

0484

**BOX:**

546

**FOLDER:**

4962

**DESCRIPTION:**

Ulm, John

**DATE:**

12/04/93



4962

0485

*Copy furnished to Dist. Atty.  
12/10/98*

Witnesses:

*Bailed by Henry  
Mazk B22-E.75*

*Ans 12/12/98* 1297  
Court of Oyer and Terminer.

Counsel,

Filed

day of

*Dec* 189*8*

Pleads,

THE PEOPLE

vs.

*B*  
*NA*

JOHN ULM.

Misdemeanor.

[Section 41, W, Penal Code.]

DE LANCEY NICOLL,

District Attorney.

**A True Bill.**

Foreman.

*Ordered to the Court of  
General Sessions  
The County of New York  
at the City of New York  
Dec 13/98  
Bail Discharged*

Mr. G. Brown  
 Court of General Sessions  
 of the Peace

The People of the State  
 of New York  
 against  
 John Allen

City and County of New York, ss.  
 John Allen being  
 duly sworn, says: I now reside  
 at 966 Third Avenue in the city  
 of New York. In the year 1893  
 I lived at No. 319 East 71<sup>st</sup> Street,  
 New York City. About October  
 1893 I ~~was~~<sup>was</sup> nominated as candi-  
 date for <sup>delegate to</sup> the Constitutional Conven-  
 tion for the election which took  
 place November 8, 1893. The no-  
 mination was made in Steinert's  
 Hall in East 70<sup>th</sup> Street between  
 1<sup>st</sup> and 2<sup>nd</sup> Avenue, by the So-  
 cialistic Labor Party. I at first  
 refused to accept the nomination,  
 and finally only did so on the assu-  
 rance of various people who were  
 present, that it would not be ac-  
 companied with any difficulties.

inconveniences or expenses whatsoever on my part. I am not very well conversant with the English language. I did not know that the law required me to file an account of my election expenses, and did not intend to evade the law. My neglect to file a statement of my expenses was due wholly to my ignorance of the law, and my incomplete knowledge of the English language.

I did not have one cent of expense in connection with my candidacy.

Sworn to before me } John W. Wm  
this 7<sup>th</sup> day of June 1895 }

J. A. Ewing

Notary Public

N. 70



0488

JOHN FENNEL,  
ATTORNEY AND COUNSELOR AT LAW,  
NO. 280 BROADWAY,  
STEWART BUILDING, 3RD FLOOR, ROOM 107.

TELEPHONE

NEW YORK,

June 7, 1895.

Henry W. Unger, Esq.  
Criminal Court Building.

Dear Sir:

Enclosed please find affidavit of John Allen. This is the third and last of the election cases in which I am interested.

Yours truly  
John Fennel

THE PEOPLE

against

JOHN GLM.

The enclosed affidavit of the defendant shows that he was ignorant of any law requiring him to file an account of election expenses and that there was no intention to avoid the law. He did not expend a single cent in his candidature and I am satisfied that a proper disposition of this case would be the discharge of the defendant upon his own undertaking, which I respectfully recommend.

New York, January 11th, 1899.

*Alfred Thomas*

Assistant District Attorney.

0490

JOHN OLM

6811154

1111 11111111

COURT OF OYER AND TERMINER,

Of the City and County of New York.

THE PEOPLE OF THE STATE OF NEW YORK,

--against--

JOHN ULM.

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK,

by this Indictment, A c c u s e JOHN ULM, of a Misdemeanor, committed as follows:

T h e said JOHN ULM, late of the City of New York, in the County of New York aforesaid, having been a candidate voted for by the electors of the TWELFTH SENATE DISTRICT of said State, at the general election, held throughout this State and in the said City and County of New York, on the Eighth day of November, 1893, to wit: a candidate for the office of Delegate to the Constitutional Convention of this State for the said Twelfth Senate District, and being by law required within ten days after such election to file in the Office of the Clerk of the said City and County an itemized statement in the form and containing the matter provided by law, showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election to the said office at the said election, unlawfully did wholly neglect to file such statement as so required by law as aforesaid, within ten days after the said election;

A G A I N S T the form of the statute in such case made and provided, and against the peace of The People of the State of New York, and their dignity.

DE LANCEY NICOLL,

District Attorney.

0491

**BOX:**

546

**FOLDER:**

4962

**DESCRIPTION:**

Unger, Jonas

**DATE:**

12/22/93



4962

0492

*Copy furnished to Mr. [unclear]*

Witnesses:

*H. R. Linker*

Counsel,

Filed

day of

189

Pleads,

THE PEOPLE

vs.

*B*  
*Jonas Unger*

MISDEMEANOR.  
[Chap. 377, Laws of 1887, as amended by Chap. 181,  
Laws of 1888.]

DE LANCEY NICOLL,

District Attorney.

*Jan 21/99*  
*Part Discharged.*

A TRUE BILL.

*R. Lockwood*

Foreman.



0493

3

## DISTRICT POLICE COURT.

State of New York, City and County of NEW YORK.

ss:

HERMAN W. LINKER, being sworn says; I am 27 years of age; I reside at Number 271 East 38th Street New York. My business is that of Butcher. I am the agent of John Bolen, successor to and transferee of all the rights and interests of the late firm of Bolen and Byrne, lately composed of said John Bolen and John Byrne now deceased. Said John Bolen, successor to and transferee as aforesaid is engaged in bottling and selling soda waters, mineral and aerated waters, lager beer, and other beverages, in bottles, boxes, syphons and kegs, with his name and other marks and devices branded, stamped, engraved, etched, blown, impressed and otherwise produced upon such bottles, boxes, syphons and kegs, and whose principal place of business was at the times hereinafter mentioned ever since has been and now is at the City of New York and County of New York, and State aforesaid. The name and other marks and devices so as aforesaid produced upon said bottles, boxes, syphons and kegs, and a description thereof is as follows, viz:

Said description of said name and other marks and devices so as aforesaid used by the said John Bolen successor to and transferee as aforesaid upon said bottles, boxes, syphons and kegs, was on the 16th day of April, 1889, duly filed in the office of the Clerk of New York County in the State of New York, and also in the office of the Secretary of State of the State of New York, on the 15th day of April, 1889; and such description was by said John Bolen and John Byrne, while co-partners as aforesaid, thereafter caused to be printed and was printed for three weeks successively in two daily newspapers, published in the City and County of New York. The said John Bolen, successor to and transferee as aforesaid, has in all things complied with Chapter 377 of the Laws of the State of New York for 1887, amended by Chapter 181 of the Laws of the State of New York for 1888. That said John Bolen, successor to and transferee as aforesaid, is the owner of the following described property, marked and distinguished as hereinbefore stated, viz: divers bottles, boxes, syphons and kegs, the number of which is unknown to deponent. That the same are so marked and distinguished as aforesaid with and by the said name and other marks and devices of which a description has been, as hereinbefore stated, duly filed and published as provided in Section I. of Chapter 377 of the Laws of the State of New York for 1887, passed May 18th, 1887, as amended by Chapter 181 of the Laws of the State of New York for 1888; passed, April 26 1888; that deponent has reason to believe and does believe and avers the fact to be that said property, namely, said divers bottles, boxes, syphons and kegs, so marked and distinguished as aforesaid are being unlawfully used, filled, had, bought, sold, disposed of and trafficked in by

