

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

BULLETIN 291

JANUARY 6, 1939.

1. LICENSES - EFFECT OF MUNICIPAL ANNEXATION UPON LICENSED PRIVILEGES AND UPON PREVIOUS LIMITATION OF THE NUMBER OF LICENSES - HEREIN OF THE PRINCIPLES APPLICABLE TO RENEWALS AND OF THE INHERENT EQUITIES TO WHICH A LAW-ABIDING LICENSEE MAY LAY JUST CLAIM.

Dear Mr. Burnett:

On November 14th the section north of Dover, known as Bowlbyville, was annexed to the Town of Dover. Bowlbyville formerly was part of Randolph Township.

In this section one Plenary Distribution license, License D#1, was issued to George Arvanetes, West Clinton St., to expire on June 30th, 1939.

The financial arrangements between the Town of Dover and Randolph Township will be consummated as of December 31, 1938, or the end of this year. When this has finally been completed, George Arvanetes Distribution License will be in the Town of Dover, though holding a license issued by Randolph Township.

It is not the desire of the Officials of the Town of Dover to bring any hardships on any of the former residents of Randolph Township.

Will you kindly advise just what disposition should be made in order that he may continue business without interruption.

Your cooperation will be greatly appreciated.

Yours very truly,

EARL C. NELSON
Clerk, Town of Dover.

December 30th, 1938.

Earl C. Nelson, Clerk,
Town of Dover,
Morris County, New Jersey.

Dear Mr. Nelson:

The license issued to George Arvanetes by the Township Committee of the Township of Randolph will remain in full force and effect, notwithstanding the annexation of Bowlbyville to the Town of Dover. This is so because R.S.40:43-27 provides that "no vested rights shall be changed or abrogated by such annexation." Where a license has been granted and acted upon, and the licensee has incurred obligations and otherwise changed his position on the faith thereof, it constitutes a vested right during the term of the license, subject to be divested only in the manner expressly set forth by Statute. Re Marritz, Bulletin #61, Item 8.

It will, therefore, not be necessary for you to take any action with reference to this license during the balance of the present fiscal year, but Arvanetes may continue to operate his business during that period under the license which he now holds. Under the Revised Statutes, the ordinances and regulations of the Town of Dover extend to and have the same effect within the terri-

tory annexed as they had theretofore within the original limits of the Town. Hence, your ordinances and regulations govern Arvanetes and his premises from now on.

A further question will arise next June when Arvanetes' license expires. Our records show that the Board of Aldermen of the Town of Dover adopted a resolution on February 8th, 1937, the pertinent part of which is as follows:

"BE IT RESOLVED that the number of plenary retail distribution licenses to be issued in the Town of Dover be limited to five ***",

which resolution was amended on August 23rd, 1937, viz.:

"PROVIDED, however, that the foregoing limitation shall not prevent the issuance of renewals of plenary retail consumption or plenary retail distribution licenses to persons holding such licenses at the time this resolution was adopted."

Licenses are good, at the maximum, for the term of one year only. All rights conferred cease upon its termination. No one, therefore, may say that he is "entitled" to a renewal. No one has a vested right to a renewal. Whether a renewal should be granted or not is, like the original issuance of the license, a matter to be decided in the light of what is then determined as the best common interest of the public at large. Re Marritz, supra.

Hence, technically speaking, the Statute above cited, which protects vested rights from being changed or abrogated by annexation, is not applicable.

But the spirit of the Statute, as distinguished from its strict letter, clearly means that innocent people are not to be prejudiced by annexation. A licensee who is worthy and well qualified and has lived up strictly to the law and obeyed the Rules, should, in fairness, be granted a renewal. If such has been his conduct, he is as much morally entitled to consideration as are the present licensees of Dover. The adopted child should be treated with the same kindness and the same fairness as the others in the family.

Consequently, when the question arises, I shall rule, if necessary, that the license of George Arvanetes of Bowlbyville is as much entitled to consideration for renewal under the present limiting resolution of Dover as are the other licensees.

