

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 147

Session of
1982

INTRODUCED BY CALTAGIRONE, HALUSKA AND SALVATORE, JANUARY 25,
1982

REFERRED TO COMMITTEE ON FEDERAL-STATE RELATIONS,
JANUARY 25, 1982

In the House of Representatives, January 25, 1982

1 WHEREAS, The General ASsembly of the Commonwealth of
2 Pennsylvania is deeply concerned over the ever increasing
3 assumption of power by the Federal Judiciary; and

4 WHEREAS, The United States Supreme Court has been
5 "legislating" in its decisions rather than interpreting the laws
6 passed by our state legislatures; therefore be it

7 RESOLVED (the Senate concurring), That the General Assembly
8 of the Commonwealth of Pennsylvania memorialize the Congress of
9 the United States to propose an amendment to the United States
10 Constitution in substantially the same language as the
11 following:

12 Text of a

13 proposed article of amendment

14 to the Constitution of the United States

15 Section 1. A board of arbitration shall be created which
16 shall have the duty to review the decision of the Supreme Court

1 or any inferior Federal court in a case where one party charges
2 violation of the Constitution by the other party, and of the
3 court sustaining such violation.

4 If the board finds the charges well grounded, it shall have
5 the authority to reverse the court's decision; the findings of
6 the board in this case will be final. The board shall reach its
7 decision by a majority vote among its members.

8 Section 2. In the event the board reverses the decision of a
9 Federal court, the judges involved in either the violation or
10 sustaining the violation of the Constitution shall be censured
11 by the board.

12 Any member of the judiciary of the United States having been
13 twice so censured by boards of arbitration during his or her
14 tenure shall be removed from office without any benefits
15 whatsoever, under the good behavior clause of Article III,
16 section 1 of the Constitution by order of this amendment.

17 Section 3. In their review of the case before them and in
18 making their subsequent decision of the constitutional status of
19 the case, the members of the board shall be guided by the text
20 of the Constitution and its amendments, as well as by the text
21 of the Federalist Papers, which will serve to explain the true
22 meaning of the Constitution whenever necessary, earlier
23 judgments by courts or decisions by former boards of arbitration
24 to the contrary notwithstanding.

25 Section 4. A board of arbitration shall have the authority
26 to subpoena such records or documents, and to summon such
27 witnesses to appear before them as the chairman of the board
28 will deem necessary for the proper execution of the board's
29 duties. The executive of the state shall, at the request of the
30 chairman of the board, enforce such subpoenas and/or summons,

1 and he shall have the authority to do so.

2 A board of arbitration shall have no powers whatsoever beyond
3 those described heretofore. When the members of a board of
4 arbitration are selected they can only review one case. The
5 board shall be dissolved after this case has been decided upon.
6 The members of this dissolved board shall not be allowed to
7 serve on subsequent boards of arbitration. More than one board
8 of arbitration may be seated at any given time, each one on an
9 individual case.

10 Section 5. The members of a board of arbitration shall be
11 selected by the Senate of the state in which the alleged
12 violation of the Constitution has taken place, or by a Senate
13 committee charged with this duty.

14 A board of arbitration shall consist of five members; two of
15 these members may be professionally engaged in studies or
16 occupations related to law; three members shall be chosen from
17 various trades or professions, and not be engaged in any way
18 with matters of law, nor have been students of any law school.
19 The members shall elect a chairman and a vice-chairman from
20 among the latter three members by majority vote. The board shall
21 convene in a location in the state, designated by the chairman,
22 and fulfill its duties as quickly as reasonably possible.

23 Members to a board of arbitration shall be citizens of the
24 United States, and shall be and have been residents of the
25 state, which calls them for this duty, for not less than seven
26 years; they shall be twenty-five years or over, and shall
27 display, at the discretion of the Senate of the state, or a
28 Senate committee charged with this duty, a working knowledge of
29 the text of the Constitution of the United States, as well as an
30 understanding of the Federalist Papers, and their value to

1 evaluating passages in the Constitution.

2 Members shall not be elected or appointed officials in the
3 government of the United States, nor of any state. They shall be
4 required to confirm by oath or affirmation to support and defend
5 the Constitution of the United States.

6 Section 6. The party asking for arbitration shall turn to a
7 state Senator and shall show good cause for such a request, and
8 if the case could have been appealed to a higher court, but has
9 not been so appealed, show good reason why this has not been
10 done.

11 The case brought to the Senator shall be one in which a
12 Federal court has found against the citizen and where this
13 citizen has reason to believe that this decision was made in
14 violation of the Constitution of the United States. The Senator
15 shall bring the case, without undue delay, to the attention of
16 the Senate. The Senate shall start selecting members of a board
17 of arbitration.

18 Section 7. Serving on a board of arbitration shall be the
19 duty of any able-bodied citizen answering the requirements of
20 members. Members shall be compensated for the time spent in
21 fulfilling their duties, as well as for any reasonable expenses
22 incurred during that time and resulting from the discharge of
23 these duties, out of the treasury of the state; in cases where
24 the Federal judiciary is found at fault, the state shall be
25 reimbursed for such expenses out of the treasury of the United
26 States; and be it further

27 RESOLVED, That copies of this resolution be transmitted to
28 the presiding officer of each House of Congress of the United
29 States and each Senator and Congressman from Pennsylvania in the
30 Congress of the United States.