*Jonas Murgu*

who is bottling and selling soda, mineral and aerated waters, porter, ale, cider, ginger ale, small beer, lager beer, weiss beer, white beer and other beverages, and is, and has been unlawfully filling, using, buying, selling, giving, taking and otherwise disposing of, and trafficking in said divers bottles, boxes, syphons, and kegs, so marked and distinguished as aforesaid, in and upon the following described premises used and occupied by the said *Jonas Murgu*:

*The basement and cellar of the building and premises known and described as number 195 Broome Street in the City, County and State of New York*

All of which the said *Jonas Murgu* and has been

doing contrary to the Laws of the State of New York in such case made and provided, and without having obtained the written consent of or having purchased the said divers bottles, boxes, syphons and kegs, from the said John Bolen, successor to and transferee as aforesaid. That the reason for deponent's said belief, and the further facts upon which this affidavit is based, are that on the day of *December* 1891 Deponent saw and upon a woman named *said Murgu* in delivering bottles, boxes, syphons and kegs to customers and *said Murgu* was standing in front of premises number *335 Broadway* in the City of New York, bottles, boxes, syphons and kegs and distinguished as aforesaid filled with some beverage. This is charged as a second offense. The said *Murgu* having been found guilty and convicted of a first offense on the 11th day of November 1891, by a court having jurisdiction in the premises. Connected with violation of Section 2 of Chapter 377 of the Laws of 1887 and amended.

Subscribed and sworn to before me, }  
this *21st* day of *January* 189*2* }

*Charles N. Linton*

*H. W. Linker*

POLICE JUSTICE.



0494

B. No. 198

THE PEOPLE, ETC.,

ON THE COMPLAINT OF

HERMAN W. LINKER.

vs.

Jonas Moya

AFFIDAVIT.

REGINALD HART,

ATTORNEY FOR COMPLAINANT,

221 East 38th St.  
~~No. 149 East 15th Street,~~

NEW YORK CITY.

0495

Sec. 198-200.

3

District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Jonas Meyer* being duly examined before the undersigned according to law, on the annexed charge; and being informed that it is his right to make a statement in relation to the charge against him; that the statement is designed to enable him if he see fit to answer the charge and explain the facts alleged against him that he is at liberty to waive making a statement, and that his waiver cannot be used against him on the trial.

Question. What is your name?

Answer. *Jonas Meyer*

Question. How old are you?

Answer. *27 years*

Question. Where were you born?

Answer. *Germany*

Question. Where do you live, and how long have you resided there?

Answer. *59 Columbia St. 1 year*

Question. What is your business or profession?

Answer. *Bottle of soda water*

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer. *I am not guilty and demand trial by a jury*

*Jonas Meyer*

Taken before me this *11*

day of *November* 189*6*

*Charles H. Towner*

Police Justice.

0496

197  
State of New York,  
City and County of  
NEW YORK.

ss:

In the Name of the People of the State of New York.

To any Peace Officer in this State or in the County of NEW YORK.

Proof by affidavit having been this day made before me, by HERMAN W. LINKER. of number

221 East 38th Street New York City that the following described property, to wit: divers bottles, boxes, syphons and kegs, the number of which is unknown to deponent, the property of John Bolen, successor to and transferee of all the rights and interests of the late firm of Bolen & Byrne, lately composed of said John Bolen and John Byrne, now deceased, having branded, blown, etched and otherwise produced on said bottles, boxes, syphons and kegs, Bolen & Byrne, Was unlawfully taken, and has been and is being unlawfully had, used, filled, bought, sold, disposed of and trafficked in, contrary to the provisions of Chapter 377, Laws of the State of New York, for the year 1887, passed May 18, 1887, as amended by Chapter 181 of the Laws of the State of New York for the year 1888, passed April 26, 1888, and that there is reasonable ground to believe that the said property was unlawfully taken and has been and is being unlawfully had, used, filled, bought, sold, disposed of and trafficked in, contrary to the provisions of said act by

Jonas Muger

and that there is probable cause for believing that the said divers bottles, boxes, syphons and kegs are now in the possession of the said

Jonas Muger

and are now concealed in and upon the following described premises used and occupied by said

Jonas Muger viz: the basement and cellar of the building and premises known and described as number 95 Broome Street in the City, County and State of New York

You are, therefore, in the name of the People of the State of New York, commanded and authorized, with proper assistance, in the day-time, or at any time of the day to enter the building and premises of the said

Jonas Muger

and there make immediate search for the said divers bottles, boxes, syphons and kegs, and if you find the same, or any part thereof, then you are likewise commanded to bring the same so found, together with the said

Jonas Muger

forthwith, before me, at 3rd District Police Court in said New York City

to be dealt with as the law directs

Dated at New York City the 21st day of January 1892

Charles McIntosh

POLICE JUSTICE.

0497

Inventory of property taken by Richard Berkley by whom this  
 warrant was executed, from Jonas Meyer  
 in whose possession it was found, & from within described premises from whom it was taken,  
 where the property was found, no person being there.  
 3 Bottles Filled, each of said wine bottles  
 4 Bottles Empty, having produced thereon  
 Boxes,  
 Total, 9 Robert Byrne

COUNTY OF New York } ss:  
 I Richard Berkley the officer by whom this warrant was  
 executed, do swear that the above inventory contains a true and detailed account of all the  
 property taken by me on this warrant.  
 Sworn to before me, this 12<sup>th</sup> day of January 1897 } Richard Berkley  
Charles H. Hunter  
Police Justice

#191  
 THE PEOPLE, ETC.,  
 ON THE COMPLAINT OF  
 HERMAN W. LINKER,  
 vs.  
Jonas Meyer  
 SEARCH WARRANT  
 AND  
 WARRANT OF ARREST.  
 REGINALD HART,  
 ATTORNEY FOR COMPLAINANT,  
221 East 38<sup>th</sup> St.  
New York City  
 NEW YORK CITY.

0498

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named

Defendant

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of One ~~Hundred~~ Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated January 22 1897 Charles L. Smith Police Justice.

I have admitted the above-named

Defendant

to bail to answer by the undertaking hereto annexed.

Dated January 22 1897 Charles L. Smith Police Justice.

There being no sufficient cause to believe the within named

guilty of the offence within mentioned. I order he to be discharged.

Dated \_\_\_\_\_ 18 \_\_\_\_\_ Police Justice.

88

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

Human W. Lonker

1 Jonas King

2 \_\_\_\_\_

3. \_\_\_\_\_

4 \_\_\_\_\_

Dated Jan'y 27

Saints

Beckhus

Conrad

Witnesses A. W. Pinker

No. 21 Ear W 38

No. \_\_\_\_\_

JA 25 189

100  
STATES

to answer

~~11~~

*[Signature]*

Parole

**BAILED,**

**No. 1, by** .....

Residence ..... Street.

No. 2, by \_\_\_\_\_

*Residence* ..... *Street* .....

No. 3, by .....

*Residence* ..... *Street*

No. 4, by .....

*Residence* ..... *Street*

A circular ink stamp from the District Attorney's Office. The outer ring contains the text "RECEIVED" at the top and "DISTRICT ATTORNEY'S OFFICE" around the bottom. In the center, the date "JAN 25 1892" is stamped. The stamp is slightly tilted and has some ink bleed-through from the reverse side.



