made by the Division of Purchase and Property. Therefore, if the general statutes be held applicable, there would be withdrawn from the Governor's and Comptroller's surveillance, the expenditures of this Commission. Such a withdrawal should not rest in implication, and that would be the result if we were to find that there had been an implied repeal of the purchasing authority conferred upon the Commission by *N.J.S.A.* 32:14-7 and 32:14-29. In the prior section of this opinion dealing with the Delaware River Joint Toll Bridge Commission we set forth our position with respect to the impairment of interstate contracts, and those comments are equally applicable here.

Accordingly, you are advised that the Division of Purchase and Property is not authorized to purchase automobiles for the Palisades Interstate Park Commission, and in summary neither is it empowered to make such purchases for the New Jersey Agricultural Experiment Station or the Delaware River Joint Toll Bridge Commission.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: HAROLD J. ASHBY
Legal Assistant

HJA:tb

AUGUST 30, 1957

MAJOR WILLIAM O. NICOL
Bureau of Tenement House Supervision
1100 Raymond Boulevard
Newark, New Jersey

FORMAL OPINION, 1957—No. 14

DEAR MAJOR NICOL:

You have requested our opinion concerning the definition of a tenement house as contained in R.S. 55:1-24. Specifically, you have requested an interpretation as to what constitutes "cooking upon the premises" within the meaning of the statute. The problem, as presented by you, is concerned with the use of "one burner" cooking apparatus in houses occupied by three or more families. R.S. 55:1-24 states:

> "A 'tenement house' is 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."

There are no cases found in New Jersey which specifically define cooking on the premises. However, an opinion of the Attorney General dated May 1, 1922 in volume 16, *Attorney General Opinions,* at page 517 decided that cooking on the premises meant general cooking. Previously, in volume 16, *Attorney General Opinions,* at page 279 in an Opinion dated December 7, 1921, which involved the question whether a three story building in which separate families occupied the first and second floors and a single person rented the third floor was a tenement house, the Attorney General said "I think it makes little difference whether a family or group

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of individuals is composed of one or more than one. *The test is whether such persons are living independently from the other and doing their cooking on the premises.*" (Emphasis added)

There is nothing in either of these opinions to the effect that a one burner cooking apparatus of itself does or does not bring a house containing three or more separate apartments within the purview of the tenement house law.

In 1929 in the case of *Apartment Hotel Owners' Association, Inc.* v. *City of New York,* 233, N. Y. S. 553, 133, Misc. Rep. 881 (Sup. Ct. 1929) thirty-seven building owners in the City of New York sought to enjoin the City from enforcing the Tenement House Law against them. These building owners had provided their tenants with an 8x12 "serving pantry" which included a sink, ice box, shelves, cupboards and an electric outlet. Electric cooking devices of varying sizes had been installed by the lessees in these pantries with regularity, with the owners' knowledge. As a matter of fact, the owners in their advertising recommended such uses for the apartments. The Court found this to be "cooking on the premises" within the meaning of the statute. The Judge held that the statute would not require that all of the family's cooking be done on the premises, and would not aim to measure the amount of cooking done in order for the Tenement Law to apply and stated at page 557.

> "If the facilities of the 'pantry' or kitchenette are more limited than those of the cookstove of old, it is evident that the demands upon it have diminished proportionately. The definition in the Tenement House Law does not aim at measurement by yardstick or cubic content. The so-called serving pantries were either designed or made apt for the preparation of meals by and for the occupants of the several apartments, and they are so used in a fairly large proportion of cases. Moreover, one of the general arguments of plaintiff's counsel is to the effect that the buildings of the plaintiff's members fill a present want felt by small families which, under present labor conditions, are disinclined to ordinary housekeeping; that what they desire now is apartments, where they may enjoy the dual advantage of meals from a general kitchen when desired, and of 'light housekeeping' whenever they prefer to eat in their own apartments; in other words, the very accommodations offered by plaintiff's members fill an immediate want of tenants. If that be so, then in a literal sense the cooking done in these apartments is, as to the occupants, 'their cooking.'"

The Court further said at page 558:

> "Nor may it be overlooked that the Legislature sought to define the *building by the character of the residence, and not to control or direct an amount or kind of cooking.* In my opinion the language of the statute designates the accommodations and practices in plaintiff's buildings." (Emphasis added)

Finally, the Court at page 563 said:

> "It is not the function either of courts of administrative officers to oppose their views of what is good or advisable to a legislative enactment. This is not a question of modifying or adapting some general equitable rule to harmonize with changed human conditions, but one of applying a standard prescribed by the Legislature. For somewhat the same reason I have not under-

taken to determine accurately what the particular purpose of the several provisions of the Tenement House Law may have been. One thing, however, has been made clear by the evidence before me, namely, that protection against fire was not the only purpose. Light, air, ventilation, and general sanitation were perhaps the chief objects. In a remedial measure of this kind, some fixed standards have to be established. Some persons may be of opinion that a differentiation between electric ranges and other electric appliances, or between cooking and other household practices, is not justified; but I repeat that the question whether some article or structure is as good or better or worse than another is for the Legislature, and its prescription is determinative.

