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

BULLETIN 361 NOVEMBER 15, 1939.

1. ADVERTISING - NOMINAL VALUE - WHAT CONSTITUTES.

November 13, 1939.

Mr. L. C. Riemenschneider,
Freeport, New York.

My dear Mr. Riemenschneider:

I have before me yours of October 31st, mailing card and a framed picture of a mountain landscape in winter, with thermometer and calendar, which you are submitting on behalf of Arnold Bahnsen, 242 Main Street, Hackensack. You state that he purposes, subject to my approval, to give these out at Christmas time to his customers, and that the cost of 500 will be 38¢ each.

Rule 20 of State Regulations No. 20, provides:

> "No retail licensee shall, directly or indirectly, offer or furnish any gifts, prizes, coupons, premiums, rebates, discounts or similar inducements with the sale of any alcoholic beverage for consumption off the licensed premises; provided, however, that nothing herein contained shall prohibit retail licensees from furnishing advertising novelties of nominal value."

The picture and advertising matter are acceptable -- in fact, high standard and commendable.

The only question is whether an advertising novelty costing 38¢ may be said to be of nominal value.

"Nominal" means something existing in name only as distinguished from the real or actual; something which is merely named without reference to actual conditions. It often conveys the implication that the thing named is so small or so slight in comparison to what might be expected as scarcely to be entitled to the name. For instance, a nominal difference; a nominal price, nominal damages.

The rule does not say "trifling cost." What it says is "nominal value." That term means value in name instead of value in fact -- nominal as distinguished from substantial value.

There is no intrinsic or exchange value to the picture which the licensee purposes to give to his customers. If they expect something material, such as a case of gin, they will agree that this token, while in good taste, is scarcely entitled to the name of value. After all, it is nothing but a message of good will which, while it may be kept for a couple of years, will hardly be handed down as an heirloom.

The plan is therefore approved.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner

2. ADVERTISING - CIRCULARS - CIRCULAR ADVERTISING OF PRICE IS PERMISSIBLE BUT NOT LESS THAN THE ESTABLISHED FAIR TRADE MINIMUMS.

November 10, 1939

Palace Drug Stores, Inc.,
Jersey City, N. J.

Gentlemen:

It is permissible for you to enclose in customers' packages a circular reading:

"LIQUOR DEPARTMENT
WEEKEND SPECIALS

"Mt. Vernon $1.40 per Pint
Old Overholt $1.30 per Pint
Sensational new low prices.

"Seagrams Superior Gin
90 Proof Grain $1.19 per Quart

"Roger Williams
Bottled in Bond .89 per Pint
$1.75 per Quart

"John Hancock 3 Year Old Straight Bourbon Whiskey
90 Proof .69 per Pint
$1.29 per Quart

"Jack Dempsey
90 Proof $1.39 per Quart
(As good a drink as the name)

"WE DELIVER CALL DEL. 3-2422"

provided there is no advertisement of price at less than the established Fair Trade minimums.

I have not taken the time or the pains to check the above mentioned prices. That is entirely up to you.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

3. LICENSED PREMISES - ALTERATIONS - NECESSITY OF NOTIFYING LICENSE ISSUING AUTHORITY OF CHANGES WITHIN TEN DAYS AS REQUIRED BY STATUTE.

November 10, 1939

Mr. M. Emanuel Weiner,
Newark, N. J.

My dear Mr. Weiner:

I have yours of November 2d regarding the proposed alterations to the premises of Mr. Philip Sabin, 183 Meeker Avenue, Newark.

It is presumed that the Newark Excise Board, in issuing Mr. Sabin's license, accepted the premises, as suitable for the sale of alcoholic beverages, as they now stand.

The removal of the ladies' toilet to the rear of the building and the addition of living quarters for the owner on the second floor will not, I take it, enlarge the premises on which alcoholic beverages are sold. Hence no transfer of license is necessary for such alterations. As, however, there will be a change in the building affecting the part or portion thereof described in Mr. Sabin's application for license as the licensed premises, it is essential that he notify the Board in writing of such change within ten days, pursuant to R. S. 33:1-34.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

4. ENTERTAINMENT - BINGO - BEER TAPS MUST BE REMOVED BEFORE BINGO MAY BE PLAYED NOTWITHSTANDING THAT THERE IS NO BAR.

November 10, 1939

Charles P. Maier, Inc.,
Newark, N. J.

