

Proposed Amendment to the Constitution of Pennsylvania Creates Mischief

Voters of the Commonwealth of Pennsylvania will have the opportunity to vote on a proposed amendment to the Constitution of Pennsylvania. Few would argue with the underlying purpose of the amendment, which is to assure rights of the victims of crime. Most of the provision deals with the rights of victims to receive notice of actions taken with respect to accused criminals. One section of the proposed amendment, however, renders it unworthy of being passed by the voters of Pennsylvania.

One of the “rights” provided to victims is “to refuse an interview, deposition or other discovery request made by the accused or any person acting on behalf of the accused.” What would the purpose of that be? Clearly, victims have suffered by virtue of a crime but not all accused are necessarily guilty. Under both federal and state Constitutions, an accused person has a right to defend himself. The 14th Amendment unequivocally provides for the ability of an accused to confront his accusers. For an alleged victim to be able to refuse to give information about the crime upsets the equilibrium between the rights of the victim and the rights of the accused.

The voters of the Commonwealth of Pennsylvania should unequivocally reject the proposed amendment and await a proposal which assures victim rights while not depriving the unconvicted, accused of constitutional protections which have existed since the founding of the Commonwealth. The Pennsylvania Constitution is older than the federal Constitution. Since the time of the Bible, a person accused has had the right to confront the accusers by asking them questions and by the courts determining that the charges are legitimate. Every day we learn of people convicted based upon false testimony. Sometimes the criminals are those making the accusations, and frequently they may be charged accordingly. To remove from the accused the right to confront his accusers and to uncover the basis of the accusation is literally to throw out the baby with the wash water.

In the last few years, the Tea Party movement has brought into sharp focus the importance of constitutional protections. Why would we strip away those constitutional protections at a time in our history where we are seeking a proper balance between the individual and government? Prosecutors undoubtedly would be delighted by the notion that the victim cannot be questioned or confronted by the accused. Such an upset in the balance of constitutional rights cannot be countenanced by our care and concern for those who have been victimized by crime. Robust protection of the victims of crime is extraordinarily important. These goals are accomplished by the amendment without the necessity of removing and dashing the “confrontation clause” which is so important to our overall constitutional system.

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