

TESTIMONY OF THE
PENNSYLVANIA TRIAL LAWYERS ASSOCIATION
BEFORE THE HOUSE JUDICIARY COMMITTEE

MARCH 2, 1995

PRESENTED BY

JAMES R. RONCA, ESQUIRE

GOOD MORNING CHAIRMAN PICCOLA, MEMBERS OF THE HOUSE
JUDICIARY COMMITTEE, AND GUESTS: MY NAME IS JAMES R. RONCA. I AM A
PAST PRESIDENT OF THE PENNSYLVANIA TRIAL LAWYERS ASSOCIATION, AND
I AM ACTIVELY ENGAGED IN THE PRACTICE OF LAW HERE IN HARRISBURG. I
APPRECIATE THE OPPORTUNITY THAT THIS COMMITTEE HAS GIVEN TO THE
PENNSYLVANIA TRIAL LAWYERS ASSOCIATION TO TESTIFY ON HOUSE BILL
838, AND I AM PLEASED AND HONORED TO REPRESENT OUR ASSOCIATION.

AT THE ONSET OF THIS HEARING AND THIS PROCESS, LET ME COMMEND
CHAIRMAN PICCOLA AND THE HOUSE JUDICIARY COMMITTEE FOR
BEGINNING THE UNDERTAKING OF COURT REFORM IN PENNSYLVANIA.
CERTAINLY, THE EVENTS SURROUNDING THE IMPEACHMENT AND
CONVICTION OF FORMER SUPREME COURT JUSTICE LARSEN REQUIRE
ADDITIONAL WORK AND STUDY OF HOW PENNSYLVANIA'S COURT SYSTEM
SHOULD OPERATE. AS YOU UNDOUBTEDLY KNOW, THE PENNSYLVANIA
TRIAL LAWYERS ASSOCIATION TESTIFIED BEFORE THE SENATE JUDICIARY
COMMITTEE ON COURT REFORM IN NOVEMBER OF 1994. WE HAVE ALWAYS

TAKEN A KEEN INTEREST AND ACTIVE ROLE IN LEGISLATIVE PROCEEDINGS REGARDING THE DUTIES AND OPERATION OF ALL OUR COURT SYSTEMS, INCLUDING, OF COURSE, THE SUPREME COURT OF PENNSYLVANIA.

WHILE IN AND OF ITSELF THE PENNSYLVANIA TRIAL LAWYERS ASSOCIATION HAS NO POSITION ON WHETHER THE CHIEF JUSTICE OF PENNSYLVANIA SHOULD BE APPOINTED BY THE GOVERNOR OR CONTINUING THE PRACTICE OF HAVING THAT JUSTICE WITH THE MOST SENIORITY AND SERVICE ACT AS CHIEF JUSTICE, WE ARE CONCERNED THAT EXECUTIVE APPOINTMENT OF THE CHIEF JUSTICE WOULD GIVE THE EXECUTIVE BRANCH UNPRECEDENTED CONTROL OVER THE ACTIVITIES OF THE JUDICIAL BRANCH. IN SUB SECTION 343 ON PAGES 5 AND 6 OF HOUSE BILL 838, IT APPEARS THAT A CLEAR MAJORITY - EIGHT OF THE THIRTEEN MEMBERS OF THE JUDICIAL COUNCIL - WOULD BE DIRECTLY OR INDIRECTLY SELECTED BY THE GOVERNOR OF PENNSYLVANIA THROUGH HIS POWER TO NAME THE CHIEF JUSTICE OF THE SUPREME COURT. THE CHIEF JUSTICE, THREE JUDGES OF THE COURTS OF COMMON PLEAS APPOINTED BY THE CHIEF JUSTICE, ONE

JUSTICE MEMBER FROM AMONG THE JUDGES OF THE COMMUNITY COURTS OR THE JUSTICE OF THE PEACE AND POLICE MAGISTRATES, AND THREE NON JUDGE MEMBERS OF THE BAR OF THE SUPREME COURT, WOULD HOLD THEIR OFFICES ON THE JUDICIAL COUNCIL DIRECTLY OR INDIRECTLY AS A RESULT OF EXECUTIVE BRANCH APPOINTMENT. WE FEEL THAT ANY EXECUTIVE WITH THIS CONSTITUTIONAL POWER OVER THE JUDICIAL COUNCIL WOULD CLEARLY VIOLATE THE SEPARATION OF POWERS OF THREE CO - EQUAL BRANCHES OF GOVERNMENT.