I cordially suggest, however, that you would make a neater job of it if your governing body would adopt a new ordinance raising the quota in Dover from five to six.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

2. ENFORCEMENT DIVISION ACTIVITY REPORT FOR DECEMBER, 1938

To: D. Frederick Burnett, Commissioner

ARRESTS: Total number of persons - - - - - 71
Licensees - 1 Non-Licensees - 70

SEIZURES:
Stillis - total number seized- - - - - 24
Capacity 1 to 50 Gallons- - - - - 8
Capacity 50 Gallons and over- - - - 16

Motor Vehicles - total number seized- - - - - 7
Trucks - 1 Passenger Cars - - 6

Alcohol
Beverage alcohol - - - - - 54 Gallons

Mash - Total number of gallons 10,074

Alcoholic Beverages
Beer, Ale, etc. - - - - - 5 Gallons
Wine - - - - - 4 "
Whiskies and other hard liquor- - - - - 106 "

RETAIL INSPECTIONS:
Licensed premises inspected - - - - - 1306
Illicit (bootleg) liquor- - - - - 2
Gambling violations - - - - - 23
Sign violations - - - - - 22
Unqualified employees - - - - - 82
Other mercantile business - - - - - 45
Disposal permits necessary- - - - - 3
"Front" violations- - - - - 2
Improper beer markers - - - - - 1
Other violations found- - - - - 31

Total violations found- - - - - 211
Total number of bottles gauged- - - - - 9,795

STATE LICENSEES:
Plant Control Inspections Completed - - - 251
License Applications Investigated - - - - 14

COMPLAINTS:
Investigated and closed - - - - - 265
Investigated, pending completion- - - - - 232

LABORATORY:
Analyses made - - - - - 189
Alcohol and water and artificial
coloring cases - - - - - 30
Poison and denaturant cases - - - - - 1

Respectfully submitted,
E. W. Garrett,
Deputy Commissioner.

3. REPORT ON CASES INVOLVING NON-PAYMENT OF TAXES OR PENALTIES OR OTHER FAILURE TO COMPLY WITH THE TAX LAW, CONDUCTED DIRECTLY BY THE DEPARTMENT.

January 3, 1939

To: D. Frederick Burnett, Commissioner
From: Emerson A. Tschupp, Attorney

Period Covered
July 1, 1938 to December 31, 1938

SUMMARY

Cases Instituted 23

Disposition:

License or Permit suspended for balance of term	2
Dismissed after charges were served, but before entry of order of suspension, after payment of penalty and service charge	17
Complaint withdrawn by State Tax Department	3
Pending, decision reserved	<u>1</u>

23

The foregoing 23 cases involved licensees and permittees as set forth below:

State Licensees

Cases Instituted 7

Disposition:

Dismissed after charges were served, but before entry of order of suspension, after payment of penalty and service charge	7
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Permittees

Cases Instituted 6

Disposition:

Permit suspended for balance of term	2
Dismissed after charges were served, but before entry of order of suspension, after payment of penalty and service charge	2
Complaint withdrawn by State Tax Department	<u>2</u>
	6

Municipal Licensees

Cases Instituted 10

Disposition:

Dismissed after charges were served, but before entry of order of suspension, after payment of penalty and service charge	8
Complaint withdrawn by State Tax Department	1
Pending, decision reserved	<u>1</u>
	10

Respectfully submitted,
Emerson A. Tschupp,
Attorney.

4. REPORT OF DISCIPLINARY PROCEEDINGS AGAINST STATE LICENSEES AND PERMITTEES INSTITUTED BY THE DEPARTMENT.

January 3, 1939

To: D. Frederick Burnett, Commissioner
 From: Emerson A. Tschupp, Attorney

Period Covered

July 1, 1938 to December 31, 1938

SUMMARY

<u>Cases Instituted</u>		5
<u>Disposition:</u>		
Permit suspended	1	
Pending		
Decision reserved	3	
Awaiting hearing	<u>1</u>	
		5

The foregoing five proceedings involve 7 violations as set forth below:

<u>Kind of License or Permit</u>	<u>Charge</u>	<u>Disposition</u>
Solicitor's Permit	Solicitor was responsible officer of state licensee when license revoked; failure to surrender solicitor's permit after termination of employment	Permit suspended; granting of new application postponed 30 days.
State Beverage Distributor	Employment of solicitors without permit	Pending, decision reserved
Solicitor's Permit	Solicitation prior to issuance of permit	Pending, decision reserved
"	"	"
"	"	"
State Beverage Distributor	Employment of solicitor without permit; failure to file notice of employment of solicitor	Pending, awaiting hearing

Respectfully submitted,
 Emerson A. Tschupp,
 Attorney.

