VETO MESSAGES

OF

HON. RICHARD J. HUGHES

Governor of New Jersey

SUBMITTED TO THE SENATE AND THE GENERAL ASSEMBLY OF THE STATE OF NEW JERSEY

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
April 30, 1962.

SENATE BILL No. 18

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the State Constitution, I am returning Senate Bill No. 18 herewith, with my objections, for reconsideration.

This bill would increase survivors' benefits under the Consolidated Police and Firemen's Pension Fund. Primarily, the benefits with which the bill is concerned are those promised to the survivors of a policeman or fireman who died while not on duty, or subsequent to retirement. Under the present law the widow in such case receives for life, or until her remarriage, an annual pension equal to ½ the average salary formerly received by her deceased husband, with a maximum of $1,000.00 per year.

This bill would raise every widow's pension to $1,200.00 per year without regard to average salary. There would be a comparable increase in the amounts payable to children under 18 where no widow survives. The bill does not deal with the pensions of widows where death occurred while on duty, except to establish a $1,200.00 minimum in cases of death occurring prior to June 1, 1948.

The individuals for whose survivors these benefits are provided were frequently called upon to perform extra-hazardous duty, often at low rates of compensation. I am, therefore, sympathetic to the objectives of the bill.

However, there are several reasons why I cannot approve the bill in its present form.

The current annual cost of providing the increase in benefits proposed by this bill amounts to $750,000.00. Under the formula prescribed in Section 3, the State is to contribute annually ½, or $375,000.00 and the respective municipalities ½, of this amount. Section 4 provides for an effective date of January 1, 1963. Accordingly, an appropriation of $187,500.00, to cover the State's contribution for half of

fiscal year 1962-63, is required. No appropriation is provided for in the bill.

There is, furthermore, the possibility that the existing language of R. S. 46:16–3, when read together with the amendment contemplated therein, creates an ambiguity that might be interpreted as providing for retroactive increases in pension benefits for widows of members who died since June, 1944. I am certain that this result, which would involve an additional cost of $11,000,000.00, was not intended.

Accordingly, I am returning Senate Bill No. 18 for reconsideration, with the recommendation that the bill be amended as follows:

On page 1, title, line 4, after the word "Statutes" insert "and making an appropriation therefor".

On page 2, section 1, lines 36 to 39 inclusive, delete the sentence "The widow of any member who died on or after July 1, 1944, and who is not receiving at the time this amendment takes effect a pension equal to the amount provided by this amendment, shall, beginning April 11, 1945, receive a pension in the amount provided by this amendment."

On page 3, section 4, line 1, delete section 4 in its entirety and insert in lieu thereof:

"4. There is hereby appropriated out of the general treasury the sum of $187,500.00 to the Consolidated Police and Firemen's Pension Fund as the State's share of the additional benefit provided herein for the fiscal year ending June 30, 1963."

On page 3, following the new section above inserted, add a new section as follows:

"5. This act shall take effect January 1, 1963."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

SENATE No. 42

To the Senate:

I herewith return Senate Bill No. 42, without my approval, for the following reasons:

This bill would vest the title to uplands formed by accretion resulting from the construction and maintenance of jetties and similar devices erected along the ocean or adjacent waters in the upland owner if such upland owner is a municipality of the State.

Accretion has been defined "as an addition to riparian land gradually and imperceptibly made by the water to which the land is contiguous," 65 C. J. S. *Navigable Waters,* § 81(a), at p. 172. Land accretion can result from natural or artificial forces.

The courts in New Jersey have recognized the difference between land accretions naturally formed and that formed by artificial means. The upland owner has been held to be entitled to the increase to his land when formed by natural accretion, *Camden and Atlantic Land Company* v. *Lippencott,* 45 N. J. L. 405 (Supreme Court, 1883); *Seacoast Real Estate Company* v. *American Timber Company,* 92 N. J. Eq. 219 (E. & A. 1920). Such rulings have been based upon the theory that the upland owner receives such land increases as a compensation for the land area he may lose by natural erosion, *Ocean City Association* v. *Shriver,* 64 N. J. L. 550, 557 (E. & A. 1900). Where land areas have been built up as a result of artificial forces, however, the courts have held that such land accretion does not vest in the upland owner but belongs to the State, *Kirk* v. *Dempsey,* 85 N. J. L. 304 (E. & A. 1913).

In the areas along the ocean and adjacent thereto these lands become part of the State's riparian lands.

In 1903, the Legislature appropriated "all lands belonging to this State now or formerly lying under waters" to

the permanent school fund of the State, R. S. 18:10–5. The corpus of this fund is irrevocably dedicated to the support of schools by the operation of Article VIII, Section IV, paragraph 2 of the New Jersey Constitution which provides that:

> "The fund for the support of free public schools, and all money, stock and other property, which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested, and remain a perpetual fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of free public schools, for the equal benefit of all the people of the State; and it shall not be competent, for the Legislature to borrow, appropriate or use the said fund or any part thereof for any other purpose, under any pretense whatever."

This section of the Constitution protects the capital and income of said fund from any trespass by public officials, *Everson* v. *Board of Education of Ewing Twp.*, 133 N. J. L. 350 (E. & A. 1945); *In Re City of Camden,* 1 N. J. Misc. 623 (Supreme Ct., 1923), and binds the State to get full value for any riparian land it sells even where the buyer is a municipality, *Henderson* vs. *Atlantic City,* 64 N. J. Eq. 583 (Ch. 1903). Under the law, the State may sell riparian lands to the upland owner pursuant to the procedure outlined in Chapter 3 of Title 12 of the Revised Statutes. It cannot constitutionally, however, give these lands away even to a municipality.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 3, 1962.

SENATE BILL No. 68

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 68, with my objections, for reconsideration.

This bill would supplement article 3 of chapter 7 of Title 18 of the Revised Statutes which deals with annual school elections and election of members of boards of education as well as special elections in these two categories. It would provide that any candidate for the board of education can withdraw his name from the ballot by filing a notice in writing with the secretary of the board of education on or before 4 o'clock P. M. of the 20th day before the date of election. Thereupon, his name would be withdrawn by the secretary.

Absentee ballots, both military and civilian, are prepared and mailed to the absentee voter on the 25th day prior to election, N. J. S. 19:57–11. If a candidate could withdraw after absentee ballots are mailed, any absentee voter who cast his ballot for such person would be performing a meaningless act. He would be deprived, in effect, of his right to exercise his franchise. The possibility of such an undesirable result requires my returning this bill for amendment.

In addition, the draw for position of candidates' names on the ballot takes place on the 39th day before election, N. J. S. 18:7–29.3. Should a candidate later withdraw in accordance with the provisions of this bill, the other candidates might well be unnecessarily handicapped by the alignment on the ballot. No provision is present which would provide for a redrawing or re-alignment under these circumstances.

Accordingly, I am returning Senate Bill No. 68 for reconsideration, with the recommendation that it be amended as follows:

On page 1, section 1, line 1, after "candidate" insert "for election at the annual school election".

On page 1, section 1, line 3, delete "twentieth" and insert in lieu thereof "thirtieth".

On page 1, section 1, line 5, after the word "secretary." insert the following: "The name of such candidate shall not be printed on the ballot. The names of any candidates originally designated on the ballot below the name of the withdrawn candidate shall be advanced one place each, respectively, on the ballot."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

SENATE BILL No. 89

To the Senate:

I herewith return Senate Bill No. 89, without my approval, for the following reasons:

This bill is the same as Senate No. 11, introduced in 1961 and vetoed by Governor Robert B. Meyner, on January 9, 1962.

The Senate was informed at that time that:

> "This bill would amend an act approved in 1959, *L. 1959, c. 175,* concerning the continuation of salaries of school district employees during absences occasioned by work-connected injury. The 1959 law provides that the full salary of a school district employee who is absent because of injury on the job may be continued by the employing board of education for as much as a year. This is in addition to current and accumulated sick leave. If the employee receives a workmen's compensation award for temporary disability, the salary payments must be reduced by the amount of the award. The present bill would amend the 1959 act to remove

the local board's discretionary authority and, instead, require that the board continue the employee's salary for a year of absence.

"This bill would single out school district employees for special treatment. Under present law no public employee is entitled to this salary continuation as a matter of right. The law leaves the matter to the discretion of the employer both as to county and municipal employees, *R. S. 40:11–8, L. 1939, c. 232, § 4* and as to persons in state service, *L. 1939, c. 233, § 2, Civil Service Rule 55c.* I am not aware of difficulty in the administration of these laws. While requests ordinarily are granted, the employing authority retains the right to refuse the request where, in its considered judgment, the work relationship is too tenuous, the injury too dubious or the merit of the claim otherwise too questionable to warrant fully paid leave. The employer can also have due regard to permanent workmen's compensation benefits, accumulated sick leave rights, and the availability of disability benefits under retirement laws in determining whether equity requires some continuation of salary, and if so, how much and for how long.

"If due consideration of these and other factors should indicate, however, that the public interest will be better served by foregoing the benefits of this discretionary authority in favor of mandatory salary continuation, then the change should be made with an even hand for all employees in similar circumstances. There is no justification for singling out one group of employees for favorable treatment as this bill proposes, and denying equal treatment to others similarly situated."

This statement applies with equal validity to Senate Bill No. 89. School employees are now treated in the same manner as other governmental employees. I can see no justification in this area for permitting them to enjoy a position more favorable than that permitted the other employees.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 3, 1962.

SENATE BILL NO. 91

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 91, with my objections, for reconsideration.

This bill would validate all tax sale certificate foreclosure proceedings instituted by a municipality between June 23, 1947 and May 28, 1948, as well as the judgments and titles to real property derived therefrom, provided such proceeding purports to be an in rem tax foreclosure proceeding and the judgments obtained have been of record for at least 10 years. The act would not apply where the validity of any foreclosure proceeding, judgment or title is tested by an action, or other proceeding of any nature, instituted prior to the 181st day following enactment.

The apparent intent of this bill is to validate foreclosures which were conducted in compliance with the In Rem Tax Foreclosure Act of 1947, *L. 1947, c. 333.* Unlike the In Rem Tax Foreclosure Act (1948), the constitutionality of the 1947 law, which was repealed by the 1948 act, has never been tested. Since the Legislature cannot validate constitutional defects, the bill does not take the usual form of a validating act but instead would seem to be a quieting device, a type of limitation on actions.

The use of a period of limitation would be acceptable if Senate Bill No. 91 were limited to foreclosure situations which complied in all respects with the 1947 law. The bill, however, is not so limited. It would validate title without regard to the manner in which the foreclosure proceeding was conducted. To this extent, it disregards the existence of possible procedural defects in those proceedings and other possible conflicts with the requirements of *L. 1947, c. 333.*

Senate Bill No. 91, therefore, does not meet minimum standards of procedural due process, nor does it provide

the degree of certainty which is required in this particular area of the law.

I am accordingly returning herewith Senate Bill No. 91 with the recommendation that it be amended as follows:

On page 1, in the title of the bill, immediately following the word "proceedings" insert the following: ", judgments".

On page 1, section 1, line 1, delete "foreclosures" and insert in lieu thereof, "foreclosure proceedings".

On page 1, section 1, line 2, insert after "May 28, 1948," the following: "under and in compliance with P. L. 1947, c. 333,".