Gentlemen:

Pursuant to your inquiry regarding the acceptability for the playing of Bingo of a basement room in the licensed premises at 282 Chancellor Avenue, an inspection of said premises was made on October 27, 1939. I have my investigator's report before me.

As I understand it, the basement room in question contains no bar. On the side wall, however, there are two beer taps which are connected with barrels in the adjacent icebox. Beneath the taps there is a drip tray. The purpose of the taps in the basement room, I take it, is to permit beer to be drawn and served to patrons on those occasions when the room is used for dinners and meetings.

Regulations No. 20, Rule 16 provides that no licensee shall allow Bingo to be conducted either (1) in any room in which a bar for the service, delivery or sale of alcoholic beverages is located or (2) in any other room or place while alcoholic beverages are being sold, served, delivered or consumed therein.

Beer taps and drip tray alone do not make a bar, it is true. But so far as the Bingo rule is concerned, they are the equivalent of a bar for although there is no actual bar the same service is provided. It is not the mere counter that is prohibited by the rule but the facilities for serving alcoholic beverages.

If you want to use the basement room for Bingo, the taps will have to be disconnected and physically removed from the room.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

5. RETAIL LICENSEES - SOLICITATION OF PURCHASES OF ALCOHOLIC BEVERAGES - HOUSE TO HOUSE SOLICITATION PROHIBITED.

November 10, 1939

Rothschild & Rothschild,
Newark, N. J.

Gentlemen:

Rule 3 of Regulations No. 20, applicable to all retail licensees, provides:

> "No licensee shall directly or indirectly solicit from house to house, personally or by telephone, the purchase of alcoholic beverages, nor allow, permit or suffer such solicitation."

The solicitation of clubs, individuals and other consumers by an employee of Hearn's Liquor Store, Inc. is prohibited by the foregoing rule.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

6. SOLICITORS' PERMITS - MORAL TURPITUDE - FACTS EXAMINED - CONCLUSIONS.

November 10, 1939

Re: Case No. 303

On September 10, 1930, applicant was convicted at Prescott, Arizona, of obtaining money under false pretenses. He was sentenced to a jail term of 50 days, but released after serving 22 days upon his promise to leave the State at once. In attempted extenuation of this crime, which ordinarily involves moral turpitude (see Re Case No. 164, Bulletin 175, Item 12), he explained that he "thumbed" a ride while hitch-hiking on his way east from California. After proceeding several miles, the driver stopped at a gasoline station, ordered seven gallons of gasoline and drove off without paying. He disclaims all complicity in the occurrence, and contends that he had no previous knowledge that the passing motorist who gave him the lift did not intend to make payment. He testified that he pleaded not guilty but was convicted merely because he was "in the car at the time it happened."

Departmental investigation revealed that no record of the circumstances surrounding the offense is available. However, applicant's story, in essence, is but a plea of innocence, and amounts to an attempt to collaterally attack his conviction. This cannot be done in this proceeding. Re Case No. 289, Bulletin 346, Item 11. It cannot serve to relieve the crime of the element of moral turpitude. Moreover, his story is not worthy of belief, not only because of the comparative severity of the sentence, but as well because of his easy regard for the truth, as hereinafter shown.

On April 21, 1935, he was found guilty of being a disorderly person as a result of a fist fight.

On May 16, 1935, he was arrested on a charge of assault and battery after punching someone in the face. The charge was dropped after applicant apologized to the complainant.

Inquiry made of the Department of Correction, Rikers Island, New York, disclosed that on April 14, 1937 he was sentenced to a two-month prison term for failure to furnish surety to insure compliance with an order for support of his wife and child. After spending two days in jail, he deposited a bond with the court and was released. A month prior thereto, he had obtained a divorce in Reno, Nevada, and has since remarried.

On July 1, 1938, he was convicted of the crime of assault and battery in the Passaic County Court of Special Sessions and fined $25.00. The prosecutor of that County advises that the complainant testified "that on June 20th, 1938, (applicant) slammed him against a wall, knocking the back of his head against a telephone which was attached to the wall. He then grabbed hold of his throat and choked him."

