

## Veto No. 6

SB 891

June 18, 1976

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 891, Printer's No. 1695, entitled "An act amending the act of August 9, 1955 (P.L.323, No.130), entitled 'An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto,' providing that the county commissioners shall have the sole responsibility for collective bargaining negotiations for all employees paid from the county treasury."

Senate Bill No. 891 provides, in part, that the county commissioners of each county shall have the sole power and responsibility "to represent" judges of the court of common pleas in collective bargaining negotiations for judicial employees and in representation proceedings before the Pennsylvania Labor Relations Board. The bill also gives these same powers to the county commissioners with regard to all of the employees paid from the county treasury.

I am informed by the Court Administrator of Pennsylvania that the Commonwealth Court has recently heard argument as to whether it is constitutionally permissible for the General Assembly to provide for representation of judicial employees under the Pennsylvania Public Employees Relations Act (Act 195).

Certainly, if Act 195 is held to be an unconstitutional encroachment upon the independence of the judiciary, then a statute which removes judges from the collective bargaining process must necessarily be unconstitutional. Moreover, I understand that the question of who is a judicial employee under Article V of our Constitution is also presently before the Commonwealth Court.

Under our system of government, the courts and eventually our Supreme Court are the interpreters of our Constitution. In ordinary circumstances, when a constitutional challenge is pending before our courts, the General Assembly should move slowly, and probably abstain from action, pending a definitive opinion on the question before the court.

Senate Bill No. 891 presents a clear case for legislative abstention pending judicial action.

This is especially true since efforts to implement this statute, if enacted, would prove futile at this time and for sometime in the future. I am informed that all certification activities of the Pennsylvania Labor Relations Board with regard to judicial employees have been enjoined by the Commonwealth Court pending a decision on the labor cases now before that court.

Moreover, there are certain technical drafting problems in this bill which render interpretation and implementation difficult.

For these reasons, I am convinced that the legislative process should wait until the final arbiters of our Constitution have rendered a decision. When such a final decision has been made, the Executive Branch will be happy to work with all interested parties to find an area of compromise between the various positions on this matter.

Senate Bill No. 891 is not approved for the above stated reasons.

MILTON J. SHAPP