

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 15, 1975.

The committee on the Judiciary, to whom were referred the petition (accompanied by bill, Senate, No. 22) of John F. Parker for legislation to repeal a law limiting searches conducted incident to an arrest; the petition (accompanied by bill, Senate, No. 809) of Roger L. Bernashe and Edward Rojowski for legislation to further regulate searches incident to arrest; the petition (accompanied by bill, Senate, No. 867) of Philip A. Rollins for legislation relative to searches conducted incident to an arrest; the petition (accompanied by bill, House, No. 426) of Fred F. Cain for legislation to regulate searches conducted incident to an arrest; the petition (accompanied by bill, House, No. 617) of Robert J. di Grazia and John G. Kelleher relative to searches conducted incident to an arrest; the petition (accompanied by bill, House, No. 791) of Norris W. Harris and others for legislation to regulate searches conducted incident to an arrest; the petition (accompanied by bill, House, No. 2125) of Richard E. Landry for legislation to regulate searches conducted incident to an arrest; the petition (accompanied by bill, House, No. 2544) of Joseph D. Cronin, W. Paul White and another relative to further regulating searches conducted incident to an arrest; the petition (accompanied by bill, House, No. 2950) of William Q. MacLean, Jr., and another relative to a police search conducted incident to an arrest; the petition (accompanied by bill, House, No. 3534) of the Massachusetts Chiefs of Police Association relative to searches conducted incident to an arrest; the petition (accompanied by bill, House, No. 3683) of the State Police Association of Massachusetts and Arthur L. Desrocher for legislation to repeal the law regulating searches conducted incident to an arrest; the petition (accompanied by bill, House, No. 4267) of Richard M. McGrath relative to repealing certain limitations regarding search incidental to arrest; and the petition (accompanied by bill, House, No. 4650) of Mark E. Lawton relative to regulating searches conducted incident to arrests for motor vehicle violations, report recommending that the accompanying bill (House, No. 6051) ought to pass.

For the committee,

MICHAEL F. FLAHERTY.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Five.

AN ACT CLARIFYING THE DOCTRINE OF A SEARCH INCIDENT TO AN ARREST.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 1 of chapter 276 of the General Laws, as most recently
2 amended by chapter 508 of the acts of 1974, is hereby amended by
3 striking out the second paragraph and inserting in place thereof
4 the following paragraphs:

5 A search conducted incident to a lawful, custodial arrest may
6 be made for the purposes of seizing fruits, instrumentalities,
7 contraband and other evidence of the crime for which the arrest
8 has been made, in order to prevent its destruction or conceal-
9 ment. A search may also be conducted, incident to a lawful,
10 custodial arrest for any weapons that the arrestee might use to
11 resist arrest or effect this escape.

12 A search is prohibited only in those specific areas where no
13 reasonable man would suspect the presence of fruits, instrumen-
14 talities, contraband or other evidence of the crime for which the
15 arrest was made, or in those areas where no reasonable man
16 would expect the presence of weapons. Property seized as a result
17 of a search in violation of the provisions of this paragraph shall
18 not be admissible in evidence in any criminal proceeding.