PAGE 8 OF HOUSE BILL 838, SECTION 345 DEALING WITH LEGISLATIVE MATTERS, DELINEATES ANOTHER POTENTIAL VIOLATION OF SEPARATION OF POWERS. IN SECTION 345, THE LANGUAGE READS "EITHER HOUSE OF THE GENERAL ASSEMBLY MAY, BY RESOLUTION, ENTER ANY QUESTION OR MATTER WHICH COULD BE REGULATED BY STATUTE OR WHICH RELATES TO JUDICIAL PRACTICE OR PROCEDURE UPON THE AGENDA OF THE JUDICIAL COUNCIL, WITH LIKE EFFECTS AS IF SUBMITTED BY A MEMBER OF THE JUDICIAL COUNCIL." THIS SECTION ALLOWS THE PRESIDENT PRO TEMPORE

OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES THE
POWER TO APPOINT A MEMBER WHO WILL HAVE THE RIGHT TO ATTEND
SUCH MEETINGS AND BE HEARD AND VOTE UPON SUCH A QUESTION. WHILE
THE COMPOSITION OF THE JUDICIAL COUNCIL WOULD BE AN INFRINGEMENT
ON THE SEPARATION POWERS BY THE EXECUTIVE BRANCH, SECTION 345 LIKE
WISE WOULD BE A VIOLATION OF THE POWERS OF THE JUDICIARY ON SO -
CALLED LEGISLATIVE MATTERS.

PERHAPS THE BROADEST INTRUSION IN THE TRADITIONAL POWERS OF
THE JUDICIAL BRANCH IS THE LANGUAGE WHICH RESCINDS THE POWER OF
THE SUPREME COURT TO SUSPEND STATUTES. EVERY ELEMENTARY SCHOOL
CIVICS AND GOVERNMENT CLASS TEACHES A BASIC DEMOCRATIC PRINCIPLE
THAT "THE LEGISLATURE MAKES THE LAW. THE EXECUTIVE ENFORCES THE
LAW. THE JUDICIARY INTERPRETS THE LAW." WHILE GOVERNMENTAL
SCHOLARS, WRITERS, JUDGES, AND LEGISLATORS HAVE ALWAYS AND
PROBABLY WILL ALWAYS DEBATE WHERE SUCH LINES SHOULD BEGIN AND
END, WE FEEL THIS LANGUAGE CLEARLY TIPS THE BALANCE TOO HEAVILY

IN FAVOR OF THE LEGISLATIVE AND EXECUTIVE BRANCHES, AND AGAINST
THE TRADITIONAL PURVIEW OF THE JUDICIAL BRANCH. SUCH A BROAD
BASIC CHANGE SHOULD BE CAREFULLY REVIEWED AND DISCUSSED BEFORE
PROCEEDING.

ON THE QUESTION OF WHERE THE COURT SHOULD BE LOCATED, THE
PENNSYLVANIA TRIAL LAWYERS ASSOCIATION DOES NOT HAVE A STATED
POSITION ON WHERE THE SEAT OF COURT SHOULD BE (PAGES 12 AND 13).
HOWEVER, WE BELIEVE IT IS INCUMBENT UPON THE LEGISLATURE,
PARTICULARLY THE COMMITTEES DEALING WITH APPROPRIATIONS OF
PUBLIC FUNDS, TO ASCERTAIN CLEARLY WHAT THE COST OF SUCH SPENDING
WOULD BE, AND ADEQUATELY INFORM THE VOTING PUBLIC AS A PRELUDE
TO THE EXPENDITURE OF A LARGE AMOUNT OF PUBLIC FUNDS FOR THIS
COURT CENTER.

THANK YOU VERY MUCH FOR THE OPPORTUNITY TO TESTIFY BEFORE
YOU TODAY. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS.