

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

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178TH OF THE GENERAL ASSEMBLY

No. 22

### SENATE

THURSDAY, April 28, 1994

The Senate met at 11 a.m., Eastern Daylight Saving Time.

The PRESIDENT (Lieutenant Governor Mark S. Singel) in the Chair.

### PRAYER

The following prayer was offered by the Secretary of the Senate, Hon. MARK R. CORRIGAN:

God, our Father, we thank You for the beauty of this warm spring day. As we commence our duties and decisions are made, may we, Your servants, keep justice in mind and truth in sight. Help the Members of this Senate to continue to appreciate the meaning of public service and expand their visions and expectations for this body and our great State. Amen.

### JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of April 26, 1994.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator LOEPER, further reading was dispensed with and the Journal was approved.

### HOUSE MESSAGE

#### HOUSE BILL FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bill for concurrence, which was referred to the committee indicated:

April 28, 1994

HB 1147 -- Committee on Environmental Resources and Energy.

### BILL SIGNED

The PRESIDENT (Lieutenant Governor Mark S. Singel) in the presence of the Senate signed the following bill:

SB 1214.

### RESOLUTION REPORTED FROM COMMITTEE

Senator LOEPER, from the Committee on Rules and Executive Nominations, reported the following resolution:

SR 129 (Pr. No. 2147)

A Resolution declaring Bruce Marks as winner of the special election held November 2, 1993, and directing that he be administered the oath of office and seated as a member of the Senate.

### POINT OF ORDER

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow. For what purpose does the gentleman rise?

Senator MELLOW. Mr. President, as a point of order, would it now be in order for me to submit for the record information including news clips and other things that I think are very important that they be a part of the official Journal of today's Session?

The PRESIDENT. It would be the Chair's impression that if the gentleman is suggesting written materials to bolster debate on the resolution, that should wait until an actual motion is put before the body. If there is a Minority report of some sort, that could be entered at this time.

Senator MELLOW. Mr. President, there really was no provision in the election subcommittee for a Minority report to be filed, and my concern is that once the resolution is offered and called up for a vote that there will be a move to the previous question which successfully will cut off any debate and, therefore, we will not have an opportunity of making those submissions. That is the reason why I would ask at this point in time if it is proper for me to make those submissions to the Journal.

The PRESIDENT. There is no question before the body at this time. Unless there is an objection, those materials could be presented for the record at this time.

Senator MELLOW. Mr. President, if that is the case, then I would like to present the following materials and ask that they be made a part of the permanent record for today's Session, please.

The PRESIDENT. Without objection the Clerk will receive the material.

Senator LOEPER. Mr. President, could we be at ease for a moment?

The PRESIDENT. The Senate will be at ease.  
(The Senate was at ease.)

## REMARKS SUBMITTED FOR THE RECORD

The PRESIDENT. Without objection, the materials that have been presented by Senator Mellow will be entered into the Journal at this point in the proceedings.

*(The following remarks and series of articles were made a part of the record at the request of the gentleman from Lackawanna, Senator MELLOW:)*

## "FLOOR REMARKS"

We have assembled here today to vote on a Resolution that has been reported out of the Rules committee with a partisan vote of 11-7. The Republicans have placed this resolution before the body for a vote. What the resolution does not report to the body is the blatantly unfair manner in which it was passed out of committee. The resolution establishes a precedent of disenfranchising voters when a candidate is dissatisfied with election results.

The election contest petition filed by the claimant, Bruce Marks, was based upon a claim that he was entitled to the seat in the Second Senatorial District. Mr. Marks filed the petition with the Senate despite the fact that his own failure to properly follow the procedures of the Pennsylvania Election Code placed him in the position in which he found himself. Marks then used his procedural failures to persuade the federal courts that he had no adequate state remedy.

The petitioner and Senate Republicans assert that the election contest petition is a separate and distinct proceeding from the federal court actions. However, simultaneously, they assert that the findings and conclusions of the federal district court are res judicata and therefore, the committee need not hear testimony and take evidence. These assertions are completely inconsistent.

If the committee is bound by the findings and conclusions of the federal district court then the Senate is reduced to nothing more than a rubber stamp of a statistician's theory. The subcommittee has been denied ample time to review the courtroom testimony and opinion of the latest district court action. Conversely, if these proceedings are separate and distinct, hearings are in order. Senate precedent provides the committee with the opportunity to hear witnesses and judge their credibility. In the previous contest petitions before the Senate, numerous witnesses testified. No historical precedent reveals a committee simply adopting the findings of the lower federal court.

Furthermore, the statistical evidence in this case does not support the district court's findings. The statistics are ambiguous, subjective and inconsistent with the opinion of Third Circuit Court of Appeals. Although the Third Circuit said that the District Court did not have to be mathematically correct, it did state that the evidence must support the conclusion. Here, the evidence does not support the conclusion.

Although the Republicans assert that the notice was sufficient, the petitioner was represented by an attorney at the subcommittee hearing on April 27, 1994, who could not answer a substantial number of questions posed to him by the committee members because by his own admission he had not been present at most of the Federal District Court proceeding. He stated, "the attorney who had represented the petitioner throughout the proceeding was not present today because of the 'short notice'." The committee has not been

afforded the opportunity to develop the facts in this case because of the "short notice."

Despite the fact that the allegations are legally insufficient and that the committee has not had ample opportunity to review the depositions and transcripts or question the material witnesses and determine their credibility, the committee has chosen to act hastily and deny the respondent his due process rights. The record remains incomplete.

Simply stated the committee has adopted the mere allegations of a dissatisfied candidate and an interlocutory decision of the District Court into a resolution in order to seat their candidate.

"CASE OF CONTESTED SENATE SEAT  
GOES TO COURT"

(Johnstown Tribune Democrat 12/16/93)  
By Melissa B. Robinson

Harrisburg - Democratic state Sen. William Stinson violated Pennsylvania's Constitution last month by voting to certify his own election to the Senate, a lawyer told Commonwealth Court Wednesday.

Robert Byer, representing Senate Republicans, argued Stinson should not have voted because he had a personal interest in becoming a state senator. The Constitution bars lawmakers from voting if they have such an interest.

The Senate GOP believes Stinson's 24 Democratic colleagues also violated the Constitution by letting him vote.

"It's a prohibition against self-interested voting," said Byer. "It's a prohibition that was violated in this case."

However, the lawyer for Senate Democrats argued the constitutional ban applies only to votes on proposed laws -- not measures concerning the chamber's internal business. He submitted three dictionary definitions to support his interpretation.

"It's intended to prevent a member from voting for legislation in which he has a pecuniary interest," attorney Gregory Harvey said.

The arguments came in a lawsuit filed by Senate Republicans against Senate Democrats over Stinson's seating while investigators probe reports of voter fraud connected to his victory.

Republicans say Stinson was wrongly seated, and the rights of GOP Sen. David Heckler of Bucks County were violated because he was not allowed to participate in key votes on Stinson's status. Heckler was elected in July.

"You just can't find anything as outrageous as this," said Stephen C. MacNett, counsel to Senate Republicans.

"When they ignore the mandates of the Constitution, we're left with one choice only -- seeking relief in the courts," MacNett said.

Senate Republicans want the court to throw out Senate votes concerning Stinson's seating. The party then would have a chance to take control of the Senate, which is split 25-25 between Democrats and Republicans. Democratic Lt. Gov. Mark Singel of Johnstown breaks deadlocks on procedural votes.

Harvey said the case should not be in court because each legislative chamber makes its own final rulings, not judges.

"They're trying every possible way to reverse this," Harvey said of the Republicans.

The arguments were the latest installment in the ongoing controversy over the Nov. 2 election to fill Philadelphia's 2nd District Senate seat.

The Commonwealth Court lawsuit does not address the fraud accusations. It deals solely with the legality of governmental procedures. A court ruling could come at any time. On average, it takes the court three months to decide a case.

