

12/29/60

December 24, 1968

LEGISLATIVE HISTORY OF THE ACT TO REGULATE THE
SALE OF MOTOR FUELS

(R.S. 56:6-1 thru 56:6-32)

Laws 1938, Chapter 163, Senate 261 (R.S. 56:6-1 thru 17)

The bill was introduced with a statement. It was reported out by Committee Substitute, a much more elaborate and long bill, which also has the same statement. [REDACTED] (Original bill and statement enclosed)

The Committee Substitute was amended as follows:

- 1) Amend page 4, Art. III, sect. 301, line 9, by inserting between the article "a" and the word "second" the following "conviction upon a" and by striking out the word "such" and inserting in lieu thereof the words "the convicted".
- 2) Amend page 7, Art. IV, sect. 402, line 2, by inserting after the word "paid" the following "by the commissioner" and by striking out the period at the end of the line and inserting in lieu thereof the following "to be transferred to the credit of the commissioner to defray the expenses of carrying into effect the provisions of this act".
- 3) Amend page 10, Art. VI, sect. 601, line 2, by striking out the words "general funds of the State" and inserting in lieu thereof the following "State highway fund".

L. 1938, Chapter 165 - A672 (56:4-5 and 6)

This bill with statement is enclosed. It was not amended during passage.

L. 1939, Chapter 62 - S151 (56:6-2 and 3)

The bill has no statement. The Assembly amendment only added: "This Act shall take effect immediately." It appears from the Assembly Minutes that hearings were held on this bill, however, we have no record of the hearings. The annual report of the Tax Commission does not refer to them either.

No extraneous material was found on any of the ^{above} bills.

HP/hp

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L. 1952, Chapter 258 - S54
Introduced January 28 by Senator Clapp.
No statement.
Committee Substitute passed.

L. 1953, Chapter 413 - A473
Introduced March 16 by Maebert & Salvest.
Bill had statement. (enclosed)
May 25 - Amended in Assembly.
August 17 - Cond. Vetoed by Governor. (enclosed)
Sept. 10 - Re-enacted with Governor's recommendations.

The following hearings and reports were located:

974.90 N.J. Governor's committee to study the gasoline
F953 industry within the state.
1951 Report of the gasoline study committee/
Trenton, 1951.

974.90 N.J. Gasoline Study Commission.
F953 Hearings ... of the Gasoline Study
1952 Commission to study factors governing the
fixing of gasoline prices.

974.90 N.J. Gasoline Study Commission.
F953 Presentation to the Gasoline Study Committee
1952a ... favoring divorcement of wholesaling from
retailing in the gasoline industry

974.90 N.J. Gasoline Study Commission.
F953 Report of the Gasoline Study Commission,
1953 created by ACR No. 7 of 1952 ...

974.90 N.J. Legislature. Assembly. Judiciary Committee.
F953 Hearing ... on Assembly bill no. 473
1953a [concerning distribution and sale of motor fuels]
April 10, 1953.

J338.4 U.S. Congress. Senate. Select Committee on Small
U5 Business.
Gasoline price war in New Jersey.
Hearing ... July 22, 1955.

RSL/PC

STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1938

By Mr. FORAN

Referred to Committee on Miscellaneous Business

AN ACT to regulate the retail sale of motor fuels, and providing penalties for violation.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

ARTICLE I

DEFINITIONS

1 101. Words used in this act, unless otherwise expressly stated, or un-
2 less the context or subject matter otherwise requires, shall have the follow-
3 ing meaning:

4 "Person": Shall mean and include natural persons and partnerships,
5 firms, associations, joint stock companies, syndicates and corporations and
6 any receiver, trustee, conservator or other officer appointed pursuant to law
7 by any court, State or Federal, and shall also include counties, munici-
8 palities and other political subdivisions of this State, and also the State of
9 New Jersey. The use of the singular number shall include the plural num-
10 ber.

11 "Retail dealer": Any person operating a service station, filling sta-
12 tion, store, garage or other place of business for the sale of motor fuel for
13 delivery into the service tank or tanks of any vehicle propelled by an in-
14 ternal combustion engine.

