

Handout #1

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PRINTER'S NO. 751

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 683

Session of
1989

INTRODUCED BY FREIND, NOYE, CESSAR, MRKONIC, GODSHALL, MORRIS,
JOHNSON, TRELLO, ROBBINS, FLICK, CALTAGIRONE, WOGAN,
COLAFELLA, CORNELL, LASHINGER, COLAIZZO, D. W. SNYDER, TIGUE,
WOZNIAK, GLADECK, CAWLEY, MCCALL, CLYMER, ANGSTADT, BIRMELIN,
ALLEN, GEIST, BELARDI, DISTLER, HAGARTY AND HALUSKA,
MARCH 7, 1989

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 7, 1989

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, establishing trial by jury as a substantive
3 right.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby resolves as follows:

6 Section 1. The following amendment to the Constitution of
7 Pennsylvania is proposed in accordance with Article XI:

8 That section 10(c) of Article V be amended to read:

9 § 10. Judicial administration.

10 * * *

11 (c) The Supreme Court shall have the power to prescribe
12 general rules governing practice, procedure and the conduct of
13 all courts, justices of the peace and all officers serving
14 process or enforcing orders, judgments or decrees of any court
15 or justice of the peace, including the power to provide for
16 assignment and reassignment of classes of actions or classes of

1 appeals among the several courts as the needs of justice shall
2 require, and for admission to the bar and to practice law, and
3 the administration of all courts and supervision of all officers
4 of the Judicial Branch, if such rules are consistent with this
5 Constitution and neither abridge, enlarge nor modify the
6 substantive rights of any litigant, nor affect the right of the
7 General Assembly to determine the jurisdiction of any court or
8 justice of the peace, nor suspend nor alter any statute of
9 limitation or repose. Trial by jury is a substantive right. All
10 laws shall be suspended to the extent that they relate to rights
11 of procedure and are inconsistent with rules prescribed under
12 these provisions.

13 * * *



HOUSE OF REPRESENTATIVES
DEMOCRATIC COMMITTEE

BILL ANALYSIS

BILL NO. HB 683
COMMITTEE:

PN 751
Judiciary

SPONSOR: Freind
DATE: 03/27/90 (EM)

PROPOSAL: To amend of the Pennsylvania Constitution, Article V, §10(c) to specifically provide that trial by jury is a substantive right (and thus not subject to the power of the Pennsylvania Supreme Court to prescribe general rules governing procedural matters) and that all statutory laws relating to procedural matters and subject to the rules making power of the Supreme Court shall be deemed suspended insofar as inconsistent with any such rules.

EXISTING LAW: Article I, §6 of the Pennsylvania Constitution provides that, "Trial by jury shall be as heretofore, and the right thereof remain inviolate. The General Assembly may provide, however, by law, that a verdict may be rendered by not less than five sixths of the jury in any civil case." Article V, §10(c) of the Constitution provides as follows:

"(c) The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts, justices of the peace and all officers serving process or enforcing orders, judgments or decrees of any court or justices of the peace, including the power to provide for assignment and reassignment for classes of actions or classes of appeals among the several courts as the needs of justice shall require, and for admission to the bar and to practice law, and the administration of all courts and supervision of all officers of the Judicial Branch, if such rules are consistent with this Constitution and neither abridge, enlarge or modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions."

ANALYSIS: HB 683 proposes an amendment to the Pennsylvania Constitution which would interpose in Article V, §10(c) the provision, "Trial by jury is a substantive right," and modify the last quoted sentence of §10(c), above, to say that all laws shall be suspended to the extent that they relate to rights of procedure and are inconsistent with rules prescribed under these provisions."

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2414 Session of
1990

INTRODUCED BY CALTAGIRONE, BILLOW, KOSINSKI, PESCI, ANGSTADT,
GODSHALL, MELIO, STISH, MORRIS, TRELLO, J. TAYLOR, LAUGHLIN,
WOGAN, RAYMOND, BELARDI, BOYES, DALEY, LEH, SERAFINI, HAGARTY
AND MAIALE, MARCH 28, 1990

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 28, 1990

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, further providing for searches and seizures.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby resolves as follows:

5 Section 1. The following amendment to the Constitution of
6 Pennsylvania is proposed in accordance with Article XI:

7 That section 8 of Article I be amended to read:

8 § 8. Security from searches and seizures.

9 The people shall be secure in their persons, houses, papers
10 and possessions from unreasonable searches and seizures, and no
11 warrant to search any place or to seize any person or things
12 shall issue without describing them as nearly as may be, nor
13 without probable cause, supported by oath or affirmation
14 subscribed to by the affiant. The rights mandated by this
15 section and any procedural restrictions based on or derived from
16 this section shall not exceed the rights and procedural

1 restrictions mandated by the fourth amendment to the United
2 States Constitution, as interpreted by the United States Supreme
3 Court. Articles or information obtained in violation of this
4 section shall be inadmissible in evidence only if such articles
5 or information would be inadmissible under decisions of the
6 United States Supreme Court. The rights and procedural
7 restrictions respecting searches and seizures shall not be
8 judicially expanded by decisional law or court rule to exceed
9 the rights and procedural restrictions mandated by this section.



HOUSE OF REPRESENTATIVES
DEMOCRATIC COMMITTEE

BILL ANALYSIS

BILL NO. HB 2414 P.N. 3289
COMMITTEE: Judiciary

SPONSOR: Caltagirone
DATE: 04/17/90 (WHA)

PROPOSAL: HB 2414 would amend the Constitution of Pennsylvania to provide that the right of the people to be secure from unreasonable searches and seizures under the Pennsylvania Constitution shall not exceed those rights as guaranteed by the United States Constitution.

EXISTING LAW:

ANALYSIS: §8 of Article I of the Pennsylvania Constitution provides that the people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures. The Fourth Amendment to the United States Constitution contains virtually identical language. HB 2414 would amend the Pennsylvania Constitution to provide that the rights mandated by §8 of Article I of the Pennsylvania Constitution shall not exceed the rights mandated by the Fourth Amendment to the United States Constitution, as interpreted by the United States Supreme Court. Articles or information obtained in violation of §8 of Article I of the Pennsylvania Constitution would be inadmissible in evidence only if such articles or information would be inadmissible under decisions of the United States Supreme Court.

Prepared by: William H. Andring, Esq.

NOTE: In Commonwealth v. Sorrell, 500 Pa. 355, 456 A.2d 1326(1982), the Supreme Court stated that the right to trial by jury is not a substantitive right, but a right of procedure through which rights conferred by substantive law are enforced. For further proceedings in Sorrell, see 314 Pa.Super. 205, 460 A.2d 838; 319 Pa.Super. 103, 465 A.2d 1250. In Sorrell, the court rejected the Commonwealth's claim to a jury trial after the defendant specifically waived his jury trial right pursuant to a Pennsylvania Rule of Criminal Procedure. But HB 683 may be broader in scope than a legislative repeal of Sorrell.