#### "STINSON-MARKS LEGAL BATTLE COULD END UP IN THE STATE SENATE"

*That body is hardly known for its objectivity. The Republican's chances of winning his appeal wouldn't be good.*

(The Philadelphia Inquirer 1/7/94)  
By Robert Zausner

**HARRISBURG** - If the legal contest over a state Senate election by 64 supporters of Bruce Marks fails in Common Pleas Court, an appeal would go not to a higher court but to a body known for its hardball partisan politics and lack of objectivity - the Senate itself.

That process, based on the state constitution and a 1937 statute, would appear to decrease Republican Marks' chances of upsetting his Nov. 2 loss to Democrat William G. Stinson, though Marks has other suits ending in Common Pleas, Commonwealth and U.S. District Courts.

For one, the Senate is split 25-25, Democrats to Republicans, with Democratic Lt. Gov. Mark S. Singel able to break ties on all but final votes on legislation. Democrats would be unlikely to vote to overturn Stinson's victory and thus lose control of the Senate.

Also, one of the voters would be Stinson himself. What are the chances he would vote in Marks' favor?

Republicans likely would fight Stinson's participation. They already have filed suit in Commonwealth Court challenging Stinson's vote in the Senate on whether he was qualified to take a seat in the chamber.

"It would be very likely that every Democrat and the lieutenant governor would continue to ignore what happened in the Second District," said Senate Minority Leader Robert C. Jubelirer about the prospects of a Senate decision on a legal appeal by Marks supporters.

The GOP contends Stinson's victory was steeped in fraud centering on an illegal use of absentee ballots.

Sen. H. Craig Lewis (D., Bucks), the chairman of the Judiciary Committee who announced Wednesday that he would not seek re-election, said that despite his belief that "every senator has an opinion" on the matter, at least two or three could be found who could objectively consider the case.

Such senators, if they do exist, could be placed on a committee to conduct a review and make a recommendation to the full Senate. If even one senator crossed party lines on the matter, it could be enough to upset the political standoff of a 25-25 split.

"It doesn't take too many," Lewis noted.

Stephen C. MacNett, general counsel for Senate Republicans, said getting an objective ruling from the Senate on the election contest would present a "different circumstance because of the atmosphere in the chamber at this point."

But, he said, "You would have to hope the members would review the evidence presented and the law and act not in a political but in a judicial sense because they would be essentially performing a judicial duty."

The Stinson-Marks election contest would go before the Senate because of the broad rule in the state constitution that gives the House and Senate authority to decide questions of members' elections and qualifications. That was backed up in an 1885 case in which the state Supreme Court refused jurisdiction in such a case.

A 1937 state law further provides that such cases go to Common Pleas Courts and then, if appealed, to the Senate. MacNett cited a 1984 case in which such a case was taken from the state courts and put before the Senate on a ruling by the state Supreme Court. MacNett said Senate Democrats could seek to use a Senate rule to avoid consideration of the Marks case altogether. That rule states that once the question of a senator's qualifications are decided by the Senate, they cannot be brought up again.

The Senate did consider that question when Stinson first took his seat and the Senate found him qualified.

But Lewis, who said he "wrote the language" for the rule years ago, said he, for one, would not invoke it as a means of not hearing an appeal in the Marks case. "I don't think that rule is appropriate here," he said.

And MacNett said that such a move by the Senate to refuse to hear the case might help Marks' suit in federal court, strengthening a claim that he was denied a channel for appeal at the state level.

A hearing before the Senate would, even if its outcome was largely predetermined along party lines, give Marks yet another forum from which to get publicity. And for a future election - Marks is expected to run again for the seat in November.

"I'd have to say Marks would be crazy not to do this," Lewis said about an appeal to the Senate. "It's an election issue that could run all the way to the fall elections. They'd be crazy not to run with it."

#### "BUT THERE'S JUST ONE SLIGHT HITCH..."

**HARRISBURG** - A legal appeal of the Stinson-Marks election heard before the state Senate might prove a less-than-objective experience. It also presents a technical difficulty.

State law requires that such appeals from Common Pleas Courts be heard first by "a standing committee on election."

The Senate has no such committee.

Because election appeals are so rare, the Senate hasn't had such a committee since the early 1970s.