0500

#200.

State of New York,  
City and County of  
NEW YORK.

ss:

In the Name of the People of the State of New York.

To any Peace Officer in this State or in the County of NEW YORK.

Proof by affidavit having been this day made before me, by HERMAN W. LINKER, of number

*of 38th Street New York City* that the following described property, to wit:  
divers bottles and boxes, the number of which is unknown to deponent, the property of  
Henry W. Meyer, having branded, blown and otherwise produced on some of said bottles  
Duhme & Meyer, on other bottles Henry W. Meyer, on other bottles Henry W. Meyer with the  
letters H. W. M. in a monogram, and on said boxes Henry W. Meyer.  
was unlawfully taken, and has been and is being unlawfully had, used, filled, bought, sold,  
disposed of and trafficked in, contrary to the provisions of Chapter 377, Laws of the State of New  
York, for the year 1887, passed May 18, 1887, as amended by Chapter 181 of the Laws of the State  
of New York for the year 1888, passed April 26, 1888, and that there is reasonable ground to  
believe that the said property was unlawfully taken and has been and is being unlawfully had,  
used, filled, bought, sold, disposed of and trafficked in, contrary to the provisions of said act by

*Jonas Unger*

and that there is probable cause for believing that the said divers bottles and boxes are now in the  
possession of the said

*Jonas Unger*

and are now concealed in and upon the following described premises used and occupied by said

*Jonas Unger viz: the basement and cellar  
of the building and premises known  
and described as number 95 Broome  
street in the City, County and State of  
New York*

You are, therefore, in the name of the People of the State of New York, commanded and author-  
ized, with proper assistance, in the day-time, or at any time of the day  
to enter the building and premises of the said

*Jonas Unger*

aforsaid, and there make immediate search for the said divers bottles and boxes, and if you find  
the same, or any part thereof, then you are likewise commanded to bring the same so found,  
together with the said

*Jonas Unger*

forthwith, before me, at *3d District Police Court in said New York City*

to be dealt with as the law directs.

Dated at *New York City* the *21st* day of *January* 189 *2*

*Charles McIntosh*  
POLICE JUSTICE.

0501

Inventory of property taken by Richard Barkley by whom this  
warrant was executed, from Jonas Unger  
in whose possession it was found, & from within described premises from whom it was taken,  
where the property was found, no person being there.  
4 Bottles Filled, each contained four bottles  
Bottles Empty, having produced thereon  
Boxes, Henry W. Meyer and the letters  
Total, 4 H.W.M. in a newspaper

COUNTY OF New York } ss:  
I Richard Barkley the officer by whom this warrant was  
executed, do swear that the above inventory contains a true and detailed account of all the  
property taken by me on this warrant.

Sworn to before me, this 22<sup>nd</sup>  
day of January 189 2

Charles A. Lupton  
Peter Forstner

THE PEOPLE, ETC.,  
ON THE COMPLAINT OF  
HERMAN W. LINKER,  
vs.

Jonas Unger  
SEARCH WARRANT  
AND  
WARRANT OF ARREST.  
REGINALD HART,  
ATTORNEY FOR COMPLAINANT  
221 East 38th Street  
New York City  
NEW YORK CITY.

Off. Richard Barkley  
3d Dist Court

January 22/92  
629  
W.  
95 Broadway

0502

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named.....

..... *Defendant* .....  
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of *Five* Hundred Dollars, ..... and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated *June 22* 1892 *Charles M. Smith* Police Justice.

I have admitted the above-named *Defendant* .....  
to bail to answer by the undertaking hereto annexed.

Dated *June 22* 1892 *Charles M. Smith* Police Justice.

There being no sufficient cause to believe the within named.....

..... guilty of the offence within mentioned. I order he to be discharged.

Dated ..... 18 ..... Police Justice.

0503

Police Court--- 38 District. 88

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*Amos W. Linker*

vs.

1 *Jonas Unge*

2

3

4

*Wm Bonbrack*  
Offence

Dated *January 27* 189*2*

*Turner*

Magistrate.

*Buckley*

Officer.

*Cord*

Precinct.

Witnesses *H. W. Linker*

No. *271 East 28th* Street.

No. *Daile* Street.

No. *000* Street.

\$ *000* to answer *C. S. 1*



BAILED

No. 1 by *J. J. Darkovitz*  
Residence *75 Ridge* Street.

No. 2, by

Residence

No. 3, by

Residence

No. 4, by

Residence

0504

## 30 DISTRICT POLICE COURT.

State of New York, City and County of NEW YORK.

SS:

HERMAN W. LINKER, being sworn says: I am 27 years of age; I reside at *Chumba 22 East 38 St New York City*. My business is that of *defective*, I am the agent of Henry W. Meyer. Said Henry W. Meyer is engaged in bottling and selling soda water, root beer, weiss beer, lager beer, and other beverages, in bottles and boxes, with his name and other marks and devices branded, stamped, engraved, etched, blown, impressed and otherwise produced upon such bottles and boxes, and whose principal place of business was at the times hereinafter mentioned, ever since has been, and now is at the City of New York, and County of New York, and State aforesaid. The name and other marks and devices so as aforesaid produced upon said bottles, and boxes, and a description thereof is as follows, viz: on some bottles Duhme & Meyer, on other bottles Henry W. Meyer, on other bottles Henry W. Meyer with the letters H. W. M. in a monogram, on boxes Henry W. Meyer.

Said description of said name and other marks and devices so as aforesaid used by the said Henry W. Meyer upon said bottles and boxes, was on the 14th day of February, 1889, duly filed in the office of the Clerk of New York County in the State of New York, and also in the office of the Secretary of State of the State of New York, on the 12th day of February, 1889; and such description was by said Henry W. Meyer thereafter caused to be printed and was printed for three weeks successively in two daily newspapers, published in the City and County of New York. The said Henry W. Meyer has in all things complied with Chapter 377 of the Laws of the State of New York for 1887, as amended by Chapter 181 of the Laws of the State of New York for 1888. That said Henry W. Meyer is the owner of the following described property, marked and distinguished as hereinbefore stated, viz: divers bottles and boxes, the number of which is unknown to deponent. That the same are so marked and distinguished as aforesaid with and by the said name and other marks and devices of which a description has been, as hereinbefore stated, duly filed and published as provided in Section I, of Chapter 377 of the Laws of the State of New York for 1887, passed May 18th, 1887, as amended by Chapter 181 of the Laws of the State of New York for 1888, passed April 26th, 1888; that deponent has reason to believe and does believe and avers the fact to be that said property, namely, said divers bottles, and boxes, so marked and distinguished as aforesaid are being unlawfully used, filled, had, bought, sold, disposed of and trafficked in by

*Jonas Meyer*

who is bottling and selling soda, mineral and aerated waters, porter, ale, cider, ginger ale, small beer, lager beer, weiss beer, white beer and other beverages, and is, and has been, engaged in buying, using, selling, giving, taking and otherwise disposing of, and trafficking in said divers bottles, and boxes, so marked and distinguished as aforesaid, in and upon the following described premises used and occupied by the said *Jonas Meyer viz:*

*The basement and cellar of the building and premises known and described as number 95 Broome Street in the City, County and State of New York*

All of which the said

*Jonas Meyer is and has been,*

doing contrary to the Laws of the State of New York in such case made and provided, and without having obtained the written consent of or having purchased the said divers bottles, and boxes, from the said Henry W. Meyer. That the reason for deponent's said belief, and the further facts upon which this affidavit is based, are that on the 11th day of November 1891 Deponent saw and upon a wagon in which said *Jonas Meyer* in the morning bottles beverages to customers, and while said wagon was standing in front of premises known as 95 Broome Street in New York City bottles marked and distinguished as aforesaid filled with some beverage, this is charged as a second offense the said *Jonas Meyer* having before been convicted at the City of New York, on the 11th day of November 1891, by a court of competent jurisdiction in the premises, convicted of violation of Section 2 of Chapter 377 of the Laws of New York in 1887 and amended in 1888.