15 "Motor fuel": Shall mean (a) all products commonly or commercially
16 known or sold as gasoline (including casinghead and absorption or natural
17 gasoline), benzol, benzene, or naphtha regardless of their classification or
18 uses; and (b) any liquid prepared, advertised, offered for sale or sold for
19 use as or commonly and commercially used as a fuel in internal combustion
20 engines, which when subjected to distillation in accordance with the stand-
21 ard method of test for distillation of gasoline, naphtha, kerosene and simi-
22 lar petroleum products (American Society of Testing Material Designation
23 D-86) show not less than ten per centum (10%) distilled (recovered) below
24 three hundred forty-seven degrees (347°) Fahrenheit (one hundred seven-
25 ty-five degrees (175°) Centigrade) and not less than ninety-five per centum
26 (95%) distilled (recovered) below four hundred sixty-four degrees (464°
27 Fahrenheit (two hundred forty degrees (240°) Centigrade); and (c) any
28 other product or liquid when sold for use as a fuel in any type of internal
29 combustion engine furnishing power to operate a motor vehicle.

30 "Sale": Shall have its ordinary meaning and, in addition, shall in-
31 clude any exchange, gift or other disposition; and "purchase" shall include
32 any acquisition of ownership.

33 "Selling expense": Includes all overhead and general business expense.

ARTICLE II

POSTING PRICES

1 201. (a) Every retail dealer shall publicly display and maintain on
2 each pump from which motor fuel is sold and in the manner regulated by
3 the State Tax Commissioner, a sign stating the price per gallon of the
4 motor fuel sold by said dealer from such pump. All taxes, State and Federal,
5 imposed with respect to the manufacture or sale of motor fuel shall be in-
6 cluded in the price shown on said sign, and said retail dealer shall not sell
7 at any other price than the price, including tax, so posted. Any such price
8 when posted shall remain posted and in effect for a period of not less than
9 twenty-four (24) hours.

10 (b) Retail dealers may sell motor fuel, at any posted price; *provided*,
11-12 such posted price is not below the net cost of such motor fuel to the retail
13 dealer plus all selling expenses.

14 (c) Any price signs, other than those required by section 201 (a), dis-
15 played by any retail dealer shall state the price including the tax.

16 (d) No rebates, allowances, concessions or benefits shall be given, di-
17 rectly or indirectly, so as to permit any person to obtain motor fuels from
18 a retail dealer below the posted price or at a net price lower than the posted
19 price applicable at the time of the sale; *provided, however*, that discounts
20 from the posted price may be given pursuant to the terms of written con-
21 tracts heretofore or hereafter executed, if copies of such contracts are filed
22 in the office of the State Tax Commissioner within thirty days from the ef-
23 fective date of this act or within thirty days from the date of the execution
24 of such contracts; *provided, further*, that every such contract shall require
25 the buyer to purchase at least five hundred gallons of motor fuel during each
26 calendar month covered by such contract.

27 (e) It shall be unlawful for any retail dealer to use lotteries, prizes,
28 wheels of fortune, punch-boards or other games of chance, in connection
29 with the sale of motor fuels.

30 (f) All above-ground equipment for storing or dispensing motor fuel
31 operated by a retail dealer shall bear, in a conspicuous place, the name or
32 trade mark of the product stored therein or dispensed therefrom, and no re-
33 tail dealer shall permit delivery into underground or above-ground contain-
34 ers, tanks or equipment of any motor fuel other than the brand represented
35 or designated by the name or trade mark appearing on such container or
36 dispensing equipment attached thereto. No retail dealer shall be a party
37 to the substitution of one grade of motor fuel for another.

ARTICLE III

VIOLATIONS AND PENALTIES

1 301. Every retail dealer who shall fail to post and publicly display, in
2 the manner herein required, a sign stating the price per gallon of all mo-

3 tor fuel sold by said retail dealer, or who shall sell motor fuel at a price
 4 other than the per gallon price as provided in article II hereof, or who shall
 5 violate any other provisions of article II of this act, shall be guilty of a mis-
 6 demeanor and punished by a fine not exceeding two hundred dollars
 7 (\$200.00) or imprisonment not exceeding forty (40) days, or both, for each
 8 such offense.

ARTICLE IV

SEPARABILITY

1 401. If any of the provisions of this act or the application thereof to
 2 any person or circumstance be held invalid, such invalidity shall not affect
 3 the validity of other provisions or applications of this act, which can be
 4 given effect without the invalid provision or application, and to this end
 5 the provisions of this act are declared separable.

ARTICLE V

LIMITATIONS

1 501. All acts and parts of acts inconsistent with the provisions of this
 2 act be and the same are hereby repealed.

1 502. This act shall be cited and referred to as "An act to regulate the
 2 retail sale of motor fuels."

