in a tort action. This means, of course, that the individual Homemakers, if negligent in performance of their duties, would not be immune from liability to any person who may be harmed. This result is in accord with judicial interpretation disfavoring the doctrine of charitable tort immunity. See *Collopy* v. *Newark Eye and Ear Infirmary,* 27 N.J. 29 (1958); *Benton* v. *Y.M.C.A.,* 27 N.J. 67 (1958); and *Dalton* v. *St. Luke's Catholic Church,* 27 N.J. 22 (1958).

Very truly yours,

DAVID D. FURMAN
Attorney General

By: ROBERT S. MILLER
Deputy Attorney General

July 28, 1960.

HON. EDWARD J. PATTEN
Secretary of State
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-16

DEAR MR. PATTEN:

We have been asked whether the names of motels may be accepted for filing under Title 29, and whether the file of hotel (or motel) names compiled pursuant to Title 29 should be kept distinct from the file of names of corporations compiled pursuant to Title 14. In our opinion the names of motels may be accepted for filing pursuant to Title 29. The file provided by Title 29 for the names of hotels (or motels) is distinct from the file of names of corporations provided by Title 14.

R.S. 29:3–3 provides as follows:

> "Any person engaged in and conducting the business of an hotel in this state may register the name by which such hotel is known and designated in the manner hereinafter provided, and, upon compliance with the provisions of sections 29:3–4 to 29:3–6 of this title, shall have the right to the exclusive use of such name or designation for an hotel in this state."

R.S. 29:3–11 forbids the Secretary of State to register any name identical with or so similar to a previously filed name as to mislead the public. The purpose of these statutes is to prevent deception of the public and to prevent unfair competition. The statutes do not say that the same name may not be used for another type of business and the statutes should not be construed to give the person the exclusive right to use that name except for hotel business. Statutes should not be construed any more broadly nor be given any greater effect than their language requires. *Belfer* v. *Borrella,* 9 N.J. Super. 287 (App. Div. 1950).

There is no special statutory definition of the word "hotel" as it is used in R.S. 29:3–3. R.S. 29:1–11 contains a definition of the word "hotel," but this definition

applies only to chapter 1 of Title 29, and does not apply to chapter 3 of Title 29. R.S. 29:1–10. Therefore, the ordinary or common sense definition of "hotel" applies to its use in R.S. 29:3–3.

In *Schermer* v. *Fremar Corp.,* 36 N.J. Super. 46 (Ch. Div. 1955), the court had to decide whether what is generally regarded as a motel was included within the scope of the term "hotel" used in a local zoning ordinance. No special definition of the term "hotel" was provided by the ordinance. In holding that the structure was within the scope of the term "hotel," the court said:

> "In modern usage, it may be generally regarded that establishments which furnish lodging to transients, although designated motels, may be deemed hotels. The word 'motel' generally denotes a small hotel where lodgings are available for hire, with a minimum of personal service being furnished by the proprietor." 36 N.J. Super. at 51.

In *Pierro* v. *Baxendale,* 20 N.J. 17 (1955), the court held that a discrimination between "rooming houses" and "motels" in a local zoning ordinance was unconstitutional.

We may take notice of the fact that today motels compete with hotels. Not only do motels located on highways outside cities attract clients away from hotels but today hotels are faced with competition from motels located even in the heart of urban areas. The possibility of deception of the public and unfair competition would seem to be as great where a motel copies the name of a hotel as where another hotel does so. Thus the purpose of the statutes would be partially frustrated if motels were not regarded as hotels. For all of the above reasons the term "hotel" as used in R.S. 29:3–3 must be interpreted to include what are commonly known as motels.

A corporation of this state may be formed by filing a certificate of incorporation. R.S. 14:2–1. The certificate of incorporation must set forth the name of the corporation which must not be one already in use by another existing corporation of this state or so similar thereto as to lead to uncertainty or confusion. R.S. 14:2–3(a). R.S. 14:2–4 forbids the Secretary of State to accept for filing a certificate of incorporation which offends the terms of R.S. 14:2–3(a) outlined above. These provisions have been described as a crystallization of the familiar rules as to unfair competition, *Nat. Grocery Co.* v. *Nat. Stores Corp.,* 95 N.J. Eq. 588 (Chan. 1924), *affirmed* 97 N.J. Eq. 360 (E. & A. 1925), and their purpose is to avoid misleading or deceiving the public as to the identity of the corporation, *Munn & Co.* v. *Americana Co.,* 82 N.J. Eq. 63 (Chan. 1913), *modified on other grounds* 83 N.J. Eq. 309 (E. & A. 1914).

The file of corporations thus authorized applies to corporations generally without regard to the type of business which they are organized to conduct. It is concerned only with corporations, however, and not with other forms of business organizations. And it is concerned only with New Jersey corporations.

The file of hotel names resulting from R.S. 29:3–3 is concerned only with this type of business, but is not restricted to hotels run by corporations, and is not restricted to persons or entities domiciled in New Jersey. Because of these substantial differences, and the absence of any express provision relating the file of corporation names resulting from Title 14 to the file of hotel names provided by Title 29 it is our opinion that the two files should be kept distinct. It could happen that a New Jersey corporation operates a hotel in this state under a name different from its corporate name. In such a case a corporation should be permitted to register the name under

which the hotel was known pursuant to R.S. 29:3-3, as well as register the corporation name under Title 14.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: WILLIAM L. BOYAN
Deputy Attorney General

November 30, 1960.

FREDERICK C. McCOY, *Secretary*
Morris County Board of Taxation
Hall of Records
Morristown, New Jersey

MEMORANDUM OPINION—P-17

DEAR MR. McCOY:

You have asked our opinion whether a religious corporation which has more than one officiating clergyman, each of whom is housed in a separate residence, is entitled to a $5,000 exemption from real property taxes for each such residence. The exemption to which you refer is granted by R.S. 54:4-3.6. Insofar as pertinent, that statute reads as follows:

> "The following property shall be exempt from taxation under this chapter: . . . the building actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, to an amount not exceeding five thousand dollars ($5,000.00). . . ."

In the case of *St. Matthew's, etc. Deaf* v. *Div. of Tax Appeals*, 18 N.J. Super. 552 (App. Div. 1952), the court suggested that "where two parsonages are created by a single congregation, one for the principal minister and one for his curate," both parsonages qualified for the exemptions. 18 N.J. Super. at p. 558. Although this statement is dictum, it appears to be a reasonable construction of the law. However, the question remains whether any single religious corporation would be entitled to a total exemption on all of its parsonages of more than $5,000. In *Teaneck Tp.* v. *Lutheran Bible Institute*, 34 N.J. Super. 418 (App. Div. 1955), aff'd 20 N.J. 86 (1955), the Appellate Division referred to the *St. Matthew's* case and expressly noted that the exemption conferred by R.S. 54:4-3.6 "is limited in amount to $5,000." 34 N.J. Super. at p. 421.

It is, therefore, our opinion that although the exemption may properly be claimed for two residences, both used by officiating clergymen of a single religious corporation, the total exemption for both may not exceed $5,000.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: MURRY BROCHIN
Deputy Attorney General