

April 29, 2014

This testimony was presented by James P. Troutman, Berks County Clerk of Courts to the Senate Judiciary Committee.

Good morning Chairman Greenleaf and members of the Senate Judiciary Committee.

My name is Jim Troutman, Berks County Clerk of Courts and I am here today opposing Senate Bill 1215 because I believe this bill is unconstitutional.

Before I start I would like to take a moment to tell you a little bit about myself.

- *I am a Vietnam Veteran.**
- *I served with the United States Navy Seabees in Vietnam.**
- *I also owned and operated a successful small business for 20 years.**
- *I served on Hamburg school board for 10 years.**
- *I served on the elected County Prison Board.**
- *I have served as a District Justice in Hamburg.**
- *Currently serving as Berks County Clerk of Courts, which I have been doing for the past 26 1/2 years.**

Before I tell you why I believe this bill is unconstitutional, let me tell you what it would mean to me if I supported this bill.

First, it would mean a minimum of \$50-\$65,000 per year raise. I am currently doing this job for a little under \$80,000 a year. If this bill were to pass, I would immediately qualify for a county retirement pension of \$50-\$65,000. Because AOPC has stated that no one will be paid less than they are currently making, I would earn at least \$140,000.00 a year. Additionally, this would apply to my colleague in the Prothonotary's office, Marianne Sutton who has at least 30 years of service to the County, meaning her salary would also, jump to a minimum \$140,000 per year for a job she is currently doing for \$80,000. There may be many more of my colleagues in the same position around the state! This would add a substantial cost to the taxpayers.

Let's establish whether the Clerk of Courts and Prothonotary are constitutionally prescribed offices. I refer you to the **(Pennsylvania Constitution, article 9) County government section 4**. Prothonotaries and Clerk of Courts are specifically mentioned along with other row officers and County Commissioners. I believe that clearly establishes these offices as constitutionally prescribed. **Senate Bill 1215 does not and cannot remove these offices from the Constitution of this Commonwealth through legislation alone**. There by leaving these offices in tact to be placed on the ballot for election. **Senate Bill 1215 has clearly failed to address the Constitutionality of this bill**. The option of absorbing the Clerk of Courts and Prothonotary into the judiciary has been looked at well over **18 years**. First study was done by former Justice Frank Montemuro and was released in 1996. The Court has had an opportunity for 18 years to request a Constitutional Amendment to the Pennsylvania Constitution and has **failed to do so**. The request by the court to have the **legislature partner** with them in this unconstitutional bill **will not pass a legislative review**. It should also be noted that this legislation would only take the officeholder and the chief deputy leaving all other personnel to remain county employees with the county paying all salaries and benefits for the remaining employees. It's also important to point out that that the judiciary has offered all transferring officeholders and their chief deputies **LIFETIME MEDICAL BENEFITS**.

Next, we need to take a look at, is there a constitutional way to accomplish what the courts would like to implement (transfer of the Clerk of Courts and Prothonotary to the judiciary). **The answer is yes (Article 11 of the Pennsylvania Constitution)** tells us how to amend the Constitution. This legislative body is well aware of how to amend the Constitution as it is currently in the process of attempting to amend the Constitution to rise the age of commission judges from age 70 to 75 years.

In my opinion, this legislation also asked the legislature to completely ignore the Constitution and the oath that all elected officials take and I quote, "I do solemnly swear or affirm that I will

support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and I will discharge the duties of my office with fidelity.” Senate Bill 1215 **does not support the Constitution and certainly **does not obey** the Constitution and it is obvious it **is not defending** the Constitution of this great Commonwealth.**

In closing; I leave you with this thought. “We must presume that an Act of the legislature is intended to be constitutional and wherever a legislative act can be preserved from unconstitutionality it must be preserved.” Hughes v. Commonwealth Dep’t of *522 Transportation, 514 Pa. 300, 307, 523 A.2d 747, 750-51 (1987); see also 1 Pa.C.S. § 1922 (3); Hayes v. Erie Ins. Exchange, 493 Pa. 150, 155, 425 A.2d 419, 421 (1981).

I thank the Chairman and the members of this committee for giving me this opportunity to voice my opinion.