1 503. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to prevent fraud and unfair practices in the re-
 tail sale of motor fuels. The bill requires dealers in motor fuels to post the
 price at which they sell such fuels on each pump from which such fuels are de-
 livered and to sell at the price so posted. The bill also prohibits the sale of
 gas at any price below the net cost plus selling expenses and the use of
 lotteries or prizes in connection with the sale of motor fuels. The bill also re-
 quires that all above ground equipment for the sale of gasoline shall contain the
 name or trade-mark of the product sold therefrom.

ASSEMBLY, No. 672

(Revised Statutes, 56:4-5 and 56:4-6.)

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1938

By Mr. KERNER

Referred to Committee on Ways and Means

AN ACT to protect trade-mark owners, distributors, and the public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguishing trade-mark, brand or name, and amending sections 56:4-5 and 56:4-6 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 56:4-5 of the Revised Statutes is hereby amended to read as
2 follows:

3 56:4-5. (1) No contract relating to the sale or resale of a commodity
4 which bears, or the label or content of which bears, or the vending equipment
5 from which said commodity is sold to consumers bears, the trade-mark,
6 brand, or the name of the producer or owner of such commodity and which
7 is in fair and open competition with commodities of the same general class
8 produced by others shall be deemed in violation of any law of this State by
9 reason of any of the following provisions which may be contained in such
10 contract:

11 (a) That the buyer will not resell such commodity except at the price
12 stipulated by the vendor;

13 (b) That the producer or vendee of a commodity require upon the
14 sale of such commodity to another, that such purchaser agree that he

15 will not, in turn, resell except at the price stipulated by such producer
16 or vendee.

17 (2) Such provisions in any contract shall be deemed to contain or
18 imply conditions that such commodities may be resold without reference to
19 such agreement in the following cases:

20 (a) In closing out the owners' stock for the purpose of discontinu-
21 ing delivering any such commodity;

22 (b) When the goods are damaged or deteriorated in quality, and no-
23 tice is given the public thereof;

24 (c) By any officer acting under orders of any court.

1 2. Section 56:4-6 of the Revised Statutes is hereby amended to read as
2 follows:

3 56:4-6. Willfully and knowingly advertising, offering for sale or selling
4 any commodity at less than the price stipulated in any contract entered
5 into pursuant to the provisions of section 56:4-5 of this Title, whether the
6 person so advertising, offering for sale or selling is or is not a party to such
7 contract, is unfair competition and is actionable at the suit [of any person
8 damaged thereby] of the producer or distributor of such commodity or at
9 the suit of any retailer selling such commodity at not less than the price
10 stipulated in any contract entered into pursuant to the provisions of section
11 56:4-5 of this Title.

1 3. This act shall take effect immediately.

Sponsor's STATEMENT

A672 (1938)

The purpose of the amendment of section 56:4-5 is to include within the jurisdiction of the act goods and commodities which do not bear a trade-mark brand or name of the producer or distributor, but are sold from vending equipment which bears the trade-mark, brand or name of the producer or distributor of such commodity.

The purpose of the amendment of section 56:4-6 is to clarify the meaning of "any person damaged thereby" contained in the section as originally enacted so as to clearly give a remedy for violation of the act to any distributor or to a retailer selling commodities at not less than the price stipulated in any contract entered into pursuant to the provisions of the act.

4 ceedings in lieu of the prerogative writs.

1 11. In order to effectuate the purposes of this act it shall be the duty of
2 the director to carry out the enforcement provisions of this act. In accord-
3 ance with the provisions of Title 11, Civil Service, of the Revised Statutes,
4 the director may, within the limits of available appropriations, employ and
5 fix the duties and compensation of such inspectors and other personnel
6 necessary to carry out the provisions of this act.

1 12. All of the powers vested in the Director of the Division of Taxation
2 by the provisions of R. S. 54:39-1, et seq., aforesaid, shall be available to the
3 said director in the enforcement of this Unfair Motor Fuels Practices Act.

1 13. The provisions of this act shall be deemed to be severable and if for any
2 reason any provision shall be determined to be unconstitutional or invalid,
3 such determination shall not be held to affect any other provision hereof.
4 And no such determination shall be deemed to invalidate or render ineffec-
5 tual any of the provisions of R. S. 54:39-1 et seq.

1 14. This act shall take effect immediately.