Subscribed and sworn to before me,

this 21st day of January 1891

*Charles A. Lainto* *H. W. Linker.*

POLICE JUSTICE.

0505

B. No. 200

THE PEOPLE, ETC.,

ON THE COMPLAINT OF

HERMAN W. LINKER.

vs.

Jonas Mugu

AFFIDAVIT.

REGINALD HART,

ATTORNEY FOR COMPLAINANT.

22 East 38th Street  
~~No. 149 East 15th Street.~~

NEW YORK CITY.



0506

Sec. 198-200.

30

District Police Court.

CITY AND COUNTY } ss.  
OF NEW YORK,

*Jonas Meyer* being duly examined before the undersigned according to law, on the annexed charge; and being informed that it is *his* right to make a statement in relation to the charge against *him*; that the statement is designed to enable *him* if he see fit to answer the charge and explain the facts alleged against *him* that *he* is at liberty to waive making a statement, and that *his* waiver cannot be used against *him* on the trial.

Question. What is your name?

Answer. *Jonas Meyer*

Question. How old are you?

Answer. *29 years*

Question. Where were you born?

Answer. *Germany*

Question. Where do you live, and how long have you resided there?

Answer. *5 Columbia St. 1 year*

Question. What is your business or profession?

Answer. *Broker of soda water*

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer. *I am not guilty and demand a jury trial*  
*Jonas Meyer*

Taken before me this

day of *November*

1911

*Charles J. Smith*

Police Justice.

0507

199

30

## DISTRICT POLICE COURT.

State of New York, City and County of NEW YORK.

ss:

HERMAN W. LINKER.

being sworn says: I am 27 years

of age; I reside at number 221 East 38th St. N.Y.C. My business is that of Detective.

I am the agent of George Grau. Said George Grau is engaged in bottling and selling soda water, and other beverages, in bottles and boxes, with his name and other marks and devices branded, stamped, engraved, etched, blown, impressed and otherwise produced upon such bottles and boxes, and whose principal place of business was at the times hereinafter mentioned, ever since has been, and now is at the City of New York, and County of New York, and State aforesaid. The name and other marks and devices so as aforesaid produced upon said bottles, and boxes, and a description thereof is as follows, viz: on bottles Geo. Grau and the letters G. G. in monogram, on boxes Geo. Grau.

Said description of said name and other marks and devices so as aforesaid used by the said George Grau upon said bottles and boxes, was on the 14th day of February, 1889, duly filed in the office of the Clerk of New York County in the State of New York, and also in the office of the Secretary of State of the State of New York, on the 12th day of February, 1889; and such description was by said George Grau thereafter caused to be printed and was printed for three weeks successively in two daily newspapers, published in the City and County of New York. The said George Grau has in all things complied with Chapter 377 of the Laws of the State of New York for 1887, as amended by Chapter 181 of the Laws of the State of New York for 1888. That said George Grau is the owner of the following described property, marked and distinguished as hereinbefore stated, viz: divers bottles and boxes, the number of which is unknown to deponent. That the same are so marked and distinguished as aforesaid with and by the said name and other marks and devices of which a description has been, as hereinbefore stated, duly filed and published as provided in Section 1, of Chapter 377 of the Laws of the State of New York for 1887, passed May 18th, 1887, as amended by Chapter 181 of the Laws of the State of New York for 1888, passed April 26th, 1888; that deponent has reason to believe and does believe and avers the fact to be that said property, namely, said divers bottles, and boxes, so marked and distinguished as aforesaid are being unlawfully used, filled, had, bought, sold, disposed of and trafficked in by

Jonas Meyer

who is bottling and selling soda, mineral and aerated waters, porter, ale, cider, ginger ale, small beer, lager beer, weiss beer, white beer and other beverages, and is, and has been unlawfully filling, using, buying, selling, giving, taking and otherwise disposing of, and trafficking in said divers bottles, and boxes, so marked and distinguished as aforesaid, in and upon the following described premises used and occupied by the said

Jonas Meyer of:  
The basement and cellar of the building  
and premises known and described  
as number 95 Broome Street in the  
City, County and State of New York

All of which the said

Jonas Meyer is and has been

doing contrary to the Laws of the State of New York in such case made and provided, and without having obtained the written consent of or having purchased the said divers bottles, and boxes, from the said George Grau. That the reason for deponent's said belief, and the further facts upon which this affidavit is based, are that on the 21st day of November 1891

Deponent, saw in an open way in use by said Meyer in delivering bottles and boxes to customers, and while some name was standing in front of premises number 535 Broadway in said City of New York, bottles marked and distinguished as aforesaid filled with some beverage, there being as a record of use, the said Meyer having been for at the City of New York, been by a court having jurisdiction in the premises, to wit, on the 11th day of November 1891, convicted of a violation of section two of chapter 377 of the Laws of 1887 and amendments thereto

Subscribed and sworn to before me,

this 21st day of

January 1891

Charles V. Taintor

POLICE JUSTICE.

H. W. Linker

0508

B. No. 199

THE PEOPLE, ETC.,

ON THE COMPLAINT OF

Herman W. Linker  
vs.

Jonas Mugu

**AFFIDAVIT.**

REGINALD HART,

ATTORNEY FOR COMPLAINANT,

221 East 38th St.  
~~No. 140 East 15th Street~~

NEW YORK CITY.

77 5

0509

Sec. 198—200.

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District Police Court.

CITY AND COUNTY } ss.  
OF NEW YORK, }

*Jonas Meyer* being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is his right to  
make a statement in relation to the charge against him; that the statement is designed to  
enable him if he see fit to answer the charge and explain the facts alleged against him  
that he is at liberty to waive making a statement, and that his waiver cannot be used  
against him on the trial.

Question. What is your name?

Answer. *Jonas Meyer*

Question. How old are you?

Answer. *29 years*

Question. Where were you born?

Answer. *Germany*

Question. Where do you live, and how long have you resided there?

Answer. *59 Columbia St. 1 year*

Question. What is your business or profession?

Answer. *Manufacturer of soda water*

Question. Give any explanation you may think proper of the circumstances appearing in the  
testimony against you, and state any facts which you think will tend to your  
exculpation?

Answer. *I am not guilty and demand a  
trial by jury*

*Jonas Meyer*

Taken before me this

29

day of *January* 1897

*Charles H. ...*

Police Justice.

05 10

2179  
State of New York,  
City and County of  
NEW YORK.

ss:

In the Name of the People of the State of New York.

To any Peace Officer in this State or in the County of NEW YORK.