Applicant swore in his questionnaire that he had never been convicted of any crime. When asked at the hearing why he had so sworn, he first said that, in his opinion, neither obtaining money under false pretenses nor assault and battery was a crime. Then he said that the latter was a misdemeanor and not a crime. Then he testified:

"A I was filling out this application in the place of business where I had applied for a position, and it was not necessary to advertise any past unpleasant experience.

Q You mean you wanted to withhold that fact from your employer?

A Yes."

Finally, he admitted that he had lied.

Even if none of the foregoing involved moral turpitude, applicant's unsavory record and his apparent readiness to twist the truth to suit the particular occasion should stamp him, in the Commissioner's discretion, as unfit to be employed by a liquor licensee in this State.

It is recommended that applicant be declared ineligible to hold a solicitor's permit.

Samuel B. Helfand,
Attorney.

APPROVED:
D. FREDERICK BURNETT,
Commissioner.

7. APPELLATE DECISIONS - WIRZMAN v. MANVILLE.

JACOB ENOCH WIRZMAN,)

Appellant,)

-vs-) ON APPEAL CONCLUSIONS

BOROUGH COUNCIL OF THE BOROUGH OF MANVILLE,)

Respondent)

Leonard R. Blumberg, Esq., for the Appellant.

BY THE COMMISSIONER:

Appellant appeals the denial of a plenary retail consumption license for premises corner of Washington and South 11th Avenues. Respondent filed no answer nor was there any appearance on behalf of the respondent at the hearing.

At the time the application was made there were twenty plenary retail consumption licenses issued and outstanding under an ordinance adopted December 24, 1935 which ambiguously limited to either nineteen or twenty the number of plenary retail consumption licenses to be issued. This limitation was declared bad for indefiniteness in Re Menzak, Bulletin 335, Item 10.

From certified copy of the minutes of the meeting at which appellant's application was denied it appears that the application was denied "for the reason that it is the intention of the Mayor and Council to limit the plenary retail consumption licenses to twenty in number."

Subsequently, on September 28, 1939, an ordinance was adopted which by Section 5 provides:

> "PLENARY RETAIL CONSUMPTION LICENSE. The annual fee for a plenary retail consumption license shall be the sum of Three Hundred Sixty-five Dollars ($365.00) and no more than twenty (20) shall be issued, and outstanding at the time."

Passing the question of the efficacy of the latest ordinance in view of the limitation to twenty licenses "at the time", it is in any event cogent and convincing evidence of the policy of the Mayor and Council to have no more than twenty licenses outstanding. Assuming that the limitation is enforceable, it would preclude the granting of a license to appellant in the absence of proof of its unreasonableness, this despite its adoption subsequent to the denial below and before determination of the appeal. Hoffman v. Ridgefield Park, Bulletin 355, Item 4. If, on the other hand, the limitation be unenforceable for indefiniteness, it may be regarded as a reiteration of the policy of the Mayor and Council to limit the number of plenary retail consumption licenses to twenty, a policy not shown to be unreasonable generally or specifically with reference to the applicant. According to the last Federal census, the population of Manville was 5,441. Twenty consumption licenses, which is one for every 272 persons, would seem ample for the Borough as a whole. The nearest licensed premises to appellant is but three-tenths of a mile away, and in an area of sixteen square

blocks surrounding appellant's premises there are but thirty or forty homes. The sparsely settled vicinity would seem adequately supplied.

Appellant has produced no evidence that public convenience and necessity warrant the granting of an additional license to anyone for any premises, or to himself for his own premises, except the usual petition favoring the granting of the license, bearing about 150 signatures, some illegible and all without addresses. The probative effect of petitions is so slight as to be almost negligible. Masarik v. Milltown, Bulletin 283, Item 10. The readiness of the average person to sign somebody's petition - any petition - is notorious.

From his own testimony, it appears that appellant seeks a license not because public convenience and necessity warrant it but because he conducts a "little delicatessen" store and "Being that the Super-Markets are coming in and business is getting so slow, I was afraid if they come in I might lose everything, and I did this to protect myself from losing my building and everything."

The action of the respondent is affirmed.