On page 1, section 1, lines 2 and 3, delete "being, or purporting to be, an in rem tax foreclosure proceeding,".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

SENATE BILL No. 112

To the Senate:

I herewith return Senate Bill No. 112, without my approval, for the following reasons:

This bill would require the State Board of Child Welfare, before placing a child, to make full disclosure to the prospective foster parents of any physical or mental defect or behavioral problem of the child, so that the foster parent may elect either to accept or reject such placement. It also would provide that any officer, employee or agent of

the State Board of Child Welfare who failed or who was responsible for the failure to make this full disclosure would be subject to dismissal from State service.

The Board of Child Welfare presently, as a matter of practice, makes disclosures of this nature. Staff members of the Board reveal to the prospective foster parents such pertinent information about the child as will enable them to help the child make a good adjustment and aid them in taking the best care of the child. This bill is so broad in scope as to require, without definition or limitation and under the threat of a most severe penalty, indiscriminate disclosure to prospective foster parents regardless of relevancy, leaving nothing to the sound professional judgment of competent and well-trained staff members.

Making all such disclosures mandatory would certainly result in delaying the placement of children, regardless of urgency, until the Board has sufficient time to get full information about the child. Additionally, it would probably also result in an increase in the number of frivolous complaints by various foster parents that imaginary or inconsequential problems of their foster children were intentionally concealed from them.

Even aside from these possibilities, however, the bill has other deficiencies. For one thing, it is specifically so phrased as to make the requirement of disclosure applicable only in the case of prospective foster parents but not where prospective adoptive parents are involved. This in itself is anomalous. Furthermore, the penalty for nondisclosure, with or without intent, is unduly harsh. It would create an atmosphere of anxiety and restraint which would contribute to delay in the placement of children while the staff member assured himself that all possible avenues of information about the child had been explored. There has been in the past a problem of getting competent people to work in this area and this provision would only make the position less inviting.

For these reasons I am returning this bill to the Legislature without my approval.

Respectfully,

RICHARD J. HUGHES,
Governor.

[SEAL]
Attest:

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

SENATE BILL No. 115

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 115, with my objections, for reconsideration.

This bill would require the State Board of Child Welfare to distribute monthly to each approved agency a "list containing the name and personal data of each child in its care who is eligible for adoption". It would also authorize and empower the State Board to surrender to any approved agency the custody of any child in its care who is eligible for adoption and would make this surrender mandatory upon receipt of a request therefor from any such agency.

I am in full agreement that the agency should be able to readily obtain information about children eligible for adoption. It is obvious that improvement could be made in existing procedures in this respect. As stated by the Joint Welfare Investigating Committee, on page 52 of their recent report on child welfare, an effective procedure for dissemination of such information would "encourage the use of private facilities and thereby lessen the burden on the citizens of the State." The difficulty lies not with the principle involved but with the method selected for making such information available to the agency. If the Board of Child Welfare were required to prepare each month a list containing sufficient personal information on each child to make such listing meaningful to the agencies, the administrative burden and cost of this project would be disproportionate to the results that might be expected. I suggest, instead, that this information be placed in one center and be made available there to all approved agencies. In addition, section 2 which authorizes the Board to give approved agencies custody of children eligible for adoption is unnecessary. This is now being done pursuant to present law.

I would also recommend that the language in section 4 be deleted since the requirement that the Board surrender

children upon the request of any approved agency would conflict with P. L. 1962, c. 139, which gives foster parents preference and first consideration.

Accordingly, I am returning Senate Bill No. 115 for reconsideration, with the recommendation that the bill be amended as follows:

On page 1, title, after the words "concerning the" delete the words "surrender of the custody of certain children in the care of the State Board of Child Welfare, or of the instrumentality or agency of the State succeeding to its powers, to approved agencies in certain cases" and insert in lieu thereof "establishment of an Adoption Resource Exchange in the Department of Institutions and Agencies".

On page 1, section 1, line 2, delete the words "or without".

On page 1, section 1, lines 2 and 3, delete the words "has been approved by" and insert in lieu thereof "holds a valid certificate of approval from".

On page 1, section 1, lines 4 to 6, delete the words "and which holds a current valid certificate evidencing such approval issued by the department".

On page 1, section 2, lines 1 to 9, delete section 2 in its entirety.

On page 1, section 3, line 1, delete "3." and insert in lieu thereof "2."

On pages 1 and 2, section 3, lines 2 to 7, starting with and including the words "shall compile", delete the remainder of the section and insert in lieu thereof, "is hereby authorized and empowered, subject to the availability of appropriations therefor, to establish an Adoption Resource Exchange, the services of which shall be available only to approved agencies as a further resource to facilitate placement of children for adoption by and through such agencies."

On page 2, section 4, lines 1 to 5, delete section 4 in its entirety and insert in lieu thereof the following new sections:

"3. The Adoption Resource Exchange authorized by this act shall not itself engage in the placement of

children for adoption nor shall it be construed as a substitute for other local community resources, whether public or voluntary. It shall be a facility whereby the State Board of Child Welfare and other approved agencies may mutually share and exchange information concerning children available for adoption and homes available for the placement of adoptive children.

"4. The State Board of Child Welfare is hereby authorized and empowered to establish rules, regulations and procedures necessary to accomplish the purposes of this act."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

SENATE BILL No. 116

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 116, with my objections, for reconsideration.

This bill would establish in the Department of Institutions and Agencies, a Bureau of Collections, directed and supervised by a deputy attorney general, to collect money due to the State for services, assistance, relief or care provided by the State through the Department.

Within its present structure, the Department already has a Bureau of Maintenance Collections which provides adequate facilities for the collection of such moneys. This bureau was established by administrative action and, in conjunction therewith, the Civil Service Commission established a classified position for the head of the Bureau. In

addition, the Department of Institutions and Agencies has assigned to it a deputy attorney general whose duties include giving legal assistance to this bureau. I have been informed that the bureau is efficiently functioning under the supervision of a competent and experienced chief who has advanced to this position after meeting various civil service requirements. The effect of enactment of this bill would be to impair efficiency by creating two separate bureaus, one for institutional maintenance collections and the other for sums of money due related agencies, while displacing to a considerable extent an experienced career employee.

This bill was introduced as part of the package of legislation resulting from the report of the Joint Welfare Investigating Committee regarding our child welfare laws. The Committee found that the Bureau of Child Welfare had an accumulation of accounts receivable from parents who had either agreed to pay the cost of assistance for their children or had been ordered to do so by the court. In point of fact, this accumulation was due not to the lack of adequate facilities for collection but to the failure of the Bureau of Child Welfare to use existing facilities.

Therefore, part of this bill is unnecessary since in establishing another bureau it would duplicate the activities of the present bureau. In order to avoid the accumulation of accounts receivable in the future, it is my suggestion that we give legal sanction to the present bureau and preserve that section of this bill which would make reporting of accounts receivable to this bureau mandatory.

Accordingly, I am returning Senate Bill No. 116 for reconsideration, with the recommendation that the bill be amended as follows:

On page 1, title, delete the words "establishing and concerning a Bureau of Collections in" and insert in lieu thereof, "concerning the collection of moneys due the State of New Jersey for services rendered by and through".

On page 1, section 1, lines 1 to 3, delete section 1 in its entirety.

On page 1, section 2, lines 1 to 7, delete section 2 in its entirety.

On page 1, section 3, line 1, delete "3." and insert in lieu thereof "1."

On page 1, section 3, line 1, after the words "Bureau of" insert "Maintenance".

On page 1, section 3, line 1, after the word "Collections" insert "heretofore established within the Department of Institutions and Agencies".

On page 2, section 3, lines 11 and 12, delete the words "The Bureau of Collections in the name of the State shall do all things" and insert in lieu thereof "The Attorney General shall provide all legal assistance".

On page 2, section 4, line 1, delete "4." and insert in lieu thereof "2."

On page 2, section 4, line 1, delete the word "Deputy".

On page 2, section 4, line 6, after the words "Bureau of" insert "Maintenance".

On page 2, section 4, lines 6 and 7, delete the words "established hereunder".

On page 2, section 5, line 1, delete "5." and insert in lieu thereof "3."

On page 2, section 6, line 1, delete "6." and insert in lieu thereof "4."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

SENATE BILL No. 131

To the Senate:

I herewith return Senate Bill No. 131, without my approval, for the following reasons:

Senate Bill No. 131 would abolish the existing 5 member Legalized Games of Chance Control Commission and establish in the Department of Law and Public Safety a Division of Legalized Games of Chance Control under the supervision of a director. The Division Director would be appointed by the Governor with the advice and consent of the Senate. The functions, powers and duties of the present commission would be transferred to the Division.

The Legalized Games of Chance Control Commission has served the people of New Jersey since it was established in March, 1954. I am convinced that this agency, composed of unsalaried, public-spirited citizens, has served the public well. It was established as a special administrative agency of government and has functioned within the executive branch as such an instrument.

New Jersey has a well-founded tradition of utilizing commissions in the administration of public affairs. Such bodies bring to bear in sensitive areas a broader cross-section of experience and talent than might otherwise be available. The creation of the Legalized Games of Chance Control Commission was consonant with such thinking and experience.

Constitutionally, the jurisdiction of this agency is a special one. It involves supervision of a form of gambling which was especially authorized by constitutional provision. This authorization was granted by the people in November, 1953, when they approved a referendum permitting the conduct of bingo and raffles by religious, educational, service and charitable groups under restrictions to be fixed by the Legislature. Upon taking office in 1954, Governor Meyner appointed a committee of nine attorneys who drafted the legislation which established this Commission.

As is often the case with regulatory agencies, there has not been universal satisfaction with the action of the Commission involving decisions and penalties. In past years, the Commission has been accused of being too harsh in dealing with the various religious and charitable groups and other licensees who have infringed the necessary restrictions governing the conduct of the gambling games allowed by the law. This is not too surprising when it is realized that this Commission had the difficult and delicate responsibility of pioneering the way to effective control and supervision over legalized gambling activities conducted on a statewide basis. The effectiveness of the Commission can

best be judged by results. The results, I believe, have been manifestly good.

Without scandal, bingo and raffles games have produced many millions of dollars for a wide variety of New Jersey organizations engaged in charitable and civic activities. At the present time, the Commission supervises the activities of more than 5,000 licensees. These licensees last year raised more than $38,000,000 through the conduct of bingo and raffles games. Since the Commission was established in 1954, licensees have raised for their worthwhile purposes more than $208,000,000. Compared with the magnitude of these activities, the Commission has imposed relatively few penalties. Since January of 1960, the Commission has held less than 50 hearings for the purpose of imposing penalties.

In contrast with New Jersey's excellent record, other states which legalized these same forms of gambling with perhaps less stringent regulations have been confronted with situations which approached scandal. It is interesting to observe that in at least one of our neighboring states an investigating commission, established as a result of revelations of irregularity, proposed a regulatory body modeled on New Jersey's Legalized Games of Chance Control Commission. This recommendation was carried through.

In New Jersey, the administration of bingo and raffles by this Commission has maintained public confidence that the proceeds of these games are used for the public purposes originally intended.

Without good reason, there should be no change in the administration of an area of government so fraught with the possibility of maladministration. I am convinced that the Legalized Games of Chance Control Commission is doing commendable work, and, therefore, I see no reason to sign this bill.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 3, 1962.

SENATE BILL No. 168

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 168, with my objections, for reconsideration.

This bill is a private bill which would declare that title to a certain tract of land in the town of Boonton is vested in the Board of Managers of the New Jersey Firemen's Home. In 1898 the tract had been conveyed in two parcels, by separate deeds, to Commissioners appointed to provide a Firemen's Home pursuant to P. L. 1898, c. 127. Subsequently, the Legislature enacted P. L. 1899, c. 20, which directed the Commissioners to convey title to the Board of Managers of the New Jersey Firemen's Home. There is no actual record that this action was ever taken, although the property is in possession of the Board of Managers. This act would validate the transfer to the Board of Managers thus clearing title as if the actual record of the transfer had been found.

It would appear, however, that this bill cannot reach its objective, namely that of clearing title, because of the presence of several technical defects in the text of the bill. There exist—as compared with the actual deed descriptions —inaccuracies as to the metes and bounds description of the property as well as of proper names referred to therein.

Accordingly, I am returning Senate Bill No. 168 for reconsideration, with the recommendation that it be amended as follows:

On page 3, section 1, line 6, delete "land" and insert in lieu thereof "lands".

On page 3, section 1, line 6, delete "Bauta" and insert in lieu thereof "Banta".

On page 3, section 1, line 7, delete "Bauta's" and insert in lieu thereof "Banta's".

On page 3, section 1, line 12, delete "(2)" and insert in lieu thereof "(3)".

On page 3, section 1, line 16, delete "Keingstand's" and insert in lieu thereof "Kingsland's".

On page 3, section 1, line 19, delete "Keingstand's" and insert in lieu thereof "Kingsland's".

On page 3, section 1, line 20, after the words "sixth line of", delete the word "the" and insert in lieu thereof "this".

On page 3, section 1, lines 22 and 23, delete the words "Morris County" and insert in lieu thereof "said".

On page 4, section 1, line 45, after the words "south-east corner", insert the following: "of the Stone House, also, distant seventy-nine and forty-five one hundredths feet from the southeast corner".

On page 4, section 1, line 51, delete the word "feet".

On page 4, section 1, line 52, delete the words "of a foot" and insert in lieu thereof "feet".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

SENATE BILL No. 301

To the Senate:

Pursuant to Article V, Section I, paragraph 15 of the Constitution, I appended to Senate Bill No. 301, at the time of signing it, a statement of each item or part thereof, to which I objected, so that such item or part thereof should not take effect.

The item to which I objected provided for the payment of $1,113.46 to John F. Jenkins of Pleasantville, New Jersey, for alleged extra work in connection with the sewage disposal and water supply system to be constructed at Lake Absegami, Bass River State Forest, New Gretna, Burlington County. The total amount payable to Mr. Jenkins under his contract with the State was $22,354.53. In addition to this amount, Mr. Jenkins had claimed the amount set forth in Senate Bill No. 301 to cover the cost of extra pumping and the need to sheet pile in connection with the construction of a septic tank on the project.

This claim was originally denied by the Division of Purchase and Property upon the recommendation of the State's consulting engineer on the grounds that this work was required of Mr. Jenkins under the specifications of the contract. The specifications specifically required the contractor to maintain and use pumping equipment where necessary and to provide shorings, bracing and sheeting at all times and to maintain banks by means of shores and braces necessary to avoid cave-ins.

Based upon the contract specifications and the opinion of the consulting engineer, I objected to the item noted above in Senate Bill No. 301 and I am attaching hereto a copy of my statement which I appended to the bill at the time of signing it.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Governor.

Attest:
LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
June 22, 1962.

STATEMENT ON SENATE BILL NO. 301

Pursuant to Article V, Section I, paragraph 15 of the Constitution, I am appending to Senate Bill No. 301, at the time of signing it, this statement of each item or part thereof to which I object, so that each item or part thereof so objected to shall not take effect.

On page 5:

"DEPARTMENT OF CONSERVATION AND ECONOMIC DEVELOPMENT

420-100. Division of Resource Development
John F. Jenkins, 103 South Franklin
Avenue, Pleasantville, New Jersey, for
extra work on the sewage disposal and
water system at Lake Absegami ..... $1,113.46"

/s/ RICHARD J. HUGHES,
Governor.

[SEAL]
Attest:

/s/ LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

SENATE BILL No. 320

STATEMENT

I am filing Senate Bill No. 320 (1962) in the State Library without my approval.

This bill was delivered to me less than 10 days before the adjournment sine die of the Legislature on January 8, 1963. Under Article V, Section I, paragraph 14(b) of the Constitution, such a bill does not become a law if not signed within the 45-day period, Sundays excepted, following the adjournment sine die. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would bar any person who has voted in a primary election within the prior two years from accepting a nomination as an independent candidate. This is a restriction that seemingly parallels existing law which restricts the right of a voter to transfer between parties in primary elections. Its implications, however, are much broader.

Although one of the objectives of this bill is meritorious: namely, to reduce candidacies that are insincere or calculated to produce personal gain unconnected with a serious effort to win election or to publicize a point of view, such a law would, at the same time, discourage genuine independent candidacies.

Independent positions frequently are adopted by adherents of particular social and economic points of view. Although these candidates generally do not expect to win office, they are able to utilize the electoral process as a forum for presentation of their doctrines. This is as it should be. America long has thrived on such diversity; even within our two-party system, such "independent" nominations frequently have developed a broad national base of their own, or have led the major parties into new avenues of public discussion and action.

Senate Bill No. 320 would have the effect of barring from such channels of public endeavor anyone who has exercised his right—and indeed his obligation—to vote in a primary election within two years. Not only would this weaken independent movements but, on the other hand, it would discourage the necessary broad base of citizen activity which is desirable in each of our major parties.

The present limitation on movement between the two parties has good reason for its existence. Without such a restriction, we have seen in this State and elsewhere widespread "raiding" by one party in the primary of another. The usual objective of such tactics is to produce nomination of the opposition's weakest candidate for the general election contest in November. This is a distortion of the democratic process and rightfully has been prohibited by law.

Although independent candidates seldom win a statewide election, or even a contest on the county level, in modern New Jersey politics such candidates can and do have an important impact at the local level. This is particularly true in communities where one of the major parties is dominant. Opposition in such cases frequently cannot manifest itself through the other major party. Thus the opposition must have the right to resort to the process of independent candidacy to make itself effective.

We must never forget that the two-party system can remain strong only as long as it keeps pace with the demands of our dynamic society. This requires new ideas and

new programs. The area of independent political activity is one of the wellsprings of these resources and, therefore, must be safeguarded.

I would reiterate my sympathy with what I have noted are the laudable objectives of this bill and urge further study of other means to eliminate insincere candidacies. Perhaps these results can be achieved by imposing additional requirements for signatures on nominating petitions or by some similar means.

RICHARD J. HUGHES,
Governor.

Dated: March 18, 1963

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL No. 10

To the General Assembly:

I herewith return Assembly Bill No. 10, without my approval, for the following reasons:

This bill would add to the State highway system the portion of Cape May county road No. 585 which extends from Route No. 9 at Burleigh to the northeasterly line of North Wildwood.

The State of New Jersey now has the responsibility for State Highway No. 9 which traverses the length of Cape May County. It also maintains State Highway No. 47 which is 3 miles south, and parallel to the county road in question. Route No. 47 provides direct access to the City of Wildwood.

It is the responsibility of the State to maintain and develop a system of roads which will provide the traveling public with a safe and speedy means of transportation throughout the State. In order to meet this responsibility, the State must direct its efforts to those roads which serve State traffic primarily rather than local traffic. The development and maintenance of roads to move local traffic has traditionally been the function of our municipalities and

counties. It is, of course, always difficult to determine whether the predominant function of a road is to serve local or State traffic. This determination is even more difficult in a county such as Cape May which occupies a terminal position in our State.

Nevertheless, I am of the opinion that it would not be in the best interest of the general public for the State to assume the cost responsibility of maintaining this road. This same bill was vetoed once before in 1957. At that time, the State Highway Department estimated that it would cost the State at least $4 million to modernize this road. In addition, I have been informed by the State Highway Department that it is already, as of this date, under direction to add to the State highway system a total of 1,128 miles of road which it is presently unable to assume because funds are not available. The cost to the State of modernizing those roads to meet State Highway standards is estimated to be $2,820,000,000. Even minimum improvements would cost $1 billion.

Considering the expense involved in assuming this road and the fact that the Legislature has not yet begun to provide the revenue necessary to permit the State Highway Department to add previously authorized local roads to the State system, I feel constrained to return this legislation without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962

ASSEMBLY BILL No. 16

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 16, with my objections, for reconsideration.

Assembly Bill No. 16 provides that a board of chosen freeholders granting financial assistance to a junior college in the county "shall be entitled to apply for and receive State support toward such county financial assistance". The bill specifies that the board of chosen freeholders may apply to the State Board of Education and receive, for the use of the county, State support to the extent of ½ the annual amount appropriated and paid by the county for junior college support or $200.00 per full-time student who is a resident of the county, whichever is the lesser amount.

In my Inaugural Address, I pointed out that a new emphasis must be given to higher education. The State has already begun to provide this emphasis through the adoption of the County Junior College Act, c. 42, P. L. 1962. Assembly No. 16 is a companion measure to the County Junior College Act. It provides necessary State financial assistance to junior colleges which are county supported but not county operated. In principle, it is a measure which deserves full support. Unfortunately, the provisions of Assembly No. 16 are deficient in several important respects. For example, the bill does not require that State moneys granted to the counties actually be spent for educational purposes. Funds granted to a county are merely designated for the use of the county. In addition, the bill does not grant even minimum supervisory powers in the State Board of Education although the operation of county junior colleges seeking State assistance is subject to the State Board's rule making power.

Accordingly I herewith return Assembly Bill No. 16 for reconsideration and recommend that it be amended as follows:

On page 1, section 1, line 2, preceding "junior college" insert "qualified".

On page 1, section 1, line 4, delete "any law heretofore or hereafter enacted," and insert in lieu thereof "c. 43, P. L. 1941, as the title and body of said act were amended by c. 30, P. L. 1947, or c. 42, P. L. 1962,".

On page 1, section 1, line 5, following "apply" insert "to the State Board of Education"; following "and" insert "may".

On page 1, section 1, lines 5 and 6, delete "such county financial assistance" and insert in lieu thereof "the operational costs of such junior college".

On page 1, section 1, line 6, following "with" insert "the provisions of".

On page 1, section 1, line 6, add the following two paragraphs to the end of section 1 as part thereof:

"The county's application shall be upon forms prepared and provided by the State Board and shall contain such information as the State Board shall require to carry out the provisions of this act. Each application shall contain a certification by the county board of chosen freeholders that the higher educational requirements of the county and surrounding areas makes it necessary and in the public interest for the county and State to provide financial assistance to the junior college for which State support is sought.

"For the purposes of this act, a 'qualified junior college' or 'qualified county-assisted junior college' shall mean a junior college, other than a junior college established pursuant to the provisions of c. 41, P. L. 1962, which is certified annually, on or before January 31, by the Commissioner of Education to the State Treasurer to be operated in accordance with the applicable rules and regulations relating to the operation of county junior colleges which have been adopted by the State Board pursuant to the provisions of chapter 41, P. L. 1962."

On page 1, section 2, line 2, following "support of" insert "qualified".

On page 1, section 2, lines 4 and 5, delete "and in accordance with rules and regulations prescribed by the State board".

On page 1, section 2, line 5, following "freeholders" insert "of any county having a qualified county-assisted junior college".

On page 1, section 2, line 6, delete "for the use of the county".

On page 1, section 2, line 6, delete "to the extent of ½" and insert in lieu thereof "for the operational costs of such junior college in an amount equivalent to".

On page 1, section 2, line 7, following "amount" insert "last".

On page 1, section 2, line 9, delete "said county" and insert in lieu thereof "the State".

On page 1, section 2, line 9, add the following paragraph to the end of section 2 as part thereof:

"Funds paid to a board of chosen freeholders pursuant to the provisions of this act shall be used by said board only for the purpose of paying the operational costs of the junior college and shall be paid to the junior college in the manner prescribed by the State Board. Such funds that are unexpended at the end of a fiscal period shall be returned by the county board to the General Treasury of the State unless the State Board and the Director of the Division of Budget and Accounting of the Department of the Treasury shall otherwise direct."

On page 1, section 2, line 9, at the end of section 2 add the following new section:

"3. The State Board of Education may adopt such rules and regulations as shall be necessary to implement the provisions of this act."

On page 2, section 3, line 1, delete "3." and insert in lieu thereof "4."

On page 2, section 3, lines 1 to 7, delete "but shall not become operative unless and until the enactment of 'An act concerning education, authorizing the establishment of county colleges, providing for their operation and control by a board of trustees, and providing for the method of financing and raising the necessary funds, in any county or counties which by referendum shall authorize the same,' now pending before the Legislature".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL No. 42

To the General Assembly:

I herewith return Assembly Bill No. 42, without my approval, for the following reasons:

This bill is a companion measure to Assembly Bill No. 43 which I have also returned to the Legislature today without my approval. Assembly Bill No. 42 would reduce from $200.00 to $100.00 the penalty payable by a corporation which has failed to file in the Office of the Secretary of State a certificate setting forth any change in the location of the principal office of a corporation or the name of a new agent upon whom process may be served.

I have been informed by the Office of the Secretary of State that there has been widespread disregard of these statutory provisions. I can, therefore, find no justification for reducing the penalty for non-compliance with these provisions. The public is entitled to have this information concerning the corporations with which it must deal. Any corporation which fails to provide this information must expect to be subjected to a reasonable penalty. Considering the present state of non-compliance with the law and the inconvenience and expense that this non-compliance causes both the State and the general public, I cannot conclude that the existing $200.00 penalty is unreasonable.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL NO. 43

To the General Assembly:

I herewith return Assembly Bill No. 43, without my approval, for the following reasons:

The law concerning corporations doing business in this State requires such corporations to file an annual report setting forth certain specific information as to the operations of the corporation including its name and location, the character of its business, the amount of authorized and issued capital stock, and the names and addresses of the directors and officers of the company. Assembly Bill No. 43 would reduce from $200.00 to $100.00 the penalty payable by a corporation which has failed to file this annual report in the Office of the Secretary of State.

I have been informed by the Office of the Secretary of State that there has been a continual and widespread disregard by corporations of this requirement to file annual reports. In 1958-1959, only 12,000 of the 95,000 corporations in this State filed such a report. Following an extensive campaign which cost the State $40,000.00 the number of reports filed was increased to 64,000 in 1959-1960. Unfortunately, it appears that the effect of this campaign has already worn off. Only 25,000 reports were filed in 1961-1962.

In the face of this widespread disregard of statutory requirements, there can be no justification for reducing the only existing incentive there is for corporations to comply with the law. So long as it is deemed to be in the public interest to have available the information required to be contained in the annual reports of corporations, it will be necessary to maintain an effective penalty for non-compliance with the statute. Based on past experience, the present penalty level can hardly be considered to be excessive.

If the Legislature has concluded that these reports no longer serve a useful function, the proper approach would

have been to eliminate the filing requirement itself rather than reducing the penalty for non-compliance with this requirement. I would point out, however, that the requirement for filing an annual report does not place an undue burden upon any corporation which seeks to do business in this State. The information required of such corporation is minimal. In addition, such information should be available if the general public is to have any concept of the true identity of these corporations with which it must do business on a day-to-day basis.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962

ASSEMBLY BILL No. 57

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 57, with my objections, for reconsideration.

This bill would provide additional State aid to school districts in which 2 or more per cent of average daily enrollment consists of pupils certified to be residing in the district on property owned by the State.

Traditionally, the State has given aid to such school districts in order to compensate the district for the revenue it would get from the local government if the State land were taxable. Since the establishment of the foundation program, pursuant to the State Aid Act of 1954, districts having such pupils receive the maximum amount of aid, $100.00 per pupil, without a local fair share deduction. This bill would provide additional State aid equal to the average cost of education in the State less the present aid. That

would amount to approximately $300.00 additional per pupil and I have been informed that it would cost the State a minimum of $75,000.00 per year.

It has been argued that the present school aid provided is insufficient inasmuch as, although the cost of education has increased over the years, the State aid formulas have remained stable since 1954. To the extent that such conditions prevail, the excess cost of the education of pupils living on State land becomes a burden upon the citizens of the community. This is a situation of concern to all of us. While I am sympathetic to the purpose of this bill, I am also forced to recognize the fact that sufficient finances are not available at present to provide the full increase in aid called for by this bill. Therefore, I recommend that the bill be amended to increase by 100% the present aid given to these districts for each such pupil.

Accordingly, I am returning Assembly Bill No. 57 for reconsideration, with the recommendation that the bill be amended as follows:

On page 1, section 1, line 5, after the word "taxable." insert "This act shall not apply to school districts which receive from the State or any of its political subdivisions or agencies, a fixed amount in lieu of taxes."

On page 1, section 2, line 1, delete "The" and insert in lieu thereof "For each such pupil residing on property owned by the State, the".

On page 1, section 2, line 2, after the words "shall be" insert the words "equal to".

On page 1, section 2, lines 2 to 4, delete "by which the average cost of elementary or secondary education in the State, as the case may be, exceeds the amount per pupil".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 3, 1962.

ASSEMBLY BILL NO. 133

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 133, with my objections for reconsideration.

This bill provides that a deposit made on the purchase of a plot of land and a dwelling house to be constructed thereon is a trust fund. The fund may be used only for the purpose of performing the contract for which the trust fund is a consideration except in the case where more than 1 dwelling house is to be constructed as part of the development of a tract of land. In such case, the trust fund may be used in the development of the tract of land. In addition, the bill provides that the trust be enforced by a civil action in the Superior Court. The trust is also given the status of a statutory lien under both the Federal Bankruptcy Act and New Jersey's corporation insolvency statute. A misdemeanor penalty is provided for "any person receiving said moneys, or any agent of said person, or any officer of a corporation receiving said moneys, who pays or consents to an unlawful diversion of such moneys."

The protection this bill would afford the home purchaser from misuse of his deposit is a worthwhile objective and one which I support. The bill, however, has several defects.

The penalty provision of the bill, for example, is loosely drawn. A misdemeanor penalty could be imposed upon an innocent employee who acted contrary to the provisions of the act but under his employer's orders in handling moneys constituting trust funds.

The provisions of the act relating to the bankruptcy or insolvency laws are also undesirable in that they reduce the status of the trust fund from statutory trust to statutory lien. Statutory lien takes third priority under the Federal Bankruptcy Act and fifth priority under New Jersey's corporation insolvency law.

Treating the trust fund as a statutory trust would enhance its position under both the Federal Bankruptcy Act and the State's insolvency law.

Accordingly, I am returning Assembly Bill No. 133 for reconsideration, with the recommendation that it be amended as follows:

On page 1, title, delete "violations shall be misdemeanors" and insert in lieu thereof "violators shall be disorderly persons".

On page 1, section 1, line 1, delete "received by any person" and insert in lieu thereof "paid".

On page 1, section 1, line 1, delete "on account of the" and insert in lieu thereof "advance by a person who has contracted or agreed to".

On page 1, section 1, line 2, after the word "purchase" delete "of".

On page 1, section 1, line 2, delete "and the plot of land upon which".

On page 1, section 1, line 3, delete "such dwelling house is to be constructed, made by the buyer".

On page 1, section 1, line 4, delete "in the hands of the person receiving said moneys".

On page 1, section 1, line 5, delete "performing the" and insert in lieu thereof "carrying out the provisions of said".

On page 1, section 1, line 5, after the word "agreement" insert a period and delete "for the said purchase according".

On page 1, section 1, line 6, delete the words "to its terms by the person receiving the moneys, except in" and insert in lieu thereof "In".

On page 1, section 1, line 8, delete "in which case".

On page 1, section 1, line 8, after "said" delete "moneys shall constitute".

On page 1, section 1, line 8, delete "for use" and insert in lieu thereof "may be".

On page 1, section 1, line 9, delete "solely" and insert in lieu thereof "used".

On page 1, section 1, line 10, delete "by the person receiving the same".

On page 1, section 1, line 10, delete "as provided in the" and insert in lieu thereof "for the purpose of carrying out the provisions of".

On page 2, section 3, lines 3 and 4, delete "prior lien on the assets of the insolvent or bankrupt as against the general creditors of the insolvent or bankrupt as" and insert in lieu thereof "statutory trust with respect".

On page 2, section 4, line 1, delete "receiving said moneys" and insert in lieu thereof "party to said contract or agreement".

On page 2, section 4, line 2, delete "pays" and insert in lieu thereof ", with knowledge that such moneys constitute trust funds, unlawfully diverts".

On page 2, section 4, line 3, delete "guilty of a misdemeanor" and insert in lieu thereof "a disorderly person and subject to a fine of not less than $200.00 or by imprisonment for not more than 30 days, or both".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL No. 246

To the General Assembly:

I herewith return Assembly Bill No. 246, without my approval, for the following reasons:

Under present law, local boards of education are authorized to exclude from the schools any teacher or pupil who has not been successfully vaccinated or revaccinated against

smallpox, or immunized against diphtheria; however, each board is given discretionary power to exempt from vaccination and immunization requirements any teacher or pupil who objects on the basis of religious beliefs.

This bill would remove the boards' discretionary powers with respect to vaccination and immunization and would make exemption mandatory in any case where a teacher, or the parent or guardian of a minor pupil, entered objection in writing on the grounds of interference with the free exercise of religious principles.

I am mindful of the rights of all our citizens to practice freely their religious beliefs. I have grave concern, however, over the potential impact that this legislation would have, if enacted, on the public health and welfare. That concern has not been lessened by the fact that just within the past few months, we have seen a number of incidents involving the importation of suspected smallpox cases which resulted in potentially dangerous conditions invoking public alarm and inconvenience and the need for emergency action.

As a consequence of exposure to two suspected smallpox cases involving children coming to this country from Brazil and India, some forty New Jersey residents had to be kept under daily surveillance by health authorities during the month of September. Three recent smallpox scares of major proportion in the metropolitan New York area resulted in emergency mass vaccination of over 12,500 individuals within one month. Another case in British Columbia, involving a Thailand student, required innoculation of 750 of his schoolmates.

A report of experience in England subsequent to the recent relaxation of that country's compulsory vaccination law has pertinence in any consideration of this proposal. In a one-month period, from December 16, 1961 to January 13, 1962, 82 individuals contracted smallpox, and 8 of them died from its effects, as a result of exposure to 7 imported cases of the disease.

Weighed against the awful possibilities suggested by these statistics, the burden of an unwanted vaccination in the interest of the public welfare seems a small thing to ask of any citizen.

Such reports as have been directed to my attention by the State Department of Health indicate that smallpox is highly

contagious in a literal sense and that even a casual exposure can result in infection of susceptible people. In a given case, the degree of immunization resulting from vaccination is relative and depends upon the dose of the infecting agent, the time since previous vaccination and individual resistance factors which apparently may vary from time to time. Control and ultimate eradication of the disease clearly demands a high level of immunization among the citizenry. It is a fact that we are now less than 36 hours flying time from chronic centers of smallpox infection throughout the world and that our best protection against the serious consequences of introduction of this dread disease into New Jersey is a constant high level of immunity in all people. Each of us has a community responsibility extending beyond our own protection.