Proof by affidavit having been this day made before me, by HERMAN W. LINKER. *of number*

*221 East 38th Street New York* that the following described property, to wit: divers bottles and boxes, the number of which is unknown to deponent, the property of George Grau, having branded, blown and otherwise produced on said bottles Geo. Grau and the letters G. G. in a monogram, and on said boxes Geo. Grau. was unlawfully taken, and has been and is being unlawfully had, used, filled, bought, sold, disposed of and trafficked in, contrary to the provisions of Chapter 377, Laws of the State of New York, for the year 1887, passed May 18, 1887, as amended by Chapter 181 of the Laws of the State of New York for the year 1888, passed April 26, 1888, and that there is reasonable ground to believe that the said property was unlawfully taken and has been and is being unlawfully had, used, filled, bought, sold, disposed of and trafficked in, contrary to the provisions of said act by

*Jonas Unger*

and that there is probable cause for believing that the said divers bottles and boxes are now in the possession of the said

*Jonas Unger*

and are now concealed in and upon the following described premises used and occupied by said

*Jonas Unger by the basement and cellar of the building and premises known and described as number 95 Broome Street in the City, County and State of New York*

You are, therefore, in the name of the People of the State of New York, commanded and authorized, with proper assistance, in the day-time, or at any time of the day to enter the building and premises of the said

*Jonas Unger* situate as  
aforesaid, and there make immediate search for the said divers bottles and boxes, and if you find the same, or any part thereof, then you are likewise commanded to bring the same so found, together with the said

*Jonas Unger*  
forthwith, before me, at *3rd District Police Court in New York*

to be dealt with as the law directs.

Dated at *New York City*

the *21st*

day of *January*

189 *7*

*Charles N. Linton*

POLICE JUSTICE.

0511

Inventory of property taken by Richard Buckley by whom this  
warrant was executed, from James Huggan  
in whose possession it was found, from whom it was taken,  
from within described premises  
where the property was found, no person being there.  
Bottles Filled, said bottle having produced  
Bottles Empty, therein Geo. Grant the letters  
Boxes, 99 in number  
Total, 99 in number

COUNTY OF New York  
I Richard Buckley the officer by whom this warrant was  
executed, do swear that the above inventory contains a true and detailed account of all the  
property taken by me on this warrant.  
Sworn to before me, this 22 day of January 1897  
Charles W. Linton  
Police Justice

THE PEOPLE, ETC.,  
ON THE COMPLAINT OF  
HERMAN W. LINKER  
US.  
James Huggan  
SEARCH WARRANT  
AND  
WARRANT OF ARREST.  
REGINALD HART,  
ATTORNEY FOR COMPLAINANT,  
221 East 38th St.  
Ad. 120 East 15th Street  
NEW YORK CITY.



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It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named.....

Defendant  
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of One Hundred Dollars and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated June 22 1897 Charles L. Smith Police Justice.

I have admitted the above-named Defendant to bail to answer by the undertaking hereto annexed.

Dated June 22 1897 Charles L. Smith Police Justice.

There being no sufficient cause to believe the within named.....  
..... guilty of the offence within mentioned. I order h to be discharged.

Dated..... 18..... Police Justice.

05 13

88

Police Court--- 3 District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*Harman W. Linker*

1 *James May*  
2  
3  
4

*Offence Two Brothers*

Dated *January 22* 189*2*

*Santer* Magistrate.

*Beckley* Officer.

*Conch* Precinct.

Witnesses *H. W. Linker*

No. *221 E 38th* Street.

No. \_\_\_\_\_ Street.

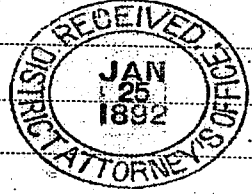
No. \_\_\_\_\_ Street.

No. \_\_\_\_\_ Street.

No. \_\_\_\_\_ Street.

\$ *1.00* to answer *G. S.*

*Parolea*



BAILED,

No. 1, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 2, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 3, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 4, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

\*\*\*\*\*

THE PEOPLE of the State that the statute upon which  
this indictment is based was repealed without a saving  
*Jonas Weyen*  
clause, and that the following

\*\*\*\*\*

of the Laws of 1896, must be

This indictment is based upon Chapter 377 of  
the Laws of 1887 as amended and superseded by Chapter  
181 of the Laws of 1888.

Chapter 376 of the Laws of 1896 contains (at page  
346 of the Session Laws) a provision repealing all of  
Chapter 377 of the Laws of 1887 and all of Chapter 181 of  
the Laws of 1888--- but it contains no saving clause and  
the said Acts of 1887 and of 1888 were not in force when  
Chapter 376 of the Laws of 1896 took effect. The penal  
statute substantially re-enacting the said Act of 1888  
was subsequently passed by the same Legislature. (See  
Chapter 933 of the Laws of 1896.) There was an interim of  
some weeks between the passing of the said acts of 1896.

Under the decision of the Court of Appeals in  
the case of *Hartung against The People*, 22 N.Y. 95--

"After expiration or repeal of a law, no penalty  
can be enforced, nor punishment inflicted for a vio-  
lation of the law committed while it was in force,  
unless some special provision be made for that purpose  
by statute."

Moreover,

"The repeal of a law imposing a penalty though  
it takes place after conviction, arrests judgment,  
and when the repeal is after judgment, the judgment  
is to be reversed upon error."

A Fortiori, where the statute repealing ~~the~~ <sup>was passed</sup> Act  
upon which this indictment is founded, criminal process

05 15

thereon is thereby arrested."

In view of the fact that the statute upon which this indictment is based was repealed without a saving clause in the repealing act, and that the reenacting statute, Chapter 933 of the Laws of 1896, must be regarded <sup>as</sup> prospective in its operation, I am constrained under the well settled case of Hartung against The People to recommend the discharge of the defendant upon his own undertaking.

New York, January 18<sup>th</sup> 1899.

*Wm. A. Downes*

Assistant District Attorney.



0516

EXHIBIT CREDITED TO THE CREDIT OF THE STATE OF NEW YORK  
 BY THE COMMISSIONER OF THE LAND OFFICE  
 IN THE YEAR OF THE YEAR 1892 AND THE STATE OF NEW YORK

6225

## Court of General Sessions of the Peace OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Jonas Muger*

**The Grand Jury of the City and County of New York**, by this indictment accuse *Jonas Muger* of a misdemeanor, to wit: the crime of offending against the provisions of the second section of the Act of the Legislature of this State, passed May 18th, 1887, entitled: "An Act to protect the owners of bottles, boxes, syphons and kegs used in the sale of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, beer, white beer, or other beverages," as the same was amended by a certain other Act of the Legislature of this State, passed April 26th, 1888, entitled: "An Act to amend Chapter three hundred and seventy-seven of the Laws of eighteen hundred and eighty-seven, entitled 'An Act to protect the owners of bottles, boxes, syphons and kegs used in the sale of soda water, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, beer, white beer, or other beverages,'" committed as follows:

Heretofore, and prior to the day of the commission of the crime and misdemeanor hereinafter alleged, *John Bolen*, successor to and transferee of all the rights and interests of the late *John Bolen and Byrne* formerly composed to said *John Bolen and John Byrne*, deceased, having *his* principal place of business in the said City of New York, *being* at all the times hereinafter mentioned engaged in bottling and selling *soda waters, mineral and aerated waters, lager beer* and other beverages in bottles, *a description of which name marks and devices had been* with *his* name and other marks and devices branded, stamped, engraved, etched, blown, impressed and otherwise produced thereon, *by the said firm of Bolen and Byrne* did duly file in the office of the Clerk of the said County of New York, to wit: on the *16th* day of *April* 18 *89*, and also in the office of the Secretary of State of the State of New York, to wit: on the *15th* day of *April* 18 *89*, *a description of the name, marks and devices so used by* and did duly cause such description to be printed and published for three weeks successively in two daily newspapers published in the said City of New York, as required by the Statute in such case made and provided, and among the marks and devices aforesaid so as aforesaid produced upon such bottles, *and a description of which had been so duly filed and published as required by law as aforesaid*, the said *John Bolen* used the name "*Bolen & Byrne*" upon such

And the said *Jonas Muger* late of the City and County aforesaid, afterwards to wit: on the *21st* day of *January*, 1892, at the City and County aforesaid, did unlawfully buy from a certain person or persons to the Grand Jury aforesaid unknown, without the consent of the said *John Bolen* divers to wit: *nine* certain bottles, *which* and each of which were and was then

and there marked and distinguished as aforesaid, with and by the said name "*Bolen + Byrne*" of the said *John Bolen* being the name of which a description had been so filed and published as aforesaid, which said bottles had not been purchased from the said *John Bolen*; against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

## SECOND COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said *Jonas Muser* of the same misdemeanor, committed as follows:

Heretofore and prior to the day of commission of the crime and misdemeanor hereinafter alleged, *one John Bolen, successor to and transferee of all the rights and interests of the late firm of Bolen + Byrne, formerly composed of the said John Bolen and one John Byrne, deceased,* having *his* principal place of business in the said City of New York, *being* at all the times hereinafter mentioned engaged in bottling and selling *sodameters, mineral & aerated waters, lager beer* and other beverages, in bottles with *his* name and

*a description of which name, marks and devices had been duly filed by the said firm of Bolen + Byrne* other marks and devices branded, stamped, engraved, etched, blown, impressed and otherwise produced thereon, *did duly file* in the office of the Clerk of the said County of New York, to wit: on the *16th* day of *April* 18 *89*, and also in the Office of the Secretary of State of the

State of New York, to wit: on the *15th* day of *April* 18 *89*,

*a description of the name, marks and devices so used by him, and did duly cause such description to be* printed and published for three weeks successively in two daily newspapers published in the said City of New York, as required by the Statute in such case made and provided, and among the marks and devices aforesaid, so as aforesaid produced upon such bottles,

and a description of which had been so duly filed and published as required by law, as aforesaid, the said *John Bolen* used the name "*Bolen + Byrne*" upon such *bottles*.

And the said *Jonas Muser* late of the City and County aforesaid, afterwards, to wit: on the *21st* day of *January* 189 *2* at the City and County aforesaid, did unlawfully take from a certain person or persons to the Grand Jury aforesaid unknown, without the consent of the said *John Bolen*

*divers*, to wit: *nine* certain bottles, which and each of which were and was then and there so marked and distinguished as aforesaid, with and by the said name "*Bolen + Byrne*" of the said *John Bolen* being the name

of which a description had been so filed and published as aforesaid, and which said bottles, had not been purchased from the said *John Bolen* against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

## THIRD COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said *Jonas Muser* of the same misdemeanor, committed as follows:

Heretofore, and prior to the day of the commission of the crime and misdemeanor hereinafter alleged, *one John Bolen, successor to and transferee of all the rights and interests of the late firm of Bolen + Byrne, formerly composed of the said John Bolen and one John Byrne, deceased,* having *his* principal place of business in the said City of New York, *being* at all the times herein-



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and aerated waters, lager beer  
 after mentioned engaged in bottling and selling soda water, mineral and other beverages  
 in bottles, ~~a description of which name, marks and devices had by said Bolen & Byrne~~  
 engraved, etched, blown, impressed and otherwise produced thereon, ~~and~~ duly filed in the office of the Clerk  
 of the said County of New York, to wit: on the 16<sup>th</sup> day of April 1899,  
 and also in the office of the Secretary of State of the State of New York, to wit: on the 15<sup>th</sup>  
 day of April 1899, a description of the name, marks and devices so used by ~~him~~  
 and did duly cause such description to be printed and published for three weeks successively in two daily  
 newspapers published in the said City of New York, as required by the Statute in such case made and  
 provided, and among the marks and devices aforesaid, so as aforesaid produced upon such bottles, ~~and~~  
 and a description of which had been so duly filed and published as  
 required by law, the said John Bolen used the name "Bolen & Byrne"  
 upon such bottles.

And the said Jonas Meyer late of the City and County aforesaid,  
 afterwards, to wit: on the 21<sup>st</sup> day of January 1899,  
 at the City and County aforesaid, did unlawfully traffic in and dispose of in a manner and by means to the  
 Grand Jury aforesaid, unknown, without the consent of the said John Bolen  
 divers, to wit: nine certain bottles, which and each of  
 which were and was then and there so marked and distinguished as aforesaid, with and by the said name  
 "Bolen & Byrne" of the said John Bolen being the name  
 of which a description had been so filed and published as aforesaid, and which said bottles  
 had not been purchased from the said John Bolen  
 against the form of the Statute in such case made and provided against the peace of the People of the State  
 of New York and their dignity.

DE LANCEY NICOLL,

District Attorney.

\*\*\*\*\*  
 upon which this indictment is based, criminal process  
 then THE PEOPLE were arrested.

against violation of the Law that the statute upon which

*Jonas Wagner* was arrested and repeated without a saving

\*\*\*\*\*  
 clause of the repealing Act, and that the re-enacting

statute. This indictment is based upon Chapter 377 of  
 the Laws of 1887 as amended and superseded by Chapter 181  
 of the Laws of 1888. Chapter 181 of the Laws of 1888  
 Chapter 376 of the Laws of 1896 contains (at page  
 346 of the Session Laws) a provision repealing all of  
 Chapter 377 of the Laws of 1887 and all of Chapter 181  
 of the Laws of 1888-- but it contains no saving clause  
 and the said acts of 1887 and of 1888 were not in force  
 when Chapter 376 of the Laws of 1896 took effect. The  
 penal statute substantially re-enacting the said Act of  
 1888 was subsequently passed by the same Legislature.  
 (See Chapter 933 of the Laws of 1896.) There was an  
 interim of some weeks between the passing of the said Acts  
 of 1896.

Under the decision of the Court of Appeals in  
 the case of Hartung against the People, 22 N.Y.95 --

"After expiration or repeal of a law, no penalty  
 can be enforced, nor punishment inflicted for a vio-  
 lation of the law committed while it was in force,  
 unless some special provision be made for that pur-  
 pose by statute."

Moreover,

"The repeal of a law imposing a penalty  
 though it takes place after conviction, arrests  
 judgment, and when the repeal is after judgment,  
 the judgment is to be reversed upon error."

A Fortiori, where the statute repealing ~~the~~ Act

SECRET

ALL RIGHTS

IN THE CITY AND COUNTY OF NEW YORK

upon which this indictment is <sup>founded, was passed,</sup> ~~found~~, criminal process thereon is thereby arrested.

In view of the fact that the statute upon which this indictment is based was repealed without a saving clause in the repealing Act, and that the re-enacting statute, Chapter 933 of the Laws of 1896, must be regarded as prospective in its operation, I am constrained under the well settled case of Hartung against the People to recommend the discharge of the defendant upon his own undertaking,

New York, January 3<sup>rd</sup> 1899.

*Robert J. McNamee*

Assistant District Attorney.

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THIS INDICTMENT IS PRESENTED AND REQUESTED WITHOUT A STATUTE  
IN VIOLENT OF THE 1500 FIRST THE SENTENCE UPON WHICH  
THEREON IS THEREBY EXERCISED.  
UPON WHICH THIS INDICTMENT IS PRESENTED, CERTAIN PROCESS

6225

## Court of General Sessions of the Peace

### OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Jonas Meyer*

**The Grand Jury of the City and County of New York**, by this indictment accuse *Jonas Meyer* of a misdemeanor, to wit: the crime of offending against the provisions of the second section of the Act of the Legislature of this State, passed May 18th, 1887, entitled: "An Act to protect the owners of bottles, boxes, syphons and kegs used in the sale of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, beer, white beer, or other beverages," as the same was amended by a certain other Act of the Legislature of this State, passed April 26th, 1888, entitled: "An Act to amend Chapter three hundred and seventy-seven of the Laws of eighteen hundred and eighty-seven, entitled 'An Act to protect the owners of bottles, boxes, syphons and kegs used in the sale of soda water, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, beer, white beer, or other beverages,'" committed as follows:

Heretofore, and prior to the day of the commission of the crime and misdemeanor hereinafter alleged, *one Henry W. Meyer* having *his* principal place of business in the said City of New York, being at all the times hereinafter mentioned engaged in bottling and selling *soda water, root beer, weiss beer, Lager beer* and other beverages in bottles, *with his* name and other marks and devices branded, stamped, engraved, etched, blown, impressed and otherwise produced thereon, did duly file in the office of the Clerk of the said County of New York, to wit: on the *14th* day of *February* 18 *89*, and also in the office of the Secretary of State of the State of New York, to wit: on the *12th* day of *February* 18 *89*, a description of the name, marks and devices so used by *him* and did duly cause such description to be printed and published for three weeks successively in two daily newspapers published in the said City of New York, as required by the Statute in such case made and provided, and among the marks and devices aforesaid so as aforesaid produced upon such bottles, *and a description of which had been so duly filed and published as required by law as aforesaid, the said Henry W. Meyer used the name "Henry W. Meyer" upon such with the letters "H. W. M." in a monogram on each bottle.*

And the said *Jonas Meyer* late of the City and County aforesaid, afterwards to wit: on the *21st* day of *January*, 189*2*, at the City and County aforesaid, did unlawfully buy from a certain person or persons to the Grand Jury aforesaid unknown, without the consent of the said *Henry W. Meyer* divers to wit: *four* certain bottles, *which and each of which were and was then*

and there marked and distinguished as aforesaid, with and by the said name mark and device of the said Henry W. Meyer being the name mark and device of which a description had been so filed and published as aforesaid, which said bottles mark and device had not been purchased from the said Henry W. Meyer; against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

### SECOND COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said Jonas Meyer of the same misdemeanor, committed as follows:

Heretofore and prior to the day of commission of the crime and misdemeanor hereinafter alleged, one Henry W. Meyer

having his principal place of business in the said City of New York, being at all the times hereinafter mentioned engaged in bottling and selling soda water, root beer, meat beer and other beverages, in bottles with his name and other marks and devices branded, stamped, engraved, etched, blown, impressed and otherwise produced thereon, did duly file in the office of the Clerk of the said County of New York, to wit: on the 14th day of February 1899, and also in the Office of the Secretary of State of the State of New York, to wit: on the 12th day of February 1899, a description of the name, marks and devices so used by him, and did duly cause such description to be printed and published for three weeks successively in two daily newspapers published in the said City of New York, as required by the Statute in such case made and provided, and among the marks and devices aforesaid, so as aforesaid produced upon such bottles, mark and device and a description of which had been so duly filed and published as required by law, as aforesaid, the said Henry W. Meyer used the name "Henry W. Meyer, with upon such the letters H.W.M." in a monogram, on such bottles.

And the said Jonas Meyer late of the City and County aforesaid, afterwards, to wit: on the 21st day of January 1892, at the City and County aforesaid, did unlawfully take from a certain person or persons to the Grand Jury aforesaid unknown, without the consent of the said Henry W. Meyer four divers, to wit: four certain bottles, mark and device which and each of which were and was then and there so marked and distinguished as aforesaid, with and by the said name mark and device of the said Henry W. Meyer being the name mark and device of which a description had been so filed and published as aforesaid, and which said bottles, mark and device had not been purchased from the said Henry W. Meyer against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

### THIRD COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said Jonas Meyer of the same misdemeanor, committed as follows:

Heretofore, and prior to the day of the commission of the crime and misdemeanor hereinafter alleged, one Henry W. Meyer

having his principal place of business in the said City of New York, being at all the times herein-



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after mentioned engaged in bottling and selling *soda water, root beer, lager beer* and other beverages in bottles, \_\_\_\_\_ with *his* name and other marks and devices branded, stamped, engraved, etched, blown, impressed and otherwise produced thereon, did duly file in the office of the Clerk of the said County of New York, to wit: on the *14th* day of *February* 18*89*, and also in the office of the Secretary of State of the State of New York, to wit: on the *12th* day of *February* 18*89*, a description of the name, marks and devices so used by and did duly cause such description to be printed and published for three weeks successively in two daily newspapers published in the said City of New York, as required by the Statute in such case made and provided, and among the marks and devices aforesaid, so as aforesaid produced upon such bottles, \_\_\_\_\_ and a description of which had been so duly filed and published as required by law, the said *Henry W. Meyer* used the name "*Henry W. Meyer*" with the letters "*H. W. M.*" in a monogram upon such *bottles*.

And the said *Jonas Muser* late of the City and County aforesaid, afterwards, to wit: on the *21st* day of *January* 189*2*, at the City and County aforesaid, did unlawfully traffic in and dispose of in a manner and by means to the Grand Jury aforesaid, unknown, without the consent of the said *Henry W. Meyer* divers, to wit: *four* certain bottles, \_\_\_\_\_ which and each of which were and was then and there so marked and distinguished as aforesaid, with and by the said name *after mark and device* of the said *Henry W. Meyer* being the name *mark and device* of which a description had been so filed and published as aforesaid, and which said bottles \_\_\_\_\_ had not been purchased from the said *Henry W. Meyer* against the form of the Statute in such case made and provided against the peace of the People of the State of New York and their dignity.

DE LANCEY NICOLL,

*District Attorney.*



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THE PEOPLE

against

*Jonas Meuser.*

\*\*\*\*\*

This indictment is based upon Chapter 377 of the Laws of 1887 as amended and superseded by Chapter 181 of the Laws of 1888.

Chapter 376 of the Laws of 1896 contains (at page 346 of the Session Laws) a provision repealing all of Chapter 377 of the Laws of 1887 and all of Chapter 181 of the Laws of 1888--- but it contains no saving clause and the said Acts of 1887 and of 1888 were not in force when Chapter 376 of the Laws of 1896 took effect. The penal statute substantially re-enacting the said Act of 1888 was subsequently passed by the same Legislature. (See Chapter 933 of the Laws of 1896.) There was an interim of some weeks between the passing of the said acts of 1896.