D. FREDERICK BURNETT,
Commissioner.

Dated: November 13, 1939.

8. MINORS - LIABILITY FOR SALE - HEREIN OF THE UNFAIRNESS OF DELIBERATELY PUTTING ON THE SPOT A LICENSEE UPON WHOSE NECK FALLS THE ULTIMATE RESPONSIBILITY.

Dear Sir:

Could you please tell me the law in this case:

If two fellows enter a saloon, one who is of age and one who is not, can the one who is of age buy a drink for the other without being prosecuted in any way?

I would appreciate it if you would state me the law in this case.

Thanking you, I am

Yours truly,
Albert W. Lang

November 13, 1939

Mr. Albert W. Lang,
Camden, N. J.

My dear Mr. Lang:

An adult may buy a drink of an alcoholic beverage for a minor without subjecting himself to prosecution, provided he does not misrepresent or misstate the age of the minor for the purpose of inducing the licensee or his employee to sell, serve or deliver the alcoholic beverage to the minor. Such misrepresentation or misstatement would subject the adult to prosecution as a disorderly person and punishment by fine not exceeding $200.00.

However, even if the drink were bought for the minor by an adult, it could not lawfully be consumed by the minor on licensed premises because licensees are prohibited by the State Regulation from allowing, permitting or suffering the consumption of alcoholic beverages by any person under the age of twenty-one years. This is true no matter who buys the drink for the minor. All it would do would be to get some poor licensee into trouble. Why put somebody else on the spot?

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - HEREIN THAT A SECOND VIOLATION OF THIS KIND WILL PERMANENTLY DISBAR A LICENSEE FROM EVER HOLDING A LICENSE.

November 13, 1939

G. Arnold Conant,
Fredon Township Clerk,
Newton, N. J.

My dear Mr. Conant:

I have before me staff report and your undated reply at the foot of our letter of May 26th, received November 8th, re disciplinary proceedings against John V. Hartung, t/a Pine Ridge Pavilion, Route 8 at Intersection of Greendell Road, charged with sale of an alcoholic beverage to a minor of 18 years, and note that although his license was suspended for ten days the sentence itself was suspended.

It is not in accord with the established practice to suspend sentence in disciplinary proceedings unless there is some mighty good reason. I am informed that the licensee himself admitted that the boy appeared to be less than 21 years old. Suspensions are meant to be served and not pigeon-holed.

I note that although the synopsis of the case that was transmitted to the Township Committee alleged that there had been a sale of alcoholic beverages in violation of both R. S. 33:1-77 and State Regulations 20, Rule 1, the licensee was charged only with sale, service or delivery, or allowing, permitting or suffering the service or delivery of an alcoholic beverage to a minor in violation of the State Regulation, of which he was found guilty. The finding that a sale of alcoholic beverages to a minor occurred in violation of the Regulation necessarily involves a finding that the sale occurred in violation of the Act. Re Falconer, Bulletin 276, Item 4. The licensee, therefore, has been adjudicated to have committed one violation of the Act. He has one strike - one more will bar him permanently from ever holding a license.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

10. DISCIPLINARY PROCEEDINGS - SALE OF CONTRACEPTIVES - 5 DAYS.

November 13, 1939

Harry Amsterdam, Esq.,
East Hanover Township Counsel,
Orange, N. J.

My dear Mr. Amsterdam:

I have before me staff report and your letter of October 28th re disciplinary proceedings conducted by the East Hanover Township Committee against John C. Tos, Hanover, charged with permitting the sale of contraceptives on the licensed premises, and note that his license was suspended for five days.

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

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

11. LIMITED DISTILLERY LICENSES - EXTENT AND SCOPE - HEREIN OF ITS LIMITATIONS IN RESPECT TO THE MANUFACTURE, USE AND SALE OF WINE.

Dear Sir:

I am contemplating entering business with a fruit brandy distiller and would like to have an immediate interpretation, if possible, of the following questions:

"Has the holder of a Limited Distillery License the right to sell wine which he manufactures in order to distill fruit brandy?

"Can he fortify this wine with brandy?

"Can he use these wines produced by him for the manufacture of cordials and liqueurs?

"If the process of manufacture of cordials and liqueurs call for the fortification of wine, has the holder of Limited Distillery License the right to do so?