I am not unaware of the argument advanced by proponents of this bill that school boards in a number of New Jersey communities readily grant such exemption upon request, and that it is in only a few of our cities and towns that difficulty is encountered in persuading the local school board to exercise its discretionary power of exemption. I nevertheless cannot in conscience affix my signature to a measure which would make such exemption mandatory in every case regardless of existing circumstances.

Involved here is not alone the precautionary immunization shot at the time of entering school when virulent disease is only a remote possibility. No doubt exemption from this requirement can safely be given in the exercise of a responsible group's discretion upon review of existing conditions. Mandatory exemption, however, if enacted into law, would not only remove the safety valve of review and discretionary action in those cases but would effectively block any subsequent withdrawal of exemptions previously granted when emergency conditions dictated the necessity for such action.

For these reasons, I believe the public welfare will be best served by maintaining the law on this subject in its present posture.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 8, 1963.

ASSEMBLY BILL No. 300

To the General Assembly:

Pursuant to Article V, Section 1, paragraph 14(b) of the Constitution, I am returning herewith Assembly Bill No. 300, with my objections, for reconsideration.

This bill would expressly authorize local boards of education to participate in the "organization, operation and maintenance" of a noncommercial, nonprofit, educational television station in this State. In addition, local boards of education are expressly authorized to utilize the services of a noncommercial, nonprofit, educational television station "in this State". The local boards are empowered to incur the necessary expenses therefor.

Present law, as construed by the Attorney General by virtue of Formal Opinion No. 2 (1962), states that a local board of education, under its implied powers, is permitted to enter into contracts with educational television stations, no matter where located, for educational programs. Such power is derived from the express grants of authority enabling local boards to adopt, prescribe and alter courses of study. R. S. 18:6–20; R. S. 18:7–57(c) and (d); R. S. 18:7–58; R. S. 18:8–14. There is, therefore, no provision in the existing law which could be construed as prohibiting local boards of education from utilizing the services of educational television stations which are not located "in this State" but whose programs can be received in this State. For example, some local boards have contracted to utilize the services of WNDT, Channel 13. Although Channel 13 is technically considered by the F. C. C. as a New Jersey station, even though it is a New York corporation, its studios and transmitters are in New York.

To the extent that Assembly Bill No. 300 could be construed as prohibiting contracts for service with television stations which are located beyond the boundaries of New Jersey it is undesirable legislation. This is especially true

at the present time since there are no educational television stations now in operation in this State.

In addition, this legislation, which would grant local boards of education the power to enter into agreements for participation in the ownership and operation of a television station, marks a novel departure from the customary responsibilities of such local boards. For this reason, I believe that it is necessary to provide the State Board of Education with the authority to promulgate rules and regulations concerning such arrangements and to grant the Commissioner of Education the power to review any contemplated contracts.

I, accordingly, return Assembly Bill No. 300 for reconsideration, with the recommendation that it be amended as follows:

On page 1, Title, line 3, following "station," insert "or to contract for such services".

On page 1, section 1, lines 2 to 5, following "aid" delete line 2 and through line 5 in entirety and insert in lieu thereof: "by contracting for the services of any noncommercial, nonprofit, educational television station located within or without the State but such contract shall not require the board to incur expenses in any 1 year period in excess of an amount equal to $2.00 per pupil in average daily enrollment in the district.

"2. Every board of education, in addition to the powers set forth in section 1 of this act and subject to the rules and regulations of the State Board of Education, may participate in the organization and operation of a noncommercial, nonprofit, educational television station in this State and utilize the services therefrom, and in order to effectuate such purpose, every board of education is authorized:"

On page 2, section 2, line 1, delete "2" and insert "3".

On page 2, section 3, line 1, delete "3" and insert "4".

On page 2, section 3, line 2, following "program" insert "or enter into any contract".

On page 2, section 4, line 1, delete "4" and insert "5".

On page 2, section 5, line 1, delete "5" and insert "6".

Respectfully,

RICHARD J. HUGHES,
Governor.

[SEAL]
Attest:

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL No. 303

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 303, with my objections, for reconsideration.

This bill would amend the law prohibiting minors from entering any licensed retail liquor establishment for the purpose of purchasing or consuming any alcoholic beverage and from purchasing or consuming said beverage or misstating their age in order to do so. It would increase the penalty on conviction from a fine "not exceeding $50.00" to a fine "of not less than $100.00 and not exceeding $200.00", and would require peace officers and alcoholic beverage enforcement officers to make complaints and to prosecute or assist in the prosecution of any minor who violates this statute.

The problems created by minors who violate the alcoholic beverage laws have been given close attention by my administration. A series of proposals tightening the laws directed at the driver who drinks have been prepared and are now ready for introduction. The campaign to have the State of New York conform its minimum age for consumption of alcoholic beverages to that of its neighbors is await-

ing the decision of the New York Legislature. I approach legislation such as Assembly Bill No. 303, therefore, from a sympathetic viewpoint.

I am in full agreement, for example, with the provisions of the bill which provide for an increased fine for the violators of this law. A greater fine should help deter minors from seeking to consume alcoholic beverages in public places. The provision of Assembly Bill No. 303, however, which would eliminate the discretion now residing in law enforcement agencies as to the prosecution of minors, while commendable as to intent, is not likely to improve law enforcement efforts.

Apprehension of the minor who violates the alcoholic beverage law is but one part of the problem. Prosecution of those adults who willingly supply such minors with alcoholic beverages is an even more important aspect of the problem.

Our law enforcement agencies have found the minor to be an essential witness in any criminal or disciplinary prosecution of a licensee who may be charged with sale to a minor. It has also been our experience that when minors are prosecuted, the case the State may have against the licensee often cannot be proved. It is readily apparent that a minor would be inhibited from testifying against the licensee if he is also under the threat of prosecution. He could properly refuse to testify by recourse to the constitutional protection against self-incrimination. This is not to state that there are not instances where the minor should be prosecuted and punished. The decision as to the best procedure to be followed, however, should be left in the hands of our enforcement officials and not predetermined by legislative fiat. The practical experience our law enforcement officials have gained through many years of enforcing this law justifies the decision to leave to the discretion of such officials the question whether prosecution of a minor is the appropriate course to follow.

Accordingly, I am returning Assembly Bill No. 303 for reconsideration, with the recommendation that it be amended as follows:

> On page 2, section 2, lines 1 through 5, delete this section in its entirety.

On page 2, section 3, line 1, delete the numeral "3" and insert in lieu thereof the numeral "2".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 3, 1962.

ASSEMBLY BILL No. 438

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 438, with my objections, for reconsideration.

This bill would confer on Delaware River Port Authority policemen the right to mandatory continuation of full salary during the entire period of any temporary incapacity occasioned by injury sustained in the performance of duty. It would also provide this disability benefit, upon satisfaction of specified requirements, where such employee incurred certain diseases of the heart and respiratory system.

I have just recently returned to the Legislature, without my approval, Senate Bill No. 89 which would have provided a similar mandatory salary continuation benefit for school district employees. In that bill, the mandatory benefit contemplated was limited to a period of one year and would not, as here, have extended for the entire period of disability. My actions in respect to both these bills reflect my conviction that no such benefit should be made mandatory.

As is well known, the Port Authority is authorized by existing law to provide its employees, including the subject policemen, with such compensation and other fringe benefits as it, in its discretion, deems necessary. While there can be no objection to a clear legislative statement, directed to the Authority, that its employees may be granted ad-

ditional sick leave for a period of one year, conforming to precedents in this area, I am convinced that the application of this benefit must be left to the employer's discretion.

Only in this manner can there be any assurance that some consideration will be given to the questions whether the work relationship is too tenuous, the injury too dubious or the merit of the claim too uncertain to warrant fully paid leave. Furthermore, such discretion would permit the employer to exercise sound judgment, having due regard to the availability of permanent workmen's compensation benefits, accumulated sick leave rights and disability benefits under retirement laws, in determining whether in fact equity requires some continuation of salary and, if so, how much and for how long.

I can see no fundamental reason for distinguishing this particular group of policemen from other public employees by the grant of either a mandatory or unlimited benefit. Neither, in fairness, does there appear to be justification for singling out one particular group of Port Authority employees for special consideration. While it may be true that these policemen are more liable to injury, nevertheless, if an employee in some other classification is in fact injured it would seem that he should have similar benefits available to him.

The question of how the problem of heart and respiratory system diseases should be approached in this area is still an open one. No such benefit as here contemplated has as yet been extended to our municipal policemen and firemen. Until this question has been resolved for local police and fire personnel, I can see no reason for conferring such favorable treatment on this group.

I am accordingly returning Assembly Bill No. 438 for reconsideration, with the recommendation that it be amended as follows:

On page 1, title, lines 1 and 2, after "Act" delete "providing for the payment of salary, medical and hospital expenses of policemen employed by" and insert in lieu thereof "concerning employees of".

On page 1, section 1, line 1, delete "Any policeman employed by" and insert in lieu thereof "Whenever any employee of".

On page 1, section 1, line 1, after "Authority" delete "who".

On page 1, section 1, lines 2 to 5, delete after "is" on line 2: "injured in the performance of his duties and is thereby temporarily incapacitated shall be entitled to his full rate of salary until the disability arising therefrom has ceased. The port authority shall also pay all medical and hospital bills incurred in connection with such injury." and insert in lieu thereof: "absent from his post of duty as a result of a personal injury caused by an accident arising out of and in the course of his employment, the port authority may pay to such employee his full salary or wages for the period of such absence up to 1 calendar year without having such absence charged to the annual sick leave or the accumulated sick leave to which such employee may also be entitled as an employee of the port authority."

On page 1, section 1, lines 6 to 11, delete in their entirety and insert in lieu thereof:

"Salary or wage payments provided in this section may be made for absence during any waiting period, and during the period the employee received or was eligible to receive a temporary disability benefit, under the compensation laws of this State or of the Commonwealth of Pennsylvania, as the case may be. Any amount of salary or wages paid or payable to the employee pursuant to this section shall be reduced by the amount of any workmen's compensation award made for temporary disability."

On pages 1 and 2, section 2, lines 1 to 10, delete section 2 in its entirety.

On page 2, section 3, line 1, delete "3." and insert in lieu thereof "2."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL No. 470

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 470, with my objections, for reconsideration.

This bill would amend R. S. 41:1-3 of the Revised Statutes which sets forth the oath of office required of all public officers, counsellors and attorneys-at-law. It purports to make changes in the form of the statutory language, rather than any substantive changes, in the interest of "clarity, brevity and dignity."

As is well known, the Supreme Court of New Jersey, in the case of *Imbrie* v. *Marsh,* 3 N. J. 578 (1950), ruled that R. S. 41:1–3 is unconstitutional insofar as it prescribes an oath for state officers different from the constitutional oath. In addition, while there has been no test case on this point, the provisions of R. S. 41:1–3 which refer to counsellor or attorney-at-law oaths would seem to violate Article VI, Section II, paragraph 3 of the New Jersey Constitution, which states that "The Supreme Court shall have jurisdiction over the admission to the practice of law and the discipline of persons admitted". However, the Supreme Court's ruling in the *Imbrie* case did not find unconstitutional the application of the oath found therein to municipal or county officers.