5. REPORT ON DISCIPLINARY PROCEEDINGS AGAINST MUNICIPAL LICENSEES
CONDUCTED DIRECTLY BY THE DEPARTMENT.

January 3, 1939

To: D. Frederick Burnett, Commissioner
From: Emerson A. Tschupp, Attorney

Period Covered

July 1, 1938 to December 31, 1938

SUMMARY

<u>Cases Instituted</u>		95
<u>Disposition:</u>		
License revoked	3	
License suspended	47	
Dismissed	5	
Pending		
Decision reserved	22	
Awaiting hearing	<u>18</u>	95

The foregoing 95 cases involved 146 separate violations, as set forth below:

I

Fair Trade Violations

<u>Municipality</u>	<u>No. of Cases</u>	<u>Disposition</u>
Bayonne	1	10-day suspension
Camden	2	Pending, awaiting hearing
Cranford	1	Pending, decision reserved
Deptford	1	Pending, awaiting hearing
Harrison	1	10-day suspension
Hoboken	1	" "
Jersey City	1	20-day suspension
" "	2	10-day suspension
" "	1	Dismissed
National Park	1	Pending, awaiting hearing
Neptune City	1	20-day suspension
Newark	3	10-day suspension
New Brunswick	2	Pending, decision reserved
Nutley	1	10-day suspension
Passaic	1	" "
Paterson	1	Pending, awaiting hearing
Rahway	1	" " "
Ridgewood	1	10-day suspension
Trenton	3	Pending, decision reserved
"	2	Pending, awaiting hearing
Weehawken	2	10-day suspension
West Deptford	<u>1</u>	Pending, awaiting hearing
TOTAL...	31	

IINewark Licensees

<u>No. of Cases</u>	<u>Charge</u>	<u>Disposition</u>
1	Permitting (a) lewdness and immoral activities and (b) prostitutes on licensed premises; employment of (c) hostesses, (d) waitresses, and (e) female bartender; (f) sale of alcoholic beverages outside scope of license.	License revoked
1	Employment of (a) hostesses, (b) waitresses, and (c) ineligible persons; (d) permitting female impersonator on licensed premises; (e) sale of alcoholic beverages and (f) licensed premises open during prohibited hours; (g) service of alcoholic beverages to intoxicated person.	License revoked
1	Fraud in application for license	License revoked
1	Premises within 200' of church	License suspended for balance of term
1	Sale of alcoholic beverages to minors - 20 days Service of alcoholic beverages to intoxicated persons - dismissed	License suspended 20 days
1	Sale of alcoholic beverages during prohibited hours - 5 days Licensed premises open during prohibited hours - 5 days Obscuring public view during prohibited hours - 5 days	License suspended 15 days
1	Sale of alcoholic beverages during prohibited hours - 5 days Licensed premises open during prohibited hours - 5 days	License suspended 10 days
1	Licensed premises open during prohibited hours - 5 days Obscuring public view during prohibited hours - 5 days	License suspended 10 days
2	Sale of alcoholic beverages on Election Day	License suspended 10 days
1	Permitting gambling on licensed premises - 5 days Permitting unnecessary noise on licensed premises - 5 days	License suspended 10 days
2	Obscuring public view during prohibited hours	License suspended 5 days

<u>No. of Cases</u>	<u>Charge</u>	<u>Disposition</u>
1	Sale of alcoholic beverages during prohibited hours - 5 days Licensed premises open during prohibited hours - dismissed	License suspended 5 days
1	Sale of alcoholic beverages during prohibited hours Licensed premises open during prohibited hours	License suspended 5 days
1	Licensed premises open during prohibited hours	License suspended 5 days
1	Employment of female bartender	License suspended 5 days
1	Sale of alcoholic beverages to minor	License suspended 5 days
3	Mislabeled beer taps	License suspended 3 days
1	Employment of (a) hostesses and (b) ineligible persons, (c) failure to facilitate investigation; (d) licensed premises open during prohibited hours	Pending, decision reserved
1	Employment of female bartender; permitting unnecessary noise; sale of alcoholic beverages during prohibited hours; sale of alcoholic beverages outside scope of license	Pending, decision reserved
1	Permitting lewdness and immoral activities; bottling alcoholic beverages without license; employment of waitress	Pending, decision reserved
1	Sale of alcoholic beverages during prohibited hours; transportation of alcoholic beverages in unlicensed vehicle	Pending, decision reserved
2	Sale of alcoholic beverages during prohibited hours; licensed premises open during prohibited hours	Pending, decision reserved
1	Sale of alcoholic beverages during prohibited hours; obscuring public view during prohibited hours	Pending, decision reserved
1	Sale of alcoholic beverages to minor; sale of alcoholic beverages to intoxicated person	Pending, decision reserved
2	Sale of alcoholic beverages to minors	Pending, decision reserved
1	Sale of alcoholic beverages during prohibited hours	Pending, decision reserved

<u>No. of Cases</u>	<u>Charge</u>	<u>Disposition</u>
1	Licensed premises open during prohibited hours	Pending, decision reserved
1	Licensed premises open on Election Day	Pending, decision reserved
1	Permitting unnecessary noise	Pending, decision reserved
1	Sale of alcoholic beverages to minors; employment of waitress	Pending, not yet heard
1	Sale of alcoholic beverages during prohibited hours	Pending, not yet heard
2	Sale of alcoholic beverages to minors	Dismissed
1	Offer of unlimited quantity of alcoholic beverages for fixed price	Dismissed

IIIWest New York Licensees

<u>No. of Cases</u>	<u>Charge</u>	<u>Disposition</u>
1	Conducting licensed premises as nuisance - Dismissed	} License suspended for balance of term from 10/25/38
	Employing female bartender;	
	Sale of alcoholic beverages during prohibited hours;	
	Sale of alcoholic beverages to intoxicated person	
10	(a) Sale of alcoholic beverages during prohibited hours and (b) licensed premises open during prohibited hours.	
	1 - License suspended balance of term	
	1 - " " 20 days	
	3 - " " 10 days	
	2 - " " 5 "	
	1 - Pending, decision reserved	
	2 - " , not yet heard	
	<u>10</u>	
1	Permitting gambling on licensed premises	License suspended 5 days
3	Possession of chilled beer by limited retail distribution licensee	Pending, not yet heard

IV

All Other Municipal Licensees

<u>No. of Cases</u>	<u>Charge</u>	<u>Disposition</u>
1	Sale of alcoholic beverages to minors	License suspended 15 days
1	Sale of alcoholic beverages to minors - 5 days Employment of minor - 2 days Employment of non-resident - dismissed	License suspended 7 days
2	Possession of slot machines on licensed premises	License suspended 5 days
1	Sale of alcoholic beverages during prohibited hours	License suspended 5 days
1	Licensed premises within 200' of church	Pending, decision reserved
2	Licensed premises within 200' of school	Pending, not yet heard
1	Suppression of material facts in application; failure to file notice of change in facts in application; employment of ineligible person; permitting known criminal on licensed premises	Dismissed

Respectfully submitted,
Emerson A. Tschupp,
Attorney.

6. REPORT ON DISCIPLINARY PROCEEDINGS AGAINST LICENSEES TRANSMITTED BY THE DEPARTMENT TO MUNICIPAL ISSUING AUTHORITIES.

January 3, 1939

To: D. Frederick Burnett, Commissioner
 From: Emerson A. Tschupp, Attorney

Period Covered

July 1, 1938 to December 31, 1938

SUMMARY

Cases Transmitted 162

Disposition:

License revoked	4
License surrendered	4
License suspended	67
Sentence suspended	4
Charges dismissed	12
Pending	
Heard, decision reserved	20
Awaiting hearing	<u>51</u>

162

The foregoing 162 cases involved 189 separate violations, as below set forth. Penalties preceded by an asterisk were imposed in cases where one or more additional charges were involved, and no separate penalty was imposed on the separate charges.

1. Sale of Alcoholic Beverages and Licensed Premises Open During Hours Prohibited by Municipal Ordinance, Resolution, Regulation or Referendum.

Cases Transmitted 58

Disposition:

License surrendered	1
License suspended	24
Periods covered:	
15 days	2
14 "	1
5 "	9
*5 "	1
4 "	2
3 "	3
*3 "	1
2 "	1
1 day	3
*1 "	1
Dismissed	3
Pending	
Heard, decision reserved	7
Awaiting hearing	<u>23</u>

58

2. Gambling, Slot Machines and Lotteries on Licensed Premises.

Cases Transmitted 22

Disposition:

*License revoked		1
*License surrendered		1
License suspended		11
Periods covered:		
*10 days	1	
7 "	1	
5 "	3	
*5 "	2	
3 "	1	
*3 "	1	
2 "	2	
Pending		
Heard, decision reserved		1
Awaiting hearing		<u>8</u>

22

3. Sale or Delivery of Alcoholic Beverages on Election Day.

Cases Transmitted 32

Disposition:

License suspended		11
Periods covered:		
*15 days	1	
10 "	2	
*10 "	2	
5 "	4	
3 "	2	
Sentence suspended		2
Dismissed		6
Pending		
Heard, decision reserved		11
Awaiting hearing		<u>2</u>

32

4. Sale or Service of Alcoholic Beverages to Minors.

Cases Transmitted 24

Disposition:

*License surrendered		1
License suspended		16
Periods covered:		
*18 days	1	
10 "	6	
7 "	1	
5 "	2	
*5 "	1	
3 "	2	
2 "	2	
1 day	1	
Sentence suspended		1
Pending		
Heard, decision reserved		1
Awaiting hearing		<u>5</u>

24

5. Fraud, Misrepresentation, False statement, etc. in Application for License, including Operation as a Front for Another.

Cases Transmitted 15

Disposition:

License revoked		3	
License surrendered		2	
License suspended		1	
Period covered:			
5 days	1		
Dismissed		1	
Pending			
Heard, decision reserved		1	
Awaiting hearing		<u>7</u>	
			15

6. Sale of Alcoholic Beverages to Non-Members by Club Licensees.

Cases Transmitted 4

Disposition:

Pending			
Awaiting hearing		4	4

7. Permitting Prostitutes, Lewdness and Indecency, and Immoral Activities on Licensed Premises.

Cases Transmitted 4

Disposition:

*License revoked		1	
License suspended		1	
Period covered:			
30 days	1		
Dismissed		<u>2</u>	
			4

8. Employing Hostesses and Other Prohibited Female Employees.

Cases Transmitted 1

Disposition:

Dismissed		1	1
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9. Possession of Illicit Alcoholic Beverages.

Cases Transmitted 2

Disposition:

License suspended		1	
Period covered:			
30 days	1		
Pending			
Awaiting hearing		<u>1</u>	
			2

10. Sale of Alcoholic Beverages Outside Scope of License, Excluding Sale to Non-Members by Club Licensees. (See No. 6)

<u>Cases Transmitted</u>		5
<u>Disposition:</u>		
License suspended		4
Periods covered:		
*15 days	1	
*10 "	1	
5 "	1	
*1 day	1	
Pending		
Awaiting hearing		<u>1</u>
		5

11. Miscellaneous, Including Employment of Persons Ineligible for License, Hindering Inspection of Premises, Serving Intoxicated Persons, Permitting Unnecessary Noise, Display of Prohibited Signs, Permitting Brawls, Mislabeled Beer Taps, Possession of Chilled Beer by Limited Retail Distribution Licensee, Service to Women Over Bar, etc.

<u>Cases Transmitted</u>		22
<u>Disposition:</u>		
License suspended		7
Periods covered:		
*18 days	1	
5 "	1	
*5 "	2	
2 "	1	
*1 day	2	
Licensee reprimanded		1
Dismissed		3
Pending		
Heard, decision reserved		3
Awaiting hearing		<u>8</u>

22

Respectfully submitted,
Emerson A. Tschupp,
Attorney.