"Can the holder of a Supplementary Limited Distillery License, who, for some part of the year by usage, also holds a Limited Distillery License, have the right to rectify, blend, treat, mix, compound with wine and add necessary sweetening and flavor to make cordial or liqueur, when such licensee is the holder of a state supplementary limited distillery license and a U. S. rectifier's license?"

Very truly yours,
(Mrs.) Juliet Brauer

November 13, 1939

Mrs. Juliet Brauer,
Jersey City, N. J.

Dear Madam:

A limited distillery license permits the licensee to manufacture and bottle any alcoholic beverages distilled from fruit juices and also to manufacture and bottle cordials or liqueurs.

As to your first question: A limited distillery license does not authorize a person to manufacture wine. If the limited distillery licensee wishes to manufacture and sell wine, he must also hold a plenary winery license, the annual fee for which is $500.00.

As to your second question: If the licensee wishes to fortify wine with brandy, he will require a plenary winery license.

As to your third question: A limited distillery licensee may compound wine with alcoholic beverages distilled from fruit juices and add necessary sweetening and flavor to make cordial or liqueur, but he cannot manufacture the wine to be so used except pursuant to a plenary winery license.

As to your fourth question: The answer to your third question applies also to the fourth question. A limited distillery licensee cannot manufacture or fortify wine unless he also holds a plenary winery license.

As to your fifth question: A supplementary limited distillery license permits the holder thereof to bottle and rebottle, in a quantity to be expressed in said license, alcoholic beverages distilled from fruit juices by such holder pursuant to a prior limited distillery license. While the Act is silent as to the right of such a licensee to bottle or rebottle cordials or liqueurs, it is clearly within the intent of the Act to permit such a licensee to bottle and rebottle such cordials and liqueurs manufactured pursuant to a prior limited distillery license. You will note, however, that the supplementary limited distillery license confers no right to manufacture cordials or liqueurs, but merely to bottle and rebottle the cordials or liqueurs manufactured pursuant to a prior limited distillery license.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

By: Edward J. Dorton,
Deputy Commissioner and
Counsel.

12. DISCIPLINARY PROCEEDINGS - CLUB LICENSES - SALES TO NON-MEMBERS - POLITICAL CLUB CHASTENED ON ELECTION DAY.

November 13, 1939

James O. Chasmar, Secretary,
Municipal Board of Alcoholic Beverage Control,
North Bergen, N. J.

My dear Mr. Chasmar:

I have before me staff report and your letter of November 3rd re disciplinary proceedings conducted by the Municipal Board against Uptown Regular Democratic Club Inc., 540 - 30th Street, charged with sale of alcoholic beverages to non-members, and note that its license on confession of guilt was suspended for three days.

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

It was indeed gratifying to see that the Board was on its toes when, in suspending the license for three days, it actually suspended it for four calendar days because one of them was General Election Day, on which the licensee would have to refrain from selling from 7:00 A.M. to 8:00 P.M. in any event.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

13. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED.

In the Matter of the Seizure on September 4, 1939 of a Still in a section of woodland in the vicinity of Folsom-Winslow Road, Hammonton, in Winslow Township, County of Camden and State of New Jersey.	Case 5560 ON HEARING CONCLUSIONS AND ORDER

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

BY THE COMMISSIONER:

On September 4, 1939, investigators of this Department seized an unregistered still and equipment in woodland in the rear of the Sampson farm, located on Folsom-Winslow Road, Hammonton, Winslow Township, Camden County.

At a hearing to determine whether the seized articles should be confiscated, no one appeared to contest the forfeiture. It is determined that the seized property set forth in Schedule "A" annexed hereto, constitutes unlawful property. R. S. 33:2-5.

Accordingly, it is ORDERED that the property described in Schedule "A" be and hereby is forfeited and that it be retained for the use of hospitals and State, County and municipal

institutions or destroyed in whole or in part, at the direction of the Commissioner.

D. FREDERICK BURNETT,
Commissioner.

Dated: November 11, 1939.

SCHEDULE "A"

1 - Copper Column	Approximately 450 lbs. of yeast
2 - Galvanized preheaters	90 - empty 5-gallon cans
1 - Steam boiler	7 - drums molasses
1 - Galvanized smoke stack	12 - 30-gallon empty drums
1 - Dephlegmator	52 - 50 pound bags of coke
4 - Tanks	8 - wooden vats with mash
1 - Tri-box	1 - 100 lb. bag of urea
1 - Gardner-Danver steam pump	1 - 100 lb. bag of lime
1 - Worthington steam pump	30 - 100 lb. bags of sugar
14 - 5-gallon cans of alcohol	Miscellaneous pipes, fittings, hose, etc.

14. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED.

In the Matter of a Seizure on August 22, 1939 of a Ford Coach and a quantity of alcohol contained therein, found in the vicinity of 162 Chestnut Street, in the City of Newark, County of Essex and State of New Jersey.	Case 5551 ON HEARING CONCLUSIONS AND ORDER

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

BY THE COMMISSIONER:

On August 22, 1939, police officers of the City of Newark seized a Ford coach and a quantity of alcohol found therein, on the public highway in front of 162 Chestnut Street, Newark. Hollie Douglas (a repeated violator of the liquor laws), the owner and driver of the motor vehicle, was arrested and charged with possession and transportation of illicit alcoholic beverages in violation of R. S. 33:1-50. Thereafter, the seizure was adopted by this Department.

At a hearing held to determine whether the seized property should be confiscated, no one appeared to contest the forfeiture. The evidence shows that the jugs of alcohol bore no tax stamps and hence the alcohol is prima facie illicit. The vehicle in which the alcohol was being transported is subject to forfeiture. R.S.33:1-66(c). Hence it is determined that the seized property constitutes unlawful property.

Accordingly, it is ORDERED that the property set forth in Schedule "A" be and hereby is forfeited and that it be retained for the use of hospitals and State, county and municipal institutions

or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,
Commissioner.

Dated: November 12, 1939.

SCHEDULE "A"

5 - 1 gallon glass jugs alcohol
1 - 1/2 gallon glass jug alcohol
3 - empty jugs
1 - Ford Coach, Engine #1935533,
1939 New Jersey Registration JH 323

15. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED - LIEN UPHELD.

In the Matter of the Seizure on June 21, 1939 of a Chevrolet Sedan, and a quantity of alcohol, sugar, yeast and caustic soda found therein, on the public highway designated as Route 9W, in the Borough of Englewood Cliffs, County of Bergen and State of New Jersey.	Case 5460 ON HEARING CONCLUSIONS AND ORDER

Anthony J. Salvadore, Esq., by Kenneth G. Caughman, Esq., Attorney for Etta Mae Woodley.
Harry Castelbaum, Esq., Attorney for State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

On June 21, 1939, State Troopers Kraft and Kealy stopped a Chevrolet Sedan owned by Etta Mae Woodley, which was being driven by her brother, John Walter Thompkins. They found cans, sugar, yeast and soda in the sedan and subsequently all items mentioned in said Schedule "A" were seized by investigators of this Department and John Walter Thompkins was placed under arrest.

Thompkins admitted, in a signed statement, that he was on his way to Newburgh, New York, to pick up some whiskey and that he intended to deliver the cans, sugar, yeast and soda to the man from whom he was to obtain the whiskey. The items which Thompkins was transporting in the car are generally used in the manufacture of bootleg liquor and moreover, the cans contained about 15 ounces of alcohol which, on analysis, was found to have a proof of 112.6°. The alcohol was untaxed and hence illegal. Under the circumstances, the car and its contents are unlawful property and subject to forfeiture.

It is therefore ORDERED that the property described in Schedule "A" annexed hereto be forfeited.

Etta Mae Woodley, the owner of the car, contends that she has acted in good faith and requests the return of the Chevrolet sedan. She testified that she purchased the car in 1937; that on the date of the seizure her brother requested permission to use the car for the purpose of visiting an aunt; that she had no knowledge

that he intended to use the car for illegal purposes. It appears, however, that she is unable to drive; that she frequently permitted her brother, John, and another brother to use the car; that, at times, she borrowed money from John to make payment on the car. It further appears from John's testimony that in 1935 he was convicted in New York State of possessing illicit liquor; that he is not regularly employed; that on June 16th and June 19th, 1939, he had made trips to Newburgh in another car for the purpose of bringing back bootleg liquor to New York City. In view that, in June 1939, John Walter Thompkins was living at the same address as his sister, Etta Mae Woodley, I do not believe her testimony that she knew nothing of the illegal activities in which her brother was engaged. She has not established to my satisfaction that she acted in good faith and hence her request for return of the Chevrolet Sedan is denied.

At the hearing, Jefferson Personal Finance Corporation alleged that it held a lien on the car and requested recognition thereof. It presented proof that the sum of $20.00 was due on a chattel mortgage dated August 10, 1938; that it communicated with General Motors Acceptance Corporation, which had previously financed the car for Mrs. Woodley, and communicated with her references, as a result of which it was satisfied that the loan should be granted. It appears also that it had made two previous loans to Mrs. Woodley, which were repaid. I am satisfied that the sum of $20.00 is the balance due to said claimant on the chattel mortgage and that it acted in good faith. Hence, its lien in that amount will be recognized.

It further appears that the Commissioner of Finance of the State of New Jersey has requested that the vehicle be retained for the use of the State upon payment of the lien claim in the amount of $20.00.

It is, therefore, ORDERED that the Chevrolet Sedan referred to in Schedule "A" be retained for the use of the State of New Jersey, conditioned upon the payment of the said sum of $20.00.

It is further ORDERED that the other items mentioned in said Schedule "A" be retained for the use of hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,
Commissioner.

Dated: November 12, 1939.

SCHEDULE "A"

12 - 5 gallon cans containing a small quantity of alcohol
6 - 50 pound bags sugar
9 - packages of yeast
3 - packages of caustic soda
1 - Chevrolet Sedan, Serial 2EA117310, Engine 5697470, New York 1939 Registration 6Y9042

16. DISCIPLINARY PROCEEDINGS - PROSTITUTES - 30 DAYS.

In the Matter of Disciplinary Proceedings against

SEYMOUR SOBEL,
187 So. Orange Avenue,
Newark, N. J.,

Holder of Plenary Retail Consumption License No. C-783 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS AND ORDER

A. W. Wasserman, Esq., Attorney for Licensee.
Samuel B. Helfand, Esq., Attorney for State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Charges served upon the licensee allege that:

"1. On or about August 22, 1939, and on divers days prior thereto, you allowed, permitted and suffered known prostitutes in or upon your licensed premises, contrary to Rule 4 of State Regulations 20.

"2. On or about August 22, 1939, and on divers days prior thereto, you allowed, permitted and suffered immoral activities in or upon your licensed premises, contrary to Rule 5 of State Regulations 20."

While Margaret V_____ was on the licensed premises on August 22, 1939, she arranged with a patron to meet him "in the next block" and as a result of subsequent events she was convicted of soliciting and the man was convicted of adultery.

The girl had a previous record, having been convicted of soliciting in another city a year or two ago.

The sole question is whether the licensee or his bartender knew that she was a prostitute. It appears that about June 1939, the licensee had been warned by Deputy Police Chief Sebold that he must keep women who had bad records off his licensed premises. The licensee testified that he instructed his bartender, Fisher, to keep unescorted girls away from the premises. Fisher told Margaret V_____ to keep away. It appears that she did for about a week and then returned and visited the premises at least once a week until August 22, 1939.

Licensee and his bartender testified that they did not know Margaret V_____ as a prostitute and that she was permitted to come unescorted because she was Fisher's "girl friend." The facts are that she had been visiting the premises for a period of about a year; that she had been having sexual intercourse with Fisher for four months before August 1939; that she had "picked up" eight other men at the licensed premises for the purpose of carrying on immoral activities elsewhere. The evidence is clear that the licensee or his bartender knew that she was a prostitute and that she was permitted to be on licensed premises. The licensee is guilty as to the first charge.

There is no evidence that any immoral activities took place at the licensed premises, and hence the second charge is dismissed.

The license will be suspended for thirty (30) days.

Accordingly, it is, on this 13th day of November, 1939,

ORDERED that License No. C-785, heretofore issued to Seymour Sobel by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of thirty (30) days, effective November 16, 1939, at 3:00 A.M.

Commissioner