The retention in R. S. 41:1–3 of provisions for oaths of office which have been expressly held by our highest court to be unconstitutional has caused and will continue to cause confusion among both administrative officials and members of the public. This bill does not excise the unconstitutional matter. While it would undoubtedly clarify the language of R. S. 41:1–3, it nevertheless would at the same time simply re-enact the language ruled unconstitutional.

I am accordingly returning Assembly Bill No. 470 for reconsideration, with the recommendation that it be amended as follows:

On page 1, section 1, line 3, delete the words "the Governor for the time being and".

On page 1, section 1, lines 5 to 7, delete the words "or to any office of the militia, of, or in, this State or of, or in, any department, board, commission, agency or instrumentality of this State, or".

On page 1, section 1, lines 9 and 10, delete the words ", and every counsellor and attorney-at-law,".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL No. 479

To the General Assembly:

I herewith return Assembly Bill No. 479, without my approval, for the following reasons:

This bill provides that the holder of a driver's license can be required to submit to re-examination after a motor vehicle accident only if the court or the Division of Motor Vehicles, after a hearing, determines that he was responsible for or contributed to the accident.

As Governor, I have been vitally concerned about the number of motor vehicle accidents in this State. Last year, we had almost 126,000 accidents resulting in the death of 779 persons and the injury of nearly 80,000. In comparison, the first quarter of this year indicated that the rate of injuries resulting from motor vehicle accidents has increased by 16.9% and that to date there has been an approximate 15% increase in the number of deaths occurring as a result of such accidents.

In an effort to combat this increase I have stressed throughout the past year the need to strengthen our traffic safety program. Emphasis has been placed on preparing legislation to make a proper and effective educational program a prerequisite for securing a license; to increase truck safety requirements; and to tighten the law directed at drivers who drink. In addition, my administration has supported pending legislation, such as implied consent to drunkometer tests. These proposals warrant prompt attention. Along with supporting such legislation, an intensive campaign has been conducted to convince New York of the necessity for increasing its minimum age for alcoholic consumption to 21.

As part of a continuing traffic safety program, the Division of Motor Vehicles, since 1952, has operated several accident prevention clinics. Pursuant to his statutory authority, the Director of Motor Vehicles has promulgated certain standards to be used in determining which drivers should be re-examined at these clinics. These drivers are then tested in order to determine their ability to safely continue to operate a motor vehicle. Where deficiencies are discovered, they are explained to the driver and corrective measures are suggested. The purpose of these clinics is educational, their objective is driver improvement. New Jersey, as the pioneer of this type of program, can take justifiable pride in its many traffic safety accomplishments.

At present, a driver may be required to be re-examined if he falls in any of the following categories:

1. Persons involved in two or more traffic accidents within a period of 12 months.

2. Persons involved in a traffic accident resulting in a fatality where a violation of the traffic regulation provisions of Title 39 is established.

3. Persons involved in one traffic accident having a record of two or more convictions for moving traffic violations within a period of 12 months.

4. Persons eligible to the restoration of their driving privilege after a conviction of operating or permitting another person to operate a motor vehicle while under the influence of intoxicating liquor or any narcotic or habit producing drug, as provided in L. 1952, c. 286 (R. S. 39:4–50).

5. Persons having either a mental or physical deficiency which may affect their safe operation of a motor vehicle.

6. Persons who have a driving record, involving two or more traffic accidents or moving violations, which indicates a need for re-examination to determine if they are capable of operating a motor vehicle with safety to themselves and to other users of the highways.

This bill would substitute "responsible for, or contributed to" for these standards. It would ignore all other categories although the persons who fall within them have as great a need for re-examination. In addition, it would create an unnecessary delay between the accident and required clinic attendance, as well as increasing the cost of the program.

Most important of all, as Governor Robert B. Meyner said last year when he vetoed a similar bill: "The requirement of a determination of fault would tend to stamp the clinic program as punitive in the mind of those called to attend, and it would tend more than ever to become something to be endured rather than to be benefited from".

I am satisfied with the present operation of our accident prevention clinics. These clinics, operating pursuant to regulations promulgated by the Director, are flexible enough to reflect future changes in conditions and additional information as it becomes available. Therefore, I see no need for this type of legislation.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL No. 491

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 491, with my objections, for reconsideration.

Assembly Bill No. 491 is designed to permit certain public officials to hold more than one public office concurrently, even though duties and responsibilities of the offices might be deemed to be incompatible under the common law. Specifically, the bill would permit a member of the Legislature to also hold elective or appointive county or municipal office or position. In addition, it provides that any person holding county office shall be eligible for election or appointment to any municipal office. Conversely, a municipal official would be eligible to hold a county elective or appointive office.

Impetus has been given to this legislation by recent judicial decisions concerning the incompatibility of holding certain offices at different levels of government. In addition, there are now pending before the courts several suits to determine whether it is permissible for one person to hold certain specific offices at the same time.

The prohibition against dual officeholding is not constitutional in its base, nor indeed statutory in origin. It arises from the common law. The common law doctrine does not prohibit dual officeholding as such, but only the holding of offices, the rights, duties and obligations of which are incompatible with each other. This doctrine, however, may be extended or restricted by legislative action. For example, R. S. 19:3–5 provides that no person shall hold at the same time more than one of a number of specific offices listed therein.

I am in accord with the purposes of this bill to the extent that it would modify the common law doctrine to permit members of our Legislature to come from the ranks of our county and municipal officeholders and employees. The

Legislature's responsibilities must, of necessity, touch upon all phases of governmental activity. A liberal construction, therefore, of the duties of the Legislature could effectively prevent all or most of our public officials or employees from serving in this important deliberative body. For example, it could be argued that school teachers should be barred from the Legislature because they would be required to pass upon legislation that would have an effect upon the school system.

During the years that the common law doctrine of prohibiting the holding of incompatible offices was evolved, relatively few people were engaged in the business of government. Strict enforcement of the common law doctrine, therefore, would not have deprived legislative bodies of the talents and experiences of a large number of people. This would not be true today, however, since the business of government occupies the activities of many of our citizens.

In New Jersey, we rely upon individuals to serve in the Legislature as a part-time duty. They are expected to derive their livelihood and that of their families from other activities, public and private. Application of the common law doctrine to this area could effectively remove from legislative deliberations all persons connected with public life. This could only work to the ultimate detriment of the general public.

The bill, however, goes beyond the provisions relating to legislators. It attempts to authorize the holding of elective or appointive offices by persons who already are holding elective or appointive offices at a different level of government. To the extent that the bill would validate the concurrent holding of more than one elective office, I find it acceptable. A person who holds elective office must periodically submit to the people an accounting of his stewardship. His dual officeholding is open for all to see and can be terminated whenever his constituents so decide. The values to be gained by permitting one person to bring to several elective offices the experiences garnered from each, more than offset any theoretical incompatibility which might exist between such offices. This is especially true because the people have sanctioned such a result, and it continues to exist only with their approval.

The reasoning which would justify dual officeholding by legislators and other elected officials cannot be extended, in its fullest sense, to local officials who hold appointive offices

or positions. For one thing, the public may not be aware that a single individual is holding two offices which have duties and responsibilities potentially or actually in conflict. Moreover, the possibilities for the existence of actual rather than theoretical incompatibility of office are infinitely increased by extending the provisions of this bill to the numerous appointive offices and positions that exist on our county and municipal levels of government. A mayor or a municipal assessor, for example, under this bill in its present form, also could serve on the county tax board, an obviously incompatible situation. Considering the very real possibilities for actual conflict, I can find no overriding justification for permitting local officeholders or employees to hold an additional office or appointive position where incompatibility does in fact exist between the duties and obligations of such offices and positions.

It should be remembered, however, that the common law doctrine does not bar the holding of more than one appointive position where this element of incompatibility does not exist. My action on this bill, therefore, should not be construed to reflect on the right of persons to hold appointive offices or positions concurrently where incompatibility does not exist.

Accordingly, I am returning Assembly Bill No. 491 for reconsideration, with the recommendation that the bill be amended as follows:

On page 1, title, lines 1 and 2, delete "officers and employees" and insert in lieu thereof "the dual holding of offices and positions".

On page 1, section 1, lines 1 to 7, delete section 1 in its entirety and insert in lieu thereof:

"1. It shall be lawful for a person to hold simultaneously an elective county office and an elective municipal office."

On page 1, section 2, lines 1 through 4, delete the first sentence of the section in its entirety.

On page 1, section 2, line 4, delete "Membership in" and insert in lieu thereof, "It shall be lawful for a member of".

On page 1, section 2, lines 4 and 5, delete "shall not be incompatible with any" and insert in lieu thereof,

"to hold simultaneously any elective or appointive office or position in".

On page 1, section 2, line 5, delete "elective or appointive office" and insert in lieu thereof "government".

On page 1, section 3, lines 1 through 3, delete "preclude a member of the board of chosen freeholders of a county or a member of the governing body of a municipality or a member of the Legislature" and insert in lieu thereof, "prevent the incumbent of any office".

On page 1, section 3, line 4, following "voting" insert "in any matter in which he believes he has a conflict of duty or of interest,".

On page 1, section 3, line 4, delete "the" and insert in lieu thereof "to prevent a".

On page 1, section 3, lines 4 through 9, starting with and including ", on any measure predicated upon", delete the remainder of the section and insert in lieu thereof, "on that account under the principles of the common law or any statute."

On page 2, section 4, line 1, delete section 4 in its entirety and insert in lieu thereof:

"4. (a) Nothing herein contained shall be deemed to repeal or supersede any statute prohibiting the dual holding of offices or positions.

"(b) This act shall apply to persons now holding elective offices or positions with the counties and municipalities or now serving as members of the Legislature of the State.

"(c) For the purposes of this act the term 'elective office' shall mean an office to which an incumbent is elected by the vote of the general electorate."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Governor.

Attest:

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL NO. 492

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 492, with my objections, for reconsideration.

Assembly No. 492 provides that any distributor of newspapers, magazines or other publications, or any agent, officer or employee thereof, who sends, distributes or delivers to a retail dealer any publication which had not been delivered pursuant to a written order specifying the title or titles desired, is a disorderly person.

This bill is one of three legislative proposals passed this session that are concerned with the problem of obscene publications. Two of these bills, Assembly No. 8 and Senate No. 84, I have already approved.

There is near universal agreement on the proposition that the sale and distribution of obscene publications is detrimental to the general welfare and should be eliminated. This proposition is constitutionally as well as morally sustainable. As the United States Supreme Court has noted "it has been accepted as a postulate that 'the primary requirements of decency may be enforced against obscene publications.' " *Kingsley Books, Inc.* v. *Brown,* 354 U. S. 436, 440 (1957).

It is, therefore, fitting and proper for government to join with its citizenry in a war against obscenity so long as we are mindful that we do not trample protected rights of free expression in our zeal to eradicate obscene publications.

Senate Bill No. 84, through its adoption of a definition of "obscenity" which has been laid down by the United States Supreme Court, provided a legal standard against which our citizens could test their conduct and behavior. Such a definition is essential if we are to maintain a meaningful distinction between obscenity and the constitutionally established right of freedom of expression.

Assembly Bill No. 8, by providing a civil method for testing whether certain publications are obscene, permitted law enforcement officials to proceed diligently against obscenity wherever found, while protecting the constitutional rights of our citizens. It therefore struck a necessary balance between the rights of the public and the rights of individuals.

