

Veto No. 22

SB 1430

December 9, 1976

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 1430, Printer's No. 2136, entitled "An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further defining the offense of obscenity, redefining obscene, and further providing for injunctions."

Our society continues to be faced with a flood of obscene material which is frequently forced on our citizens by offensive public display. I again reaffirm my position in favor of legislation which will alleviate this situation. I again urge the enactment of laws to constitutionally limit dissemination of offensive materials to minors.

I will not, however, approve legislation which directly assaults constitutional rights. Freedom of expression is a basic human right and I will continue to oppose legislation which limits First Amendment guarantees.

This is not the first time, as Governor, I have faced the issues presented in Senate Bill No. 1430.

On March 1, 1974, in vetoing Senate Bill No. 737, another so-called anti-obscenity bill, I stated that "it would be virtually impossible to conjure up a more certainly unconstitutional bill than Senate Bill No. 737."

I also stated, in my veto of Senate Bill No. 737, that "The General Assembly, acting in haste, has created a patchwork crazy quilt of constitutional infirmities that, if enacted, would retard legitimate controls on obscenity for years, while lawyers argued over its mistakes in court."

More than two and one half years later, the General Assembly has again passed a bill, Senate Bill No. 1430, which contains three of the provisions I stated were unconstitutional in my March 1, 1974, veto of Senate Bill No. 737.

The Attorney General has informed me that the passage of time has not made these provisions constitutional.

In his opinion as to the constitutionality of Senate Bill No. 1430, the Attorney General states that the bill is unconstitutional because it: (1) permits seizure of allegedly obscene materials in bulk without a prior hearing; and (2) could have the effect either of barring access of minors to legitimate book stores or of admitting minors but of limiting the display of materials only to those permitted under this bill to be displayed to minors. Additionally, the bill raises a serious question of constitutionality by authorizing the uncompensated destruction of materials seized pursuant to a civil proceeding.

I will not approve a bill with clearly unconstitutional provisions. This is especially true where, as here, First Amendment protections are threatened by the provisions of Senate Bill No. 1430.

For these reasons, this bill is not approved.

MILTON J. SHAPP

1. Calendar Year: 1976
2. Bill #: HB2265
3. Printer's #: 3761
4. Veto #: 23
5. If the veto is a line item veto.