

N. J. S. A. 55:1-24 defines a tenement house as any house or building or portion thereof which is rented, leased, let or hired out to be occupied or is occupied as the home or residence of three families or more living independently of each other and doing their cooking upon the premises. N. J. S. A. 55:1-17 interprets "is occupied" to mean "is occupied or is intended, arranged or designed to be occupied."

The crux of this definition, as relates to the question raised, is the phrase "living independently of each other and doing their cooking upon the premises." When the same kitchen facilities are used by more than one unit, they cannot be living independently of each other, and the kitchen facilities cannot be considered upon the rented premises. Therefore, a building so designed and occupied is without the scope of the Tenement House Act as it now exists.

Until additional legislation widens the scope of the Tenement House Act, you are powerless to enforce same upon these type premises.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: HENRY W. ECKEL, JR.,
Deputy Attorney General.

HWE:JC

DECEMBER 7, 1953.

MR. WM. J. DEARDEN, *Director,*
Division of Motor Vehicles,
State House,
Trenton, N. J.

FORMAL OPINION—1953. No. 51.

DEAR MR. DEARDEN:

This will acknowledge receipt of your memorandum in which you request a legal opinion concerning whether there is any provision in the statute for a magistrate to deduct costs of court when bail bond for an appearance has been forfeited. The answer is No.

R. S. 39:5-8 provides for the posting of bond for appearance in matters which are set for trial at a later date not to exceed an adjourned period of 30 days from the return day of the summons.

R. S. 39:5-9 provides:

"The bond referred to in section 39:5-8 of this Title, if forfeited, may be prosecuted by the commissioner in any court of competent jurisdiction, and the cash deposit, if forfeited, shall be paid to the commissioner by the magistrate with whom it was deposited; provided, that such forfeiture is the result of a complaint instituted by the commissioner, or a member of his staff, or of the State Police, or an inspector of the Public Utility Commission, or a law enforce-

ment officer of any other State agency. The commissioner shall dispose of the said forfeiture in the manner provided by section 39:5-40 of this Title. Forfeitures imposed and collected as a result of a complaint instituted by a local officer shall be by the magistrate forwarded to the proper financial officer of the county, wherein they were collected, to be used by the county as a fund for road repairs therein. As amended L. 1942, c. 339, p. 1179, § 2."

R. S. 39:5-40 and 39:5-41 provide for the use and disposition of the forfeitures above mentioned. There is no provision in Title 39 for the withholding of court costs from any forfeiture of bail.

It is my opinion that if costs of court were deducted from forfeitures it would amount to the taxing of court costs against the State, and there is no provision in Title 39 for the deduction of such costs.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: JOHN J. KITCHEN,
Deputy Attorney General.

JJK:MH

DECEMBER 3, 1953.

HON. J. L. BROWN, *Acting Commissioner,*
Department of Labor and Industry,
State House,
Trenton 7, New Jersey.

FORMAL OPINION—1953. No. 52.

DEAR ACTING COMMISSIONER:

This is to acknowledge receipt of your letter requesting an opinion concerning the Department of Labor and Industry's jurisdiction over electric power plants insofar as they may be affected by the provisions of N. J. S. A. 34:6-1. The problem revolves about the resolving of the following query: Is an electric power plant a factory where the manufacture of goods of any kind is carried on? If the answer is in the affirmative, then N. J. S. A. 34:6-1 and the other provisions of Chapters 4 and 6 of Title 34 of this statute will repose jurisdiction in the Department.

It is my opinion that an electric power plant is a factory where the manufacture of goods is carried on and, therefore, comes within the jurisdiction of N. J. S. A. 34:6-1. Our statutes prescribe the instances when the Department of Labor and Industry shall exercise jurisdiction. N. J. S. A. 34:6-1 provides, among other things, that:

"Every factory, workshop, mill, or place where the manufacture of goods of any kind is carried on shall, under the supervision and the direction of the Commissioner, be provided with * * *, etc."