Unfortunately, I cannot conclude that Assembly No. 492 strikes such a balance. The restrictions against the distribution of any printed matter to retailers unless first ordered by them in writing is unnecessarily broad and of doubtful validity. Similar restrictions of the right to distribute publications have been stricken down by the courts as an infringement of freedom of the press, which would be the probable fate of this bill if signed in its present form.

The stated purpose of this bill indicates that it is intended to relieve retail dealers of the burden of handling and storing unwanted publications. In the considerable mail I have received on this proposal, I do not recall seeing a single letter from a retail dealer seeking such protection in the form provided by Assembly Bill No. 492. The only representative of retail dealers who appeared before the Legislative Commission to Study Obscenity in Certain Publications at its public hearing on Assembly Bill No. 492 called the proposal "definitely unworkable".

Unquestionably, the enactment of Assembly Bill No. 492 would seriously hamper the distribution of all publications whether obscene in character or not. As the Commission itself has noted, a retail dealer cannot possibly be familiar with the various publications available for distribution before he receives them. Few of the thousands of books and periodicals that are distributed annually are of an obscene character. Yet, under the bill in its present form, no publication, however innocent, even newspapers, could reach the retailer and ultimately the general public unless first ordered in writing by name. The bill, therefore, would deny the public free access to many fine books and periodicals, including new ones which come on the market from time to time. The way to encourage decent literature and to discourage obscene literature is not to inhibit the distribution of all literature but to permit newsdealers to refuse to carry those publications which they find to be inappropriate for their type of business activity.

I believe that the problem which Assembly Bill No. 492 seeks to resolve, the mechanical distribution of publications without regard to content, can be eliminated without completely destroying our present distribution methods and all that they mean to the principle of free speech. A dealer becoming aware of the receipt of publications he does not wish to handle should have the right to warn the distributor, by notice in writing, not to deliver such publications henceforth, and to compel the distributor to pick them up from his store at an early convenient time. Assembly Bill No. 492 should be amended, therefore, to prohibit the delivery of any publications to a retail dealer which that dealer has specified in writing he does not wish to receive. I also recommend that the distributor assume the inconvenience and expense of prompt removal of any offensive publication which he has, whether intentionally or not, delivered the dealer.

These recommendations will enable each local dealer to handle such type of publications as his conscience and his respect for the community he serves shall dictate. Such provisions would seem to me to be entirely effective for the protection of the dealer without restricting the free distribution of worthwhile publications. This is especially true since there is already a law on the books inhibiting the "tie-in" sales of unwanted publications by a distributor. Such sales could have otherwise been used to coerce the dealer into handling the offensive as the price of receiving decent publications.

Accordingly, I am returning Assembly Bill No. 492 for reconsideration, with the recommendation that the bill be amended as follows:

On page 1, section 1, line 1, delete "Any" and insert in lieu thereof "No".

On page 1, section 1, lines 1 and 2, delete ", or any agent, officer or employee thereof,".

On page 1, section 1, line 2, delete "newspapers" and insert in lieu thereof "books".

On page 1, section 1, lines 3 and 4, delete "who sends, distributes or delivers to" and insert in lieu thereof "after notification in writing by".

On page 1, section 1, line 4, after "dealer" insert "not to send or deliver to such dealer".

On page 1, section 1, lines 4 to 6, delete "which had not been delivered pursuant to a written order specifying the title or titles desired, is a disorderly person" and insert in lieu thereof "shall send or deliver to such dealer such book, magazine or other publication".

On page 1, section 1, line 6, at the end of section 1, insert the following new section:

"2. Any person, firm or corporation which fails to comply with the provisions of section 1 of this act, after oral or written notification of such failure to comply by a retail dealer, shall forthwith remove from the possession of such dealer the book, magazine or other publication which was improperly delivered without cost or charge to the dealer. Any person, firm or corporation failing or refusing to remove such publications by the end of the second business day following notification of improper delivery shall be a disorderly person and shall be subject to a fine of not less than $500.00 or imprisonment for 30 days or both."

On page 1, section 2, line 1, delete "2" and insert in lieu thereof "3".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT

ASSEMBLY BILL No. 510

STATEMENT

I am filing Assembly Bill No. 510 (1962) in the State Library without my approval.

This bill was delivered to me less than 10 days before the adjournment sine die of the Legislature on January 8, 1963.

Under Article V, Section I, paragraph 14(b) of the Constitution, such a bill does not become a law if not signed within the 45-day period, Sundays excepted, following the adjournment sine die. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would amend R. S. 30:6A–11 to provide that, notwithstanding the provisions of N. J. S. 2A:37–12 (which provides that escheated funds are to be paid into the State Treasury), personal property of an inmate left on deposit with the chief executive officer of a soldiers' home, which remains unclaimed for 3 years after the death intestate of such inmate, shall escheat to the Board of Managers of said home for such purposes as are deemed advisable by said board.

I am in full agreement with the purpose of this bill which is to provide a source of revenue by which the inmates of the soldiers' homes can be furnished little conveniences for which no appropriated funds are available. However, to the extent that the bill provides for the administrative escheat of personal property it may fall within the constitutional ban suggested by the Supreme Court in *State* v. *Otis Elevator Co.*, 12 N. J. 1, 18 (1953).

There is now being prepared a bill to achieve the desirable objective sought without the infirmity present in Assembly Bill No. 510. The sponsors of Assembly Bill No. 510 have agreed to introduce such a bill in the 1963 Legislative Session.

RICHARD J. HUGHES,
Governor.

Dated: March 18, 1963

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL No. 515

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 515, with my objections, for reconsideration.

Assembly Bill No. 515 amends Section 11 of the Law Against Discrimination to provide that it shall be an unlawful discrimination for a labor organization to discriminate against any applicant for, or individual included in, any apprentice or other training program because of his race, creed, color, or national origin.

This is commendable legislation and I strongly support its enactment. Unfortunately, should I sign this bill in its present form, my action could be construed as invalidating the pioneering law against discrimination in employment because of age which was enacted earlier this year. That law, as set forth in Assembly Bill No. 601, also amended Section 11 of the Law Against Discrimination. Since these two bills were processed simultaneously, neither of the bills incorporated the amendatory language provided by the other. Approval of Assembly No. 515, therefore, would establish the text of Section 11 of the Law Against Discrimination in a form not containing the amendatory language enacted in Assembly No. 601. In order to avoid any possible legal question, I am recommending that the Legislature reenact this measure setting forth the language which has already been placed in the statutes by the enactment of Assembly No. 601.

Accordingly, I am returning Assembly Bill No. 515 for reconsideration, with the recommendation that the bill be amended as follows:

On page 1, section 1, line 5, delete "or" and insert in lieu thereof a comma.

On page 1, section 1, line 6, after "ancestry," insert "or age".

On page 1, section 1, line 15, after "origin" delete "or" and insert in lieu thereof a comma; after "ancestry," insert "or age".

On page 2, section 1, line 26, after "origin" delete "or" and insert in lieu thereof a comma; after "ancestry" insert ", or age".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL No. 522

STATEMENT

I am filing Assembly Bill No. 522 (1962) in the State Library without my approval.

This bill was delivered to me less than 10 days before the adjournment sine die of the Legislature on January 8, 1963. Under Article V, Section I, paragraph 14(b) of the Constitution, such a bill does not become a law if not signed within the 45-day period, Sundays excepted, following the adjournment sine die. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill, applicable only to Bergen County, would authorize the creation of a county refuse authority for the purpose of acquiring, financing and operating a refuse disposal system. By its terms, Assembly Bill No. 522 would permit the Board of Chosen Freeholders of this one county to establish an autonomous authority over the receipt and disposal of garbage without the consent of either the municipalities affected or the electorate.

A similar measure, designated then as Senate Bill No. 242, was vetoed by Governor Robert B. Meyner on August 19, 1957. While there are in fact differences in the two bills, notably as respects the assessment of charges and the imposition of regulatory control by the State Department of Health, the following portions of the veto message relative to the 1957 measure remain pertinent and persuasive:

> "There is a fundamental objection to this bill. It provides for the creation of an omnipotent body, created by the act of the board of chosen freeholders and governed by officials appointed by such board, free from any control or voice of the municipalities affected. Unlike the other statutes authorizing the establishment of county or municipal authorities, no opportunity is given to any municipality which does not desire to be part of the area to be served by the authority, to be

excluded or to withdraw therefrom. See, for example, the sewerage authorities law, P. L. 1946, c. 138 (N. J. S. A. 40:14A–1 et seq.); the incinerator authorities law, P. L. 1948, c. 348 (N. J. S. A. 40:66A–1 et seq.).

"This bill would confer such broad, extensive and exclusive powers upon an autonomous authority, created and the members thereof selected by the freeholders without the concurrence of the municipalities affected or their electorate, that it would seriously jeopardize home rule and democratic government of all municipalities in first and second class counties in the State.

"Section 24 of the bill, quoted above, means that, unless permission is obtained from the authority, neither municipal nor private facilities for the disposal of garbage and refuse, which service more than 50 parcels of real property, could be constructed or operated in the county after 1 year from the creation of such authority. Delegation of such overriding power, from which the municipalities affected cannot dissent, has not been found necessary or desirable in the case of other authorities.

"The power granted is particularly dangerous since there are no standards provided in the bill to preclude arbitrary action by the authority when its consent to the construction or operation of other disposal facilities is applied for. There is no warrant for the granting of such absolute discretion in the refuse disposal authority.

* * *

"The disposal of garbage and refuse has become a serious problem in our densely populated State. There is, however, an existing law, P. L. 1948, c. 348 (N. J. S. A. 40:66A–1 et seq.), which permits any municipality in the State or two or more such municipalities to form an incinerator authority for the proper collection and disposal of garbage and other refuse matter. The objective and purpose of that act are identical with those of Senate Bill No. 242. If that statute is inadequate to cope with existing problems or to meet present needs, it can be amended or supplemented in the respects necessary.

"I am obliged to withhold my approval of any bill such as this which would create a private empire con-

stituting an autonomous state within the State. The unbridled authority which could be created is alien to our democratic concepts of local government by elected officials responsive to the public."

As may be seen from an examination of the full text of that veto message, a number of other deficiencies—both technical and substantive—appeared, and still appear, in this proposed legislation. Inasmuch as I find myself in full agreement with the fundamental objections enunciated against the solution here contemplated for an admittedly complex problem, it would serve little purpose to list once again these other areas of difficulty.

RICHARD J. HUGHES,
Governor.

Dated: March 18, 1963

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 542

STATEMENT

I am filing Assembly Bill No. 542 (1962) in the State Library without my approval.

This bill was delivered to me less than 10 days before the adjournment sine die of the Legislature on January 8, 1963. Under Article V, Section I, paragraph 14(b) of the Constitution, such a bill does not become a law if not signed within the 45-day period, Sundays excepted, following the adjournment sine die. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would exempt from taxation under the Corporation Business Tax Act (P. L. 1945, c. 162) nonstock corporations organized under the laws of this or any other state, to provide mutual ownership housing.

Although I recognize that cooperative housing corporations can play an important role in providing adequate housing to the citizens of our State, this attribute alone does

not necessarily justify an exemption from corporate taxes. The present denial of the exemption to such corporations has been upheld recently in *Pine Grove Manor* v. *Director, Division of Taxation,* 68 N. J. Super. 135 (App. Div. 1961). The corporation business tax is, of course, a franchise tax, payable by a corporation employing or owning capital or property on maintaining an office in this State, for the privilege of doing business in New Jersey.

