the hundreds and often in the thousands per annum. Notwithstanding the high cost of the chairs themselves and of doing business, and notwithstanding an ordinance limiting the fees to \$1.00 per hour, competition drove the price down to fifty cents for a double chair, then to thirty cents at some stands. 10

With this preface, we pass to the points made by prosecutors. The first two are that this court has power to declare the fees illegal if they are unreasonably high, and that the fees in question are unreasonable and confiscatory. Assuming the first proposition, we do not assent to the second. It may be true, and doubtless is true, that of late a number of proprietors have made insignificant profits, and even have lost money. But this does not demonstrate that the license fees are unreasonable; for the situation may be, and probably is, due rather to the falling prices, rising of rentals of stands, and multiplication of chairs until they seriously interfered with pedestrians on the boardwalk. It is quite as fair to conclude that there are too many chairs for the business, and that when the number is adjusted to the actual demand, the fee will be reasonably proportioned to the nominal returns at a fair price for service. 20 30

The next attack is upon the imposition of license fees both on each chair and on the places where they are rented out. But this expressly authorized both by the charter and by the license act, which as we have seen permit a fee for every vehicle, and also for a place of business. It is unnecessary for this case to decide which act controls. The chairs can be obtained

only at the stands; so these are manifestly the "places of business." Similarly the ordinance prescribes one fee for a laundry and another for each wagon; for a grocery store, and for each delivery wagon, and so on.

10 The next point is that these fees charged for each chair constitute a tax not on the privilege of doing business but on the amount of business done, and therefore a property tax (and as claimed) obnoxious to the constitutional requirement for assessment by general laws according to uniform rules. The case of *Johnson vs. Asbury Park*, 58 N. J. L. 604, is cited in connection with this point. An examination of that case will show that the license fee complained of was exacted from every delivery wagon, &c., used in the enumerated occupations; and as the ordinance was then upheld the case is direct authority in support of the method of licensing now complained of.

The next proposition, that the ordinance is in illegal restraint of trade because unreasonable, is disposed of by our finding that it is not unreasonable.

20 Again it is urged that the ordinance could not lawfully provide a penalty by a fine or imprisonment in default of payment thereof. Such a provision is expressly authorized by Section 16 of the charter act, which says that in all cases where the council have power to pass ordinances, they may prescribe penalties for violation by imprisonment, not exceeding \$200, and imprisonment not exceeding ninety days in default of the payment of such fine. The license act authorizes simply fine or imprisonment. Neither mentions the imposition of cost; and the provisions of the ordinance, both as to imprisonment in default of payment of fine, and as to requiring payment of costs in case of conviction, are challenged.

30 Section 9 of the ordinance does provide a fine of ten dollars upon conviction and in default of payment, imprisonment until the fine and costs shall be paid. But an examination of the records of conviction in the printed case show that neither costs or imprisonment were included or mentioned in the sentence; and consequently no legal injury has been sustained by prosecutors or any of them in this regard. The provisions for alternative

imprisonment and for the imposition of costs are separable, and if invalid, their invalidity will not avoid the entire ordinance. *Doran vs. Camden*, 64 N. J. L. 666. *Rosencrans vs. Eatontown*, 80 N. J. L. 227, 234-5.

The last point is that under the Walsh Act, amendment of 1912, p. 643, the ordinance must have been recorded before it acquired vitality, and that the return does not show that it was ever recorded. This point, however, is not raised in the reasons filed, and is therefore not before us. 10

The convictions will be affirmed with costs.

20

30

NEW JERSEY SUPREME COURT

- | | | |
|----|---|---|
| 10 | SHILL ROLLING CHAIR COMPANY, THOMAS E. LASSITER, HANNAH M. CLOWNEY, trading as SMITH'S ROLLING CHAIRS; JOSEPH HAINES, ADOLPH MARCUS, MAX MALLIN, MORRIS EFFRON, ABRAHAM BRILLIANT, CHARLES BURKHARD and WILLIAM CHINN,
<i>Prosecutors,</i>
vs.
ATLANTIC CITY,
<i>Defendant,</i> | ON CERTIORARI.
CASE 1 AND 2.
<i>Order Affirming
 Conviction</i> |
| 20 | HENRY E. HESS, ALFRED E. SEIDEL, FREDERICK MYERS,
<i>Prosecutors,</i>
vs.
ATLANTIC CITY,
<i>Defendant,</i> | ON CERTIORARI.
CASE 1 AND 2.
<i>Order Affirming
 Conviction</i> |
| 30 | JOHN A. EVELER,
<i>Prosecutor,</i>
vs.
ATLANTIC CITY,
<i>Defendant,</i> | ON CERTIORARI.
CASE 1 AND 2.
<i>Order Affirming
 Conviction</i> |

This cause having been duly argued at the February term of this court by Bourgeois and Coulomb, of counsel for the prosecutor, and Theodore W. Schimpf, of

counsel for the defendant, and the court having considered the same and finding no error in the record or proceedings of the judgment of conviction of the prosecutor before the Records court of Atlantic City, New Jersey.

