

[J-33-2003]

HARRISBURG SCHOOL DISTRICT,	: Nos. 1, 2, 7, 12 & 14 MAP 2002
HARRISBURG SCHOOL BOARD,	:
JOSEPH C. BROWN, LINDA M.	: Appeal from the Order of the
CAMMACK, KENNETH LEISTER,	: Commonwealth Court, entered January 3,
JUDITH C. HILL, WANDA R.D.	: 2002, at No. 550 M.D. 2000
WILLIAMS, INDIVIDUALLY, AND AS	:
PARENT AND NATURAL GUARDIAN OF	: 789 A.2d 797 (Pa. Cmwlth. 2002)
RAUWSHAN WILLIAMS, RICARDO A.	:
DAVIS, INDIVIDUALLY AND AS PARENT	:
AND NATURAL GUARDIAN OF	:
JEREMIAH STEPHENSON AND	:
TIFFANY DAVIS, CLARICE CHAMBERS,	:
JOY FORD, INDIVIDUALLY AND AS	:
PARENT AND NATURAL GUARDIAN OF	:
SAMANTHA WILSON, GRACE BRYANT,	:
GLENISE COBB-WINGFIELD,	:
INDIVIDUALLY, AND AS PARENT AND	:
NATURAL GUARDIAN OF JOHNATHAN	:
WINGFIELD AND ASIA WINGFIELD,	:
AND CITIZENS CONCERNED FOR	:
CHILDREN FIRST, BY DWAYNE	:
BLOUNT AND DALE CARTER,	:
TRUSTEES AD LITEM	:

V.

CHARLES B. ZOGBY, SECRETARY OF
EDUCATION, COMMONWEALTH OF
PENNSYLVANIA, STEPHEN R. REED,
MAYOR OF HARRISBURG, JANE/JOHN
DOE I, JANE/JOHN DOE II, JANE/JOHN
DOE III, JANE/JOHN DOE IV, JANE/
JOHN DOE V, POTENTIAL MEMBERS
OF THE BOARD OF CONTROL FOR
THE HARRISBURG SCHOOL DISTRICT

APPEALS OF: CHARLES B. ZOGBY,
SECRETARY OF THE PENNSYLVANIA
DEPARTMENT OF EDUCATION

[illegible]

@1MAP2002; BOARD OF CONTROL OF
THE HARRISBURG SCHOOL DISTRICT
@2MAP2002 AND 12MAP2002;
STEPHEN R. REED, MAYOR OF
HARRISBURG @7 AND 14MAP2002

DISSENTING OPINION

MR. JUSTICE LAMB

Decided: July 22, 2003

Because I believe that Act 91¹ is special legislation passed in violation of Article III, Section 32 of the Pennsylvania Constitution, I respectfully dissent. In promulgating Act 91, the Legislature has singled out the Harrisburg School District for special treatment, under the pretext of testing the efficacy of a "pilot program" for distressed systems of education. The amended Section 1707-B² targets Harrisburg in a less obvious way than the Reed Amendment,³ and as drafted, could theoretically apply to both Harrisburg and Erie, as they are the only two cities meeting the form of government and population criteria. However, I do not agree that the mere possibility that the Erie School District might find itself distressed before December of 2005 mandates against a finding that Act 91 is special legislation.

Act 91's classification is no less effective in singling out the Harrisburg School District for special treatment than the Reed Amendment. It is, in my view, nothing more than a thinly veiled attempt by the Legislature to promulgate special legislation under the guise of a general law. Were the purpose of this legislation really the remediation of failing urban school districts, such could have been achieved through the passage of

¹ Act of November 22, 2000, P.L. 672, No. 91, § 9.

² Section 1707-B of the Act of May 10, 2000, P.L. 44, No. 16, § 8.1, as amended, 24 P.S. §§ 17-1701-B to 17-1716-B.

³ Section 1707-B of the Act of May 10, 2000, P.L. 44, No. 16, § 8.1, 24 P.S. §§ 17-1701-B to 17-1716-B.

general laws. The only possible purpose of Act 91 is the evasion of the constitutional limitation ran afoul of in Harrisburg Sch. Dist. v. Hickock (Hickock I), 761 A.2d 1132 (Pa. 2000). As such, it must fail.

By its opinion today, the majority has placed its imprimatur on legislation passed in disregard of the constitutional limitation contained in Article III, Section 32. Because I can not abide the Legislature's evasion of the constitutional limitation contained therein, I would affirm the order of the Commonwealth Court. Accordingly, I must respectfully dissent.