

# Court Sacks Lawmakers' End Runs

Sometimes, important things come in obscure packages.

One of the most vivid recollections I have from my time in Harrisburg over the last few years was the night before the Pennsylvania Senate passed legislation containing language to let the wealthiest wrongdoers off the hook by abolishing the ancient common law doctrine of joint and several liability.

In order to sneak the bill through the Legislature, the provision eliminating this longstanding law was buried in another very popular bill. Since the language was put into a bill that had already been considered by the Legislature, a process they call "gutting," the new bill with the additional bells and whistles was never reconsidered by the Legislature. The conglomerated mishmash of different pieces of legislation was then passed by the Senate in the middle of the night and quickly signed by Gov. Schweiker.

Of course, this is not the first time such deception has occurred, and while the Republicans have perfected the technique of mix and match, running it under the rug in the middle of the night, the Democrats have of-



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fended this basic notion of fairness as well.

Article III, Section 3 of the Pennsylvania Constitution was drafted specifically to prevent the practice of "log rolling," and to make the legislative process "transparent." The idea is that if a bill is amended or changed to add something new, it should be fully reconsidered by the chamber which originated the bill the requisite number of times and by the appropriate committee. Rather than following this simple dictate, the Legislature has done the opposite and returned to the evil practices of the late 19th Century, with the Supreme Court of Pennsylvania rubber-stamping the process.

Now, the Pennsylvania Supreme Court, in the decision of *City of Philadelphia v. Commonwealth of Pennsylvania*, has once and for all said that the courts will not stand for this fraud on the people. The medicine tastes all

the more sweet because the unanimous opinion was written by a Republican jurist addressed to Republican leadership, nevertheless sounding a clarion call to leaders of both parties to clean up their act.

The Supreme Court noted that Article III Section 3 of the Pennsylvania Constitution was included in 1874 "in an atmosphere of extreme distrust of the legislative body and a fear of the growing power of corporations, especially the great railroad corporations." The constitutional convention wanted to "curb the practice of incorporating into one bill a variety of distinct and independent subjects of legislation and intentionally disguising the real purpose of the bill by a misleading title whereby the comprehensive phrase 'and for other purposes.'" Omnibus Bills have been used for 200 years to pull the wool over the eyes of the people.

The Supreme Court was also self-critical, indicating that unwillingness of prior justices to put an end to this horrid practice "has resulted in a situation where germaneness has, in effect, been diluted to the point" where the game becomes "whether the court can fashion a single, over-arching topic to loosely relate the various sub-

jects included in the statute under review." In short, the Supreme Court recognized that it had turned a blind eye to the important purpose of making the legislative process work with integrity.

In the case decided by the Supreme Court, the Legislature sought to reconstitute the governing board of the Convention Center Authority in Philadelphia at the same time that it transferred regulatory authority over taxis and limousines to the Philadelphia Parking Authority.

While all this may sound technical, the affect could not be more important to people who care about good government in Pennsylvania. No longer will the Legislature be able to gut a bill to insert another piece of legislation and then run it through in the middle of the night without having the new measure considered anew in the light of day.

To those of us who have toiled long and hard for integrity in government, the news from this wonderfully diverse Supreme Court (split between Republicans and Democrats) could not be better news.

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