IT IS THEREUPON ORDERED AND ADJUDGED that the judgment of conviction and the proceedings upon which the said conviction was had, removed or writ of certiorari in this cause, be affirmed with costs. 10
Order actually entered June 1914.

On motion of THEODORE W. SCHIMPF
Attorney of Defendant

20

30

NEW JERSEY COURT OF ERRORS AND
APPEALS.

- | | | |
|----|--|--|
| 10 | <p>SHILL ROLLING CHAIR COMPANY, THOMAS E. LASSITER, HANNAH M. CLOWNEY, trading as SMITH'S ROLLING CHAIRS; JOSEPH HAINES, ADOLPH MARCUS, MAX MALLIN, MORRIS EFFRON, ABRAHAM BRILLIANT, JULIUS HERSOHN, CHARLES BURKHARD and WILLIAM CHINN,</p> <p style="text-align: center;"><i>Prosecutors,
Appellants,</i></p> <p style="text-align: center;">vs.</p> <p>ATLANTIC CITY,</p> <p style="text-align: center;"><i>Defendant,
Respondent.</i></p> | <p>ON CERTIORARI.
<i>Notice of Appeal and
Reasons.</i>
CASE 1 AND 2.</p> |
| 20 | <p>HENRY E. HESS, ALFRED E. SEIDEL, FREDERICK MYERS,</p> <p style="text-align: center;"><i>Prosecutors,
Appellants,</i></p> <p style="text-align: center;">vs.</p> <p>ATLANTIC CITY,</p> <p style="text-align: center;"><i>Defendant,
Respondent.</i></p> | <p>ON CERTIORARI.
<i>Notice of Appeal and
Reasons.</i>
CASE 1 AND 2.</p> |
| 30 | <p>JOHN A. EVELER,</p> <p style="text-align: center;"><i>Prosecutor,
Appellant,</i></p> <p style="text-align: center;">vs.</p> <p>ATLANTIC CITY,</p> <p style="text-align: center;"><i>Defendant,
Respondent.</i></p> | <p>ON CERTIORARI.
<i>Notice of Appeal and
Reasons.</i>
CASE 1 AND 2.</p> |
-

To Theodore W. Schimpf, Esq., Attorney for Atlantic
City:

TAKE NOTICE that the Prosecutor appeals to the Court of Errors and Appeals from the whole of the judgment entered in the above stated cause, and hereby assigns the following reasons:

1. Because the Supreme Court erred in sustaining the conviction and ordinance brought up for review by the writ of certiorari.

2. Because the Supreme Court erred in adjudging that the license fee of Fifteen Dollars per single rolling chair; Twenty Dollars per double chair, and One Hundred Dollars for each renting stand for said chairs per annum, as imposed by the said ordinance, is not unreasonable and confiscatory. 10

3. Because the Supreme Court erred in adjudging that the imposition of a fee for each stand in addition to the fee for each chair is authorized and lawful by the Charter Act of Atlantic City and by the License Fee Act, P. L. 1912.

4. Because the Supreme Court erred in adjudging that the license fee imposed is not a property tax. 20

5. Because the Supreme Court erred in adjudging that the ordinance imposing said fees is not illegal and not in restraint of trade.

6. Because the Supreme Court erred in adjudging that the ordinance prescribing alternative penalties, one of which is not authorized by the statute on which it is based, will not be set aside in toto in advance of the imposition of the unlawful penalty, the latter being separable.

7. Because the Supreme Court refused to consider the point that the return did not show whether the ordinance was recorded as required by the Walsh Act, Amendment of 1912, page 643. 30

8. Because the Supreme Court erred in divers other respects in sustaining the convictions and the ordinance brought up for review.

9. Because the license fee prescribed by said ordinance is excessive and unreasonable.

