

Under the cases cited above, it was held that so far as such reclamation took place within the proper limits, said right is a mere license and subject to withdrawal by the State if not previously acted upon by actual reclamation or improvements and as there has been a specific appropriation by the Legislature of such portions of the land in question as have not been actually reclaimed or otherwise improved or built upon at the time of the passage of P. L. 1891, p. 216, the defendant will be restrained from proceeding with the reclamation and improvement of such lands. The Department of Conservation and Economic Development has a right under R. S. 12:3-8 to begin ejectment proceedings. This has been carried down from section 12 of the original supplement of 1869, authorizing the old commission to bring ejectment proceedings for trespass on lands under water. *Seacoast &c. vs. American Timber Co.*, 92 Eq. 221.

The alleged right claimed by the Riverton Yacht Club to reclaim riparian land or to erect any building adjacent to its upland is a mere license or privilege since said club has not built or reclaimed any of the land prior to the 1891 act cited above. The Riverton Improvement Company under the legislative grant of 1852 could only build a wharf for commercial and shipping purposes and not to injure the navigation of said river. The Riverton Yacht Club is not engaged in commercial pursuits and for reasons stated has no right to erect buildings on the land under water without the grant or permission of the Department of Conservation and Economic Development.

Yours very truly,

THEODORE D. PARSONS,
Attorney General.

By : ROBERT PEACOCK,
Deputy Attorney General.

APRIL 16, 1951.

HONORABLE SANFORD BATES,
Commissioner of Institutions and Agencies,
Trenton, New Jersey.

FORMAL OPINION—1951. No. 16.

DEAR COMMISSIONER:

Reference is made to your letter of March twentieth, in which you ask whether persons employed in connection with the operation of commissaries in State institutions are State employees.

The answer is "Yes."

In your letter you point out that the persons so employed have no civil service status and that their wages are paid from profits derived from the operation of the respective commissaries. These circumstances are of no consequence in the determination of this question.

Commissaries in State institutions are maintained by warrant of law. Section 30:4-15 of the Revised Statutes provides, in part, that

The board of managers of a charitable, hospital, relief or training institution or noninstitutional agency may maintain a commissary or store for the sale of commodities to patients or inmates under rules adopted by the board. The cost of establishing the commissary or store may be defrayed out of any funds appropriated for current maintenance. . . .

We therefore experience no difficulty in concluding that persons employed in connection with the maintenance or operation (by the respective State institutions) of commissaries or stores established by authority of the provisions of law above cited (source P. L. 1931, c. 13) are State employees.

Yours very truly,

THEODORE D. PARSONS,
Attorney General.

By: DOMINIC A. CAVICCHIA,
Deputy Attorney General.

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APRIL 27, 1951.

THE HONORABLE SANFORD BATES, *Commissioner,*
Department of Institutions and Agencies,
State Office Building,
Trenton, New Jersey.

FORMAL OPINION—1951. No. 17.

DEAR COMMISSIONER:

You advise that certain of the private hospitals coming under jurisdiction of your department, and being subject to license under the provisions of R. S. 30:11-1 et seq., as amended, contemplate the establishment of a practice which would require patients of said hospitals to remain in the custody of the institutions after their treatment was concluded, such custody to operate as a guarantee for payment of the costs of furnishing medical care and hospitalization.

You desire to be advised whether there is any warrant in law for such practice and whether any such institution can legally hold a debtor patient in this type of custody pending payment of such hospital bill for medical care and treatment.

It is our opinion and we advise you that such a practice would be completely without warrant in law and, in addition, is suggestive of false imprisonment. A careful examination of the pertinent statutes and the provisions of our Constitution fails to disclose any grounds upon which such a practice might be justified, and none exists. It is a fundamental concept of both the Constitution of New Jersey and that of the United States that persons shall not be imprisoned for debt. (N. J. Const. Art. 1, par. 13.) Nor shall any person be deprived of his liberty without due process of law. (U. S. Const. Amend. XIV.) The deprivation of liberty of an individual within the four walls of a charitable hospital institution is just as much imprisonment as if that individual were confined in a State or county penal institution.