Sponsor's

STATEMENT

A473 (1953)

This bill is the result of extensive hearings conducted by the Gasoline Study Commission, appointed pursuant to a concurrent resolution of the 1952 New Jersey Legislature. This Commission secured exhaustive testimony from all levels of the motor fuel industry operating in the State of New Jersey, from representatives of wholesalers, distributors and retailers. This disclosed unfair trade practices which are unjust and which in the interest of the public should be corrected by legislation.

The retail motor fuel business constitutes an important part of the economy of the State of New Jersey. There are approximately 10,000 licensees engaged in the sale of motor fuels and the State of New Jersey realizes substantial revenue by way of taxes in excess of \$40,000,000.00 annually.

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The unfair trade practices have arisen from the use of various subsidies by way of discounts or rent concessions, tie-in sales, and discrimination in tank wagon prices to dealers purchasing from the same supplier, resulting in an exclusion of healthy competition. Legislation inducing equal and fair competition is in the best interest of the public.

Twenty-four States have enacted legislation of a similar nature.

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Amend page 2, section 1, delete lines 53, 54 and 54A in their entirety.

Respectfully,

[SEAL] ALFRED E. DRISCOLL,
Attest: Governor.
RUSSELL E. WATSON, JR.,
Secretary to the Governor.

Mr. Thomas moved that the message be received and spread in full upon the Minutes.

Which motion was adopted.

The Clerk read the following message from the Governor:

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
August 17, 1953. }

ASSEMBLY BILL No. 473

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 (b) of the State Constitution, I am returning herewith, for reconsideration and with my objections, Assembly Bill No. 473, for the following reasons:

It is stated that this is an unfair practice and not a price control bill, although one of its objectives is undoubtedly to prevent price wars in the sale of gasoline at the retail level. The bill would make it unlawful and a violation of the act (Section 4 (a)) for any distributor, refiner, wholesaler or supplier (hereafter referred to as the distributor) to offer, or for any retail dealer to accept, a rebate, concession, allowance, discount or benefit, of any kind whatsoever, in connection with the sale or distribution of motor fuel or other products marketed by the distributor; (b) for any distributor to lease or make a contract on condition, promise, etc., that the lessee shall not use or deal in goods, wares, merchandise, supplies, etc., of a competitor of such distributor, except as to gas when pumps are furnished by the distributor; and (c) for any distributor to discriminate in tank wagon price between

different retail dealers purchasing the same grade of branded motor fuel.

The bill alleges: "Certain discriminations and practices, services or facilities furnished involving the sale of motor fuel have been and are demoralizing and disorganizing the retail sale of motor fuel business" in New Jersey.

A report by Dun and Bradstreet listing the rate of failures for 1952 in 24 selected retail lines, discloses that gas stations had the lowest rate of failure—5 for each 10,000 concerns as compared to 70 for each 10,000 engaged in the retail sale of appliances, radio and T.V. Retailing, an analysis of the report disclosed, was relatively a much safer business to engage in than either wholesaling or manufacturing.

Assembly Bill No. 473 is the product of a study by a Gasoline Study Commission which, during 1952, devoted a very substantial amount of time and thought to the manifold problems confronting the petroleum industry. Prior to the creation of the Gasoline Study Commission in 1952, a Gasoline Study Committee in 1951 filed a report on this subject, in which it concluded, *inter alia*, that the problems confronting the industry did not call "for some form of governmental control" and that any "legislation fixing the margin of profit would tend to be in opposition to our fundamental concept of free enterprise, and undoubtedly affect the future price of the commodity." With this conclusion I find myself in complete agreement. This committee held: "Price fixing with its artificial support is an invitation to maintain the status quo." The committee pointed out a fact recognized by many, that although "New Jersey is among the Nation's leading state-wide markets for petroleum products, the marketing field is somewhat overcrowded, a factor which itself leads to spirited competition for sales." In conclusion, the committee recommended "that only those marketing laws now applicable to the retail sales of gasoline in the State of New Jersey be utilized in governing the extent of the widespread sporadic competition among dealers."

The Gasoline Study Commission, in its report dated February 16, 1953, stated its opposition to a proposed cost survey and said that such a procedure would "result in price fixing" and that such legislation would "tend to eliminate rather than preserve the free enterprise system . . .".

I commend the members of the Legislature who have devoted much time to a serious consideration of current practices within the industry. I know from my conferences with representatives of the Commission that it is their desire to help the little businessmen of this State, and to stabilize a tremendously important industry.