7. REPORT ON DISCIPLINARY PROCEEDINGS AGAINST LICENSEES INSTITUTED BY MUNICIPALITIES ON THEIR OWN INITIATIVE SO FAR AS PRESENTLY REPORTED.

January 3, 1939

To: D. Frederick Burnett, Commissioner
 From: Emerson A. Tschupp, Attorney

Period Covered

July 1, 1938 to December 31, 1938

SUMMARY

<u>Cases Instituted</u>	20
<u>Disposition:</u>	
License revoked	.2
License suspended	16
Sentence suspended	1
Charges dismissed	<u>1</u>
	20

The foregoing 20 cases involved 22 violations as set forth below:

<u>Municipality</u>	<u>Charge</u>	<u>Disposition</u>
Belleville	Permitting brawl on licensed premises.	Dismissed
Bergenfield	(Permitting minor to serve alcoholic beverages - Dismissed) (Sale of alcoholic beverages during prohibited hours - 2 days)	License suspended 2 days
Cape May County	(Sale of alcoholic beverages during prohibited hours.)	License suspended 2 days
" " "	(Sale of alcoholic beverages during prohibited hours.)	License suspended 2 days
" " "	(Distribution of obscene and indecent advertising matter)	License suspended 2 days
Dover	Sale of alcoholic beverages during prohibited hours.	License suspended 3 days
Englewood Cliffs	Permitting gambling on licensed premises	License suspended 15 days
Guttenberg	Sale of alcoholic beverages during prohibited hours	License suspended 7 days
Hoboken	Permitting lewdness and immoral activities on licensed premises	License revoked

<u>Municipality</u>	<u>Charge</u>	<u>Disposition</u>
Jersey City	(Improper persons permitted to frequent licensed premises.	License suspended 30 days
" "	(Misconduct which would have justified refusal to issue license.)	License revoked
Manalapan	Sale of alcoholic beverages during prohibited hours	License suspended 20 days
Mt. Olive	Licensed premises open during prohibited hours	License suspended 15 days
North Haledon	(Permitting unnecessary noise on licensed premises Permitting known criminal on licensed premises - Dismissed)	Sentence suspended
Orange	Permitting brawl on licensed premises	License suspended 30 days
Rahway	Permitting gambling on licensed premises	License suspended 95 days
Roselle Park	Sale of alcoholic beverages during prohibited hours	License suspended 3 days
Union City	(Sale of alcoholic beverages during prohibited hours.)	License suspended 5 days
" "	(Sale of alcoholic beverages during prohibited hours.)	License suspended 5 days
" "	(Sale of alcoholic beverages during prohibited hours.)	License suspended 5 days

Respectfully submitted,
Emerson A. Tschupp,
Attorney.

8. DISCIPLINARY PROCEEDINGS - TWO REVOCATIONS - A DUTY WELL DONE.

December 30, 1938

Edward DuPree,
City Clerk,
Paterson, N. J.

My dear Mr. DuPree:

I have before me staff report and your letter of December 21st re disciplinary proceedings conducted by the Board of Aldermen against

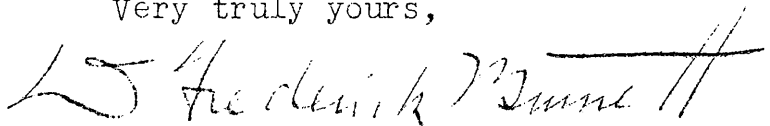
1. Frank Di Lorenzo
134 West Broadway
License #C-341
2. Hyman Cohen
149 River Street
License #C-266
3. Max Naftal
8 Prince Street
License #C-379

I note that Cohen was charged with sale of alcoholic beverages during prohibited hours and his license was suspended for two days; that Di Lorenzo was charged with permitting solicitation by prostitutes and gambling, for which his license was revoked; that Naftal was charged with falsifying his New Jersey residence and his license was likewise revoked.

Expressing no opinion on the merits because perchance the cases may come before me on appeal, I nevertheless wish to extend to the Board of Aldermen my appreciation for the vigorous penalties that were imposed. If Di Lorenzo and Naftal were properly found guilty, revocation was clearly indicated.

Please express to the members of the Board my appreciation for their continuing splendid cooperation.

Very truly yours,



Commissioner.