

Veto No. 13

HB 856

July 9, 1976

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 856, Printer's No. 3496, entitled "An act amending the act of June 1, 1956 (P.L.1959, No.657), entitled, as amended, 'An act fixing the salaries and compensation of the Chief Justice and judges of the Supreme Court, the President Judge and judges of the Superior Court, the judges of the courts of common pleas, the judges of the orphans' courts, the judges of the County Court of Philadelphia and the judges of the County Court and Juvenile Court of Allegheny County, certain associate judges not learned in the law, certain state officers, and the salary and expenses of the members of the General Assembly, and repealing certain inconsistent acts,' making a change relating to time of payment, providing a procedure for changing mileage."

The main purpose of this bill is to enact into statutory law the Report of the Commonwealth Compensation Commission of November 30, 1972 in so far as it affected the salaries and expenses of the General Assembly.

I am of the opinion that this is an appropriate action because it enables a person seeking this information to find it in the statutes of the Commonwealth.

The bill, however, makes one significant change in the Report which convinces me to veto it. Rather than adopting the mileage allotment recommended by the Commission, or even a different amount, it bases that expense on the rate established by the Internal Revenue Service from time to time. I find this impermissible for the following reasons.

Any such delegation to a non-State agency always raises constitutional questions, such as in the case of the first personal income tax act in Pennsylvania.

The delegation is to a Federal rather than a State agency.

The purpose of the Internal Revenue Service rule is different than the purpose for mileage reimbursement to a member of the General Assembly. The former is expense oriented; the latter requires no expense at all, but is rather related to time and distance traveled.

I would approve a bill that merely codifies the report of the Commission, but I cannot approve this bill which, by relying on a standard over which the people of the Commonwealth have no control, is certainly contrary to the spirit, if not the letter, of our Constitution, which allows members of the General Assembly such mileage "as shall be fixed by law."

Furthermore, this legislation could establish a precedent that could spread to local government officials and remove from public scrutiny the true cost of their mileage reimbursement.

And, in this case too, such legislation would remove accountability to an appointed agency in Washington, far removed from the electors of

Pennsylvania who are footing the bill.

For these reasons, I must disapprove House Bill No. 856.

MILTON J. SHAPP