It is a proper task of government to strive to create an economic environment in which private enterprise can grow and flourish, and in which the small businessmen and economic units, as well as those of greater size, may reap the just rewards of their industry, prudence and mental and physical talents. In the United States we have developed a strong and healthy economy that has been called upon to carry worldwide burdens. This is in large measure the result of our adherence to the private enterprise system, with its enlightened self-interest and its incentive to those who are prepared to invest their capital as well as their labor in industrial activities. Accordingly, while we may adopt legislation designed to promote competition and protect this private enterprise system, we should be chary of legislation, in whatever guise, which may, in fact, curtail competition. For the heavy hand of bureaucracy is far more likely to stifle than to stimulate the lifeblood of our economic well-being, private initiative and private enterprise.

It has been held that the sale of gasoline is not a business "affected with the public interest" (*Williams vs. Standard Oil Co.*, 278 U. S. 235 cf. *Reingold vs. Harper*, 6 N. J. 182 and *Sperry & Hutchinson Company vs. Margetts*, 25 N. J. Super. 568). Even though a business is affected with the public interest, legislative regulations, if they are to survive judicial test, "must be reasonable in their nature, directed to the prevention of real evils and adapted to the accomplishment of their avowed purpose. Under the guise of protecting 'the general welfare, there cannot be arbitrary interference with business or irrational or unnecessary restriction.' . . ." (*Sperry & Hutchinson Co. vs. McBride*, 307 Mass. 408, 425).

On the other hand, "it is not always essential that a business be wholly affected with a public interest to be subject to regulation." (*Lane Distributors, Inc. vs. Tilton*, 7 N. J. 349, 365).

A careful study of Assembly 473, however, clearly discloses that in its present form it is unconstitutional and would undoubtedly be struck down by either the State or Federal courts. A naked assertion by the Legislature of "a public interest," if not supported by the facts or incorporated in legislation truly designed to promote the public interest, will not pass judicial scrutiny. One's business is not clothed with a public interest unless it bears "such a substantial and definite relation to the public interest as to justify an indulgence of the legal fiction of a grant by the owner to the public of an interest in the use." (*Tyson & Bro. vs. Banton*, 271 U. S. 418. *Fairmount Creamery Company vs. Minnesota*, 274 U. S. 1). Furthermore, within the same industry different activities sought to be regulated may result in different judicial conclusions with respect to the right of the State to regulate.

The general public welfare is the paramount interest that must be protected and promoted. This general public welfare must take precedence in our consideration over any class or special interest.

To the extent that the purpose of the present bill is to prevent predatory practices designed to promote monopolies, there is undoubtedly much to be said in favor of the objective of its sponsors. Apart from constitutional questions, and my own deep concern and doubts with respect to the wisdom of governmental regulations of the kind here proposed, from a practical point of view, it seems to me that the proposed bill will not accomplish its avowed objectives. Indeed, a strict interpretation of the provisions of the bill might very well ruin many of the very parties whom it seeks to save. For example, a large single distributor, owning and operating a single station or a limited number of stations, pursuant to the proposed law, if it chose to do so could precipitate a predatory price war which would present the industry with the unpleasant dilemma of enlarging the price war to cover the entire State or leaving the local retailers in the area to suffer the consequences. A distributor would undoubtedly be reluctant to help a retailer meet local competition if the consequences of his act required him to reduce prices throughout the State, thereby precipitating the very situation which the sponsors of this bill so earnestly desire to restrain.

In its blanket condemnation of all discounts (section 4 a), the bill would appear to be in restraint rather than in favor of private enterprise and wholesome competition. Strictly construed, it would undoubtedly deprive retailers of the benefits that they now derive from their diligence, skill and industry. Uniform discounts for timely payment, or based on quality or quantity, are a traditional part of the private enterprise system. They tend to reward diligence and industry.

Fortunately, the Legislature is not lacking an opportunity to effectuate its major objectives. A federal statute, known as the Clayton Act, as amended in 1936 by the Robinson-Patman Act, 15 U. S. C. A. 13 et seq., offers a tried and tested method of preventing practices that are likely to destroy competition in private enterprise.

In section 11 of Assembly Bill No. 473, the task of enforcing the provisions of the bill is delegated to the Director of the Division of Taxation in the Department of the Treasury. There are presently approximately more than 10,000 service station operators in New Jersey. There are 35 persons or corporations that may be described as distributors, and a large number of other persons and corporations who would presumably come within the purview of the act and subject to the regulation of the Director. The State is presently collecting, pursuant to R. S. 54:39-30 (retail fuel dealer license fees), approximately \$60,000 annually. This entire sum is required for the administration of Chapter 163 of the Laws of 1938, an act to regulate the retail sale of motor fuels. Undoubtedly, therefore, additional funds would be required to carry out and enforce the provisions of this bill. No appropriation has as yet been provided for this purpose by the Legislature. In the event the Legislature after a reconsideration of the issues raised by this bill determines that some action in this field is necessary, the effective date should be changed to July 1st, 1954 so that an appropriation may be included in the budget for the next fiscal year.