At present, housing cooperatives established pursuant to our Limited Dividend Housing Corporation Law of 1949 enjoy special tax exemptions, provided they are nonprofit corporations. Section 5 of that law provides that upon dissolution any surplus remaining shall be paid to the State, or divided between the State and the municipality. Furthermore, *nonprofit* corporations without capital stock are exempt from the application of the Corporation Business Tax Act. N. J. S. A. 54:10A–3(d).

Assembly Bill No. 542 does not impose such restrictions. In addition, the bill fails to indicate for how long and under what circumstances such a tax exemption should continue. While I am not unsympathetic to the general purpose of this legislation, the uncertainty created by the language of the bill requires me to file it without my approval. I have directed my staff, however, to assist the sponsor of this bill in developing legislation which will meet these objections.

RICHARD J. HUGHES,
Governor.

Dated: March 18, 1963

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
April 2, 1962.

ASSEMBLY BILL No. 586

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 15, of the Constitution, I transmit herewith a copy of a statement which pursuant to said Paragraph 15 I appended to Assembly Bill No. 586 at the time of signing it, in which I stated the part of the item to which I objected so that such part thereof so objected to shall not take effect.

The bill in question amended the Transfer Inheritance Tax Act to increase the rates of taxation levied against the various classes of beneficiaries. The bill, in addition, would have appropriated the sum of $250,000.00 to the Division of Taxation for the administration of the act.

I reduced the $250,000.00 appropriation by $200,000.00, leaving $50,000.00 for the administration of the act.

At the time that this legislation was prepared, it was contemplated that the act would be amended in such respect as to have it applied to the transfer of property which is now exempt from taxation. During the course of discussions with administration officials and legislative leaders, it was agreed that the bill should not be applied to the transfer of property already exempt. Because of this change, it will not be necessary for the Division of Taxation to expend more than $50,000.00 for the administration of the act.

For this reason, I exercise my authority under said Paragraph 15 of the Constitution to reduce the appropriation to $50,000.00.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
March 29, 1962.

STATEMENT ON ASSEMBLY BILL No. 586

Pursuant to Article V, Section I, paragraph 15 of the Constitution, I am appending to Assembly Bill No. 586, at the time of signing it, the statement of the part of the item to which I object, so that such part thereof so objected to shall not take effect.

On page 4, section 4, the sum of $200,000.00 appropriated to the Division of Taxation. (The foregoing item is accordingly reduced to $50,000.00.)

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL No. 592

STATEMENT

I am filing Assembly Bill No. 592 (1962) in the State Library without my approval.

This bill was delivered to me less than 10 days before the adjournment sine die of the Legislature on January 8, 1963. Under Article V, Section I, paragraph 14(b) of the Constitution, such a bill does not become a law if not signed within the 45-day period, Sundays excepted, following the adjournment sine die. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would require printed matter having reference to an election campaign to bear upon its face the name and address of the person who caused it to be printed, as well as that of the person who paid for the printing and the person who did the printing. The printer would also be required, for a period of 2 years, to maintain a record, including a copy of the full text of what was printed, the number of copies printed or distributed and the identification of the person who paid or was billed for same. Such records would be open to the public. When an organization or association caused material to be printed, or paid the cost thereof, the name of the association or organization, plus that of at least one person by whose authority the action was taken, would be required.

The apparent purpose of this bill is to assist in identifying the source of campaign materials and to prevent dissemination of scurrilous printed matter by fixing the public eye on such source. I am entirely in accord with this laudatory objective, but unable to conceive how the provisions of this bill, as drawn, add anything to the effectiveness of existing law.

Section 4 of this bill excludes from its scope bona fide newspaper stories or editorials and all material which complies with the requirements of R. S. 19:34–38(i). This latter

provision of existing law would seem, in total effect, to already require that there be included in every known type of printed political material the name and address of the person causing publication. Therefore, unless Assembly Bill No. 592 is intended to operate only on material which is now required to comply with present law but which, in fact, does not, there would seem to be no subject matter upon which the bill could operate. In addition, the bill fails to contain any provision for imposition of either criminal or civil penalties or for the seizure of offending material. Thus, the only available method of enforcement would be by the cumbersome route of injunction.

The difficulties outlined above have been discussed with the sponsors of this bill and a replacement bill will be prepared for consideration by the Legislature.

RICHARD J. HUGHES,
Governor.

Dated: March 18, 1963

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 593

STATEMENT

I am filing Assembly Bill No. 593 (1962) in the State Library without my approval.

This bill was delivered to me less than 10 days before the adjournment sine die of the Legislature on January 8, 1963. Under Article V, Section I, paragraph 14(b) of the Constitution, such a bill does not become a law if not signed within the 45-day period, Sundays excepted, following the adjournment sine die. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill is similar in form and purpose to Assembly Bill No. 592. The comments made in my statement on the latter bill apply equally to this measure, taking into account that this bill relates only to school elections, and that reference, therefore, is here made to section 32 of c. 128, P. L. 1958 instead of R. S. 19:34–38.

RICHARD J. HUGHES,
Governor.

Dated: March 18, 1963

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL No. 644

To the General Assembly:

I herewith return Assembly Bill No. 644, without my approval, for the following reasons:

This bill directs the Attorney General to sell to the highest bidder at a public auction certain parcels of land with the improvements thereon located on Prospect Street in the City of Trenton.

The purpose of this bill as stated in its title is to sell "certain surplus State-owned lands and buildings". The conclusion that this property is "surplus", I presume, is based on the fact that the Director of the Division of Motor Vehicles recently ceased using the property for a Motor Vehicle inspection station.

I have been informed by the Attorney General, however, that this property is still being used by his Department and that he wishes to retain title thereto. Currently, the property is being employed as a garage and storage depot. In addition, the Division of Weights and Measures has leased a part of this property from the Division of Motor Vehicles and has formulated plans to use the building in the near future as a heavy-duty testing laboratory. In view of these plans, there is no justification for selling this property at this time.

I am, accordingly, returning Assembly Bill No. 644 herewith without my approval.

Respectfully,

RICHARD J. HUGHES,
Governor.

[SEAL]
Attest:

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 672

STATEMENT

I am filing Assembly Bill No. 672 (1962) in the State Library without my approval.

This bill was delivered to me less than 10 days before the adjournment sine die of the Legislature on January 8, 1963. Under Article V, Section I, paragraph 14(b) of the Constitution, such a bill does not become a law if not signed within the 45-day period, Sundays excepted, following the adjournment sine die. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

Section 60 of the Public Employees' Retirement-Social Security Integration Act allows veterans free credit for all their public employment in the State prior to 1955 if they have submitted evidence thereof prior to July 2, 1955. That cut-off date was subsequently extended by legislation to November 30, 1955 and then to July 14, 1958. This bill would again extend the cut-off date to 60 days after the effective date of this act, provided, however, the veteran demonstrates that his previous failure to file evidence establishing his entitlement to the free service credit was not deliberate or intentional but rather was due to inadvertence.

The apparent rationale for this bill is that, despite two previous extensions of the cut-off date, some veterans have inadvertently failed to avail themselves of the free service credit and, in deference to their status as veterans, they should be permitted another opportunity to do so.

I find it difficult to accept the premise that there could be any individual who failed, by inadvertence, to act during the 3-year period previously allotted to them. Even if there are, I can see no basis for assuming that such individuals will be able to act more expeditiously in the 60-day period this bill would provide. In addition to this fundamental

problem, however, there are certain other aspects of this bill which are troublesome.

As is well known, the Public Employees' Retirement-Social Security Integration Act provides, as to veterans presently qualified for the free veterans' credit, that the total accrued liability owing because of such credit can be paid by the employers over a 30-year period, with each annual payment to be equal to that certified for the fiscal year beginning July 1, 1956. This bill, by permitting additional veterans to qualify for free credit, would increase the accrued liability but makes no provision for funding this increase. Such arrangements necessarily tend to undermine the actuarial soundness of the Public Employees' Retirement System.

Because the bill lacks a provision for funding and present law does not allow such additional liability to be added to the current funding arrangement, it would mean that the additional liability would result in increases in the contributions of all participating employers. It is estimated that the State would have to assume one-half of that cost.

Finally, this bill would impose on the Division of Pensions of the Department of the Treasury an additional workload resulting from the necessity to receive and process requests for free service credit from an undetermined number of veterans. This obligation would be particularly burdensome in light of the requirement that the Division determine that the previous failure to file was not "deliberate" or "intentional". Even assuming the meaning of those words could be made clear for administrative purposes, and this does not seem possible, it is extremely doubtful that the Division, as presently constituted, could absorb such an increased workload.

RICHARD J. HUGHES,
Governor.

Dated: March 18, 1963

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 19, 1962.

ASSEMBLY BILL No. 757

To the General Assembly:

I herewith return Assembly Bill No. 757, without my approval, for the following reasons:

This bill would permit a sheriff to assign "civil service employees, whether classified as court attendants, jail keepers or county correction officers interchangeably to duty with the courts or in the jail or jails as the demands of the sheriff's responsibilities may dictate." Assembly Bill No. 757 would apply only to counties with population between 700,000 and 900,000 in which the sheriff is responsible for the county jail.

This legislation was developed as a result of the decision in *Caldaro* v. *Ferber*, 74 N. J. Super. 128, decided on May 4th of this year. In this case, the Appellate Division of the Superior Court ruled that existing statutes did not permit the Sheriff of Bergen County to employ court attendants and county jail personnel on an interchangeable basis. In so ruling, the Court discussed the differences between these positions:

> "That the duties of court attendants differ substantially from those of jail keepers, appears clear. Generally, court attendants are present for the purpose of preserving order in the court, taking charge of the jury, and other work incidental to the trial of cases. By usage, their duties are said to be well defined and generally known and understood. *Sawyer* v. *Camden County,* 122 N. J. L. 119, 122 (E. & A. 1939). Their hours of work are fixed by the sheriff, they being akin to a normal working day when courts are in session. In the case *sub judice* the manual promulgated by defendant, which sets forth the rules and regulations governing court attendants, provides that the regular hours of service shall be from 9 A. M. to 4 P. M. from Monday to Friday, inclusive, and from 9 A. M. to 12 noon on Saturday. It also provides that no court at-

tendant shall leave the court house without securing permission from his superior officer. The latter regulation is in recognition of the ministerial function performed by constables attending upon the courts. *Cox* v. *Passaic Common Pleas, supra,* at p. 329.

"By contrast, a jail keeper has been defined in the Civil Service specifications as one who: 'Under direction, during an assigned tour of duty, guards inmates and assists them toward rehabilitation; does related work as required.' According to a manual prepared for the use of jail keepers by defendant, they are required to work in three shifts, which encompass a period of 24 hours a day. * * *

"The office of jail keeper was one well-known to the common law. *Bownes* v. *Meehan,* 45 N. J. L. 189, 193 (Sup. Ct. 1883). No case has been called to our attention in which the duties of court attendant and jail keeper were regarded as equivalent. On the contrary, the positions have been separately referred to in a number of legislative enactments."

I believe that this description by the Court adequately explains the reasons for my disapproving this legislation. It would be clearly inequitable to compel an employee who was hired to perform the duties of a particular position, for which position he was required to meet certain standards, to perform responsibilities totally unlike those for which he was hired and for which he might have neither the aptitude nor the qualifications. If it is necessary for county government to employ personnel to carry out the functions of court attendant and county jail personnel, then a position providing for such employment should be established with entrance and training requirements that would qualify the holder of such a position to carry out his duties in a competent and responsible manner.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

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