We have here a concededly remedial statute designed to protect the public interest. The definition of its scope is necessarily in rather general terms, in view of the fact that it deals with many classes of buildings, good, bad and indifferent. Many definitions in statutes of this kind may be analyzed and shown by a species of reductio ad absurdum to be apparently inapplicable, at least of little use in a particular instance. That, however, does not present a juridical question. The question before me is whether the glove fits, not whether it is desirable."

For the purposes of comparison with our law it is interesting to note that the definition in the Tenement House Law in force at that time reads as follows:

"1. A 'tenement house' is any house or building, or portion thereof which is either rented, leased, let or hired out, to be occupied, or is occupied, in whole or in part, as the home or residence of three families or more living independently of each other, and doing their cooking upon the premises, and includes apartment houses, flat houses and all other houses so occupied."

11. * * * Wherever the words 'is occupied' are used in this chapter, applying to any building, such words shall be construed as if followed by the words 'or is intended, arranged or designed to be occupied.'"

The object and purpose of the New Jersey Tenement House Law is to protect the life and health of the citizens of this State against the hazards and risks incident to the occupancy of the tenement houses. *Board of Tenement House Supervision of New Jersey* v. *Mittleman,* 104 N. J. L. 486, 488, 141 A. 571 (Sup. Ct. 1828).

The Legislature's intention was to prevent the occupants of tenement houses from risks such as fires, and it is logical to assume that such a risk is increased with the use of the so called "one burner" apparatus.

Furthermore, when an act is remedial it will be so construed to give its words the most effective meaning to which they are reasonably acceptable. *Wasserman* v. *Tannenbaum,* 23 N.J. Super 599, 610, 93 A2d, 812 (App. Div. 1953).

Webster's International Dictionary, 1921, defines cooking as the preparation of food for the table by the action of the heat, which definition was adopted *In re Miller* 82 F2d 408, 410, (Board of Custom and Patent Appeals 1936).

Therefore, it is our opinion and we so advise you that it is the character of the residence of each house containing three or more families, with facilities for cooking on the premises which controls. The law does not seek to measure the amount of cooking which must be done before the law applies, nor does it aim to exempt or include one cooking facility or another as such, from its requirements.

This is a fact question which must be resolved by the Bureau. If an inspection reveals the existence of cooking facilities, such as a "one burner" apparatus, and in addition, there are other indicia that cooking is being or can be done upon the premises such as the existence of a refrigerator, sink, cupboards, pots and pans, dishes, etc., then you are advised that this creates a prima facie presumption that cooking is being done on the premises within the meaning of the statute and that, therefore, it should be classified as a tenement house. If, however, an inspection of the premises reveals merely the existence of a cooking facility such as a "one burner plate" and none of the other faclities mentioned above then the Bureau must make a factual determination whether cooking is or is not being done on the premises.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: JOHN W. NOONAN
Deputy Attorney General

JWN:sk

AUGUST 30, 1957

HON. W. LEWIS BAMBRICK, *Manager*
Unsatisfied Claim and Judgment Fund Board
222West State Street
Trenton, New Jersey

FORMAL OPINION, 1957—No. 15

DEAR MR. BAMBRICK:

You have requested our opinion as to whether the recourse afforded residents of the State of New Jersey by Chapter 655 of the Laws of 1956 of the State of New York is substantially similar in character to the recourse provided for residents of New Jersey by the Unsatisfied Claim and Judgment Fund Law of the State of New Jersey contained in R.S. 39:6.61 to 39:6-91 inclusive. This question is important because R.S. 39:6-62 defines as a person qualified to secure recovery from the Unsatisfied Claim and Judgment Fund; ". . . . a resident of another State, territory or Federal district of the United States or Province of the Dominion of Canada, or foreign country, in which recourse is afforded, to residents of this State, of substantially similar character to that provided for by this act."

Under the Unsatisfied Claim and Judgment Fund Law of the State of New Jersey, a fund was created out of which those suffering damage or injury by reason of the operation or use by others of a motor vehicle in the State of New Jersey might recover provided they were free from fault as to the cause of the damage or injury, and provided no other means or source of recovery for the damage or injury is available. The fact that the damage or injury was caused by a hit and run driver, the operator of a stolen motor vehicle, or the operator of a motor vehicle used without permission in no way affects the innocent victim's right to recover from the fund. If the operator of the motor vehicle responsible for the damage had no liability insurance and is unable to respond financially, and there is no other source of recovery, the innocent victim is entitled to payment from the fund provided he meets the other requirements of the law, which are not pertinent to this inquiry.