Accordingly, I am returning Assembly Bill No. 473 for reconsideration and with the recommendation that amendments be made to the bill (Second Official Copy Reprint) as follows:

On page 3, section 4, line 1, after the word "act" and before the colon, insert the words "for any distributor, refiner, wholesaler or supplier, with intent to injure competitors or destroy or substantially lessen competition."

On page 3, section 4, line 2, delete the line in its entirety and insert in lieu thereof the words "(a) To offer."

On page 3, section 4, line 3, delete the words "any retail dealer to accept."

On page 3, section 4, line 6, after the word "supplier" delete the semi-colon and insert the following words "except that this shall not apply to discounts uniformly applied for timely payments, quantity or quality; or."

On page 3, section 4, line 7, delete the line in its entirety and insert in lieu thereof the words "(b) To lease or make."

On page 3, section 4, line 8, after the word "understanding" insert the words ", where the effect of such lease, contract on condition, promise, agreement or understanding may be to substantially lessen competition."

On page 3, section 4, line 13, after the word "fuel," delete the period and insert "; or".

On page 4, section 4, line 14, delete the line in its entirety and insert in lieu thereof the words "(c) To".

On page 4, section 4, line 15, after the word "discriminate" insert the words ", either directly or indirectly,".

On page 4, section 4, line 16, delete the line in its entirety and insert in lieu thereof the words "ing the same grade, quality or quantity of branded motor fuel, except to meet competition."

On page 4, section 4, line 17-24, after the word "supplier" delete the words "or retail dealer."

On page 6, section 14, line 1, delete the words "immediately" and insert in lieu thereof the words "July first, one thousand nine hundred and fifty-four."

Respectfully,

[SEAL] ALFRED E. DRISCOLL,
Attest: Governor.
RUSSELL E. WATSON, JR.,
Secretary to the Governor.

Mr. Thomas moved that the message be received and spread in full upon the Minutes.

Which motion was adopted.

The Clerk read the following message from the Governor:

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
August 17, 1953. }

ASSEMBLY BILL No. 475

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 (b) of the State Constitution, I am returning herewith, for reconsideration and with my objections, Assembly Bill No. 475.

This bill would permit any county to purchase fuel for heating purposes pursuant to "a contract with any person, firm or corporation . . . for any term not exceeding two years." While the present bill seems to have the purpose of assuring the legal validity of such a two-year contract, it could also have the unintentional effect of completely eliminating the competitive bidding requirements which have long been recognized as the best way of carrying on public purchasing.

Accordingly, I am returning herewith Assembly Bill No. 475 for reconsideration and with the recommendation that amendments be made to the bill (Official Copy Reprint) as follows:

On page 1, section 1, line 3, after the word "years" and before the period, insert the following: ", subject to the provisions of Chapter 25 of Title 40 of the Revised Statutes".

Respectfully,

[SEAL] ALFRED E. DRISCOLL,
Attest: Governor.
RUSSELL E. WATSON, JR.,
Secretary to the Governor.

Mr. Thomas moved that the message be received and spread in full upon the Minutes.

Which motion was adopted.

The Clerk read the following message from the Governor:

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
August 17, 1953. }

ASSEMBLY BILL No. 488

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 (b) of the State Constitution, I am returning herewith, for reconsideration and with my objections, Assembly Bill No. 488.

This bill as originally introduced in the Legislature would have required that any prisoner confined in any jail, workhouse or penitentiary under sentence who is, while so confined, sentenced to imprisonment in the State Prison, be immediately taken to the State Prison there to serve his State Prison sentence, and upon his release from the State Prison to be recommitted to the jail, workhouse or penitentiary to serve out the balance of his sentence therein. By an amendment to the bill the requirement to serve out the balance of the jail, workhouse or penitentiary sentence was deleted. The new provision would, in cases where the prisoner is sentenced to the State Prison for a term the minimum of which is equal to or exceeds the sentence then being served by him in the jail, workhouse or penitentiary, vacate the balance of the latter sentence and require the