

[J-74-2003]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

UNIONTOWN NEWSPAPERS, INC.,	:	No. 75 MAP 2001
T/D/B/A THE HERALD-STANDARD, A	:	
CORPORATION, AND PAUL SUNYAK,	:	Appeal from the Order of the
AN INDIVIDUAL,	:	Commonwealth Court entered May 31,
	:	2001 at No. 406 MD 2000
Appellants	:	
	:	777 A.2d 1225 (Pa. Cmwlth. 2001)
v.	:	
	:	ARGUED: May 15, 2003
LAWRENCE ROBERTS, IN HIS	:	
CAPACITY AS A MEMBER OF THE	:	
GENERAL ASSEMBLY OF	:	
PENNSYLVANIA,	:	
	:	
Appellee	:	

CONCURRING AND DISSENTING OPINION

MR. CHIEF JUSTICE CAPPY

Decided: December 24, 2003

I join the majority insofar as it determines that there is no right of access to the records at issue here, and that Appellee's actions are not protected under the immunity of the Speech or Debate Clause. I dissent from the majority's decision to reinstate those claims which were raised pursuant to 42 U.S.C. § 1983, since I agree with Mr. Justice Lamb that no state action is implicated by Appellee's acts.¹ Thus, I would affirm the order of the Commonwealth Court.

¹ Contrary to the majority, I would find that this issue of whether Appellee was acting under color of law is properly before the court, since Appellee addressed the issue in his brief in support of his preliminary objections, and the Commonwealth Court evaluated the issue on the merits.

Mr. Justice Castille joins this concurring and dissenting opinion.