Under the decision of the Court of Appeals in the case of *Hartung* against The People, 22 N.Y. 95--

"After expiration or repeal of a law, no penalty can be enforced, nor punishment inflicted for a violation of the law committed while it was in force, unless some special provision be made for that purpose by statute."

Moreover,

"The repeal of a law imposing a penalty though it takes place after conviction, arrests judgment, and when the repeal is after judgment, the judgment is to be reversed upon error."

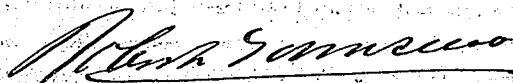
A Fortiori, where the statute repealing <sup>was passed</sup> the Act upon which this indictment is founded, criminal process

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thereon is thereby arrested.

In view of the fact that the statute upon which this indictment is based was repealed without a saving clause in the repealing act, and that the re-enacting statute, Chapter 933 of the Laws of 1896 must be regarded as prospective in its operation, I am constrained under the well settled cases of Hartung against the People to recommend the discharge of the defendant upon his own undertaking.

New York, January, 28<sup>th</sup> 1899.



Assistant District Attorney.

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THIS IS A COPY OF THE ORIGINAL OF THE  
 THE PEOPLE OF THE STATE OF NEW YORK  
 against  
 JONAS UNGER

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## Court of General Sessions of the Peace

### OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Jonas Unger*

**The Grand Jury of the City and County of New York**, by this indictment accuse *Jonas Unger* of a misdemeanor, to wit: the crime of offending against the provisions of the second section of the Act of the Legislature of this State, passed May 18th, 1887, entitled: "An Act to protect the owners of bottles, boxes, syphons and kegs used in the sale of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, beer, white beer, or other beverages," as the same was amended by a certain other Act of the Legislature of this State, passed April 26th, 1888, entitled: "An Act to amend Chapter three hundred and seventy-seven of the Laws of eighteen hundred and eighty-seven, entitled 'An Act to protect the owners of bottles, boxes, syphons and kegs used in the sale of soda water, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, beer, white beer, or other beverages,'" committed as follows:

Heretofore, and prior to the day of the commission of the crime and misdemeanor hereinafter alleged, *one George Gran*, -  
 having *his* principal place of business in the said City of New York, being at all the times hereinafter mentioned engaged in bottling and selling *soda water* -  
 and other beverages in bottles, *with his* name and other marks and devices branded, stamped, engraved, etched, blown, impressed and otherwise produced thereon, did duly file in the office of the Clerk of the said County of New York, to wit: on the *fourteenth* day of *February* 18*89*, and also in the office of the Secretary of State of the State of New York, to wit: on the *twelfth* day of *February* 18*89*, a description of the name, marks and devices so used by *him* and did duly cause such description to be printed and published for three weeks successively in two daily newspapers published in the said City of New York, as required by the Statute in such case made and provided, and among the marks and devices aforesaid so as aforesaid produced upon such bottles, *and a description of which had been so duly filed and published as required by law as aforesaid, the said*  
*George Gran* used the name "*George Gran*" upon such *and the letters "G. G." in monogram, upon such bottles.*

And the said *Jonas Unger* late of the City and County aforesaid, afterwards to wit: on the *twenty first* day of *January*, 189*2*, at the City and County aforesaid, did unlawfully buy from a certain person or persons to the Grand Jury aforesaid unknown, without the consent of the said *George Gran* - *divers*  
 to wit: *one* certain bottles, *which and each of which were and was then*

and there marked and distinguished as aforesaid, with and by the said name mark and device of the said George Gran, being the name mark and device of which a description had been so filed and published as aforesaid, which said bottle — had not been purchased from the said George Gran; against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

### SECOND COUNT.

**And the Grand Jury aforesaid,** by this indictment further accuse the said Jonas Muser of the same misdemeanor, committed as follows:

Heretofore and prior to the day of commission of the crime and misdemeanor hereinafter alleged, Jonas Muser one George Gran.

having his principal place of business in the said City of New York, being at all the times hereinafter mentioned engaged in bottling and selling soda water and other beverages, in bottles — with his name and other marks and devices branded, stamped, engraved, etched, blown, impressed and otherwise produced thereon, did duly file in the office of the Clerk of the said County of New York, to wit: on the 14th day of February 18 89, and also in the Office of the Secretary of State of the State of New York, to wit: on the 12th day of February 18 89, a description of the name, marks and devices so used by him, and did duly cause such description to be printed and published for three weeks successively in two daily newspapers published in the said City of New York, as required by the Statute in such case made and provided, and among the marks and devices aforesaid, so as aforesaid produced upon such bottles, — and a description of which had been so duly filed and published as required by law, as aforesaid, the said George Gran used the name "George Gran" upon such bottles "G. G." in monogram.

And the said Jonas Muser late of the City and County aforesaid, afterwards, to wit: on the 21st day of January 1892, at the City and County aforesaid, did unlawfully take from a certain person or persons to the Grand Jury aforesaid unknown, without the consent of the said George Gran — divers, to wit: a certain bottles, which and each of which were and was then and there so marked and distinguished as aforesaid, with and by the said name mark and device of the said George Gran being the name mark and device of which a description had been so filed and published as aforesaid, and which said bottles, — had not been purchased from the said George Gran, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

### THIRD COUNT.

**And the Grand Jury aforesaid,** by this indictment further accuse the said Jonas Muser of the same misdemeanor, committed as follows:

Heretofore, and prior to the day of the commission of the crime and misdemeanor hereinafter alleged, one George Gran

having his principal place of business in the said City of New York, being at all the times herein-

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after mentioned engaged in bottling and selling soda water and other beverages in bottles, \_\_\_\_\_ with his name and other marks and devices branded, stamped, engraved, etched, blown, impressed and otherwise produced thereon, did duly file in the office of the Clerk of the said County of New York, to wit: on the 14<sup>th</sup> day of February 1889, and also in the office of the Secretary of State of the State of New York, to wit: on the 12<sup>th</sup> day of February 1889, a description of the name, marks and devices so used by and did duly cause such description to be printed and published for three weeks successively in two daily newspapers published in the said City of New York, as required by the Statute in such case made and provided, and among the marks and devices aforesaid, so as aforesaid produced upon such bottles, \_\_\_\_\_ and a description of which had been so duly filed and published as required by law, the said George Gran used the name "George Gran" and the letters "G. G." in monogram, upon such bottles.

And the said Jonas Muser, late of the City and County aforesaid, afterwards, to wit: on the 21<sup>st</sup> day of January 1892, at the City and County aforesaid, did unlawfully traffic in and dispose of in a manner and by means to the Grand Jury aforesaid, unknown, without the consent of the said George Gran divers, to wit: \_\_\_\_\_ a certain bottles, \_\_\_\_\_ which and each of which were and was then and there so marked and distinguished as aforesaid, with and by the said name mark and device of the said George Gran being the name mark and device of which a description had been so filed and published as aforesaid, and which said bottles \_\_\_\_\_ had not been purchased from the said George Gran against the form of the Statute in such case made and provided against the peace of the People of the State of New York and their dignity.

DE LANCEY NICOLL,

District Attorney.