Several Democrats and Republicans agreed that before the Senate could even consider the case, it would have to do one of two things: designate a standing committee to hear the appeal or create a committee for that purpose.

"I believe you could designate some other committee to perform the functions of a committee on elections," said Stephen C. MacNett, general counsel for Senate Republicans. "But I don't truly know the answer to that."

Designating a committee or deciding which senators to appoint to a new panel could result in a legislative brawl before the Senate even considered the facts in the case.

#### "GOP LOSES COURT CHALLENGE ON SEN. STINSON"

(The Patriot News 2/10/94)  
By Jack Sherzer

Democratic control of the state Senate is still intact -- at least for now -- after a decision yesterday by Commonwealth

Court upholding the way Democratic Sen. William G. Stinson took office.

The ruling threw out a Republican challenge that the senator from Philadelphia, whose campaign has been besieged with allegations of voting fraud, should not have been able to vote himself into office.

On Nov. 22, Stinson cast the 25th vote allowing him to take the seat. With Stinson as a voting member, the upper chamber is tied 25-25 between Republicans and Democrats. Democratic Lt. Gov. Mark Singel has the deciding vote when the body is deadlocked.

Earlier this week Stinson announced he would not seek reelection this fall because of the media attention on the fraud accusations. And in Philadelphia federal court, a hearing is continuing on a motion filed by Stinson's opponent to suspend Stinson's Senate voting until the matter is decided by a federal trial. Also, a senate subcommittee of the Rules Committee is considering the question of whether Stinson should continue serving. The Democrats hold the majority in the subcommittee.

In the Commonwealth Court suit against the other Democratic senators and Singel, the Senate Republicans argued it was improper for Stinson to vote on his own seating because it was a matter in which he stood to gain financially and professionally.

The court, however, compared Stinson's ability to vote on his own seating to the practice of having lawmakers vote on their own raises, which is permissible and which is a case where they are voting on a matter that benefits them. The court ruled that since Stinson's interest in the outcome of the vote was no secret, there was no violation.

Calling the decision "just a terrible opinion," Stephen C. MacNett, counsel to Senate Republicans, said an appeal is likely.

"This is a decision by six Democratic judges and it doesn't do anything to reinforce the notion that non-partisan justice is possible in the state," MacNett said.

Nobody from Singel's office was available for comment and a spokesman from Stinson's office said the senator was refusing to talk about anything.

Stinson won in a special Nov. 2 election by a narrow margin based on a strong showing in the absentee-ballot count. Stinson's opponent, Republican Bruce Marks, has claimed Stinson conspired to collect hundreds of illegally-cast absentee ballots.

#### "COURT: SENATE VOTE TO SEAT STINSON WAS LEGAL"

*The GOP said letting him vote on the matter was wrong. Judges said the Senate could set its own rules.*

(The Philadelphia Inquirer 2/10/94)  
By Russell E. Eshleman Jr.

**HARRISBURG** - Commonwealth Court ruled yesterday that Senate Democrats broke no laws when they permitted Philadelphia State Sen. William G. Stinson to vote in November on the question of seating himself as a senator.

In a lawsuit, Senate Republicans, who are in the minority, accused the majority Democrats of railroading Stinson's seating while holding up the seating of a newly elected Republican, David W. Heckler of Bucks County.

GOP members said those actions, which took place in a series of procedural votes Nov. 18, violated the state constitution.

Allowing Stinson to vote on his own seating was wrong, the Republicans contended, because Stinson had a "personal and private interest" in being a senator. They also argued that delaying Heckler's seating violated his rights.

The court, in a 7-0 decision, disagreed.

In her 21-page opinion, Judge Rochelle S. Friedman wrote that the Senate, as part of an independent branch of government, had the right to set its own rules of procedure.

She also agreed with arguments by the Democrats' lawyers that senators are immune from lawsuits while performing their duties, under the speech and debate clause of the state constitution.

"We believe that voting on the seating of senators falls within the legitimate legislature sphere, and that the independence and integrity of the legislature requires that the individual members of that body be immune from suit with regard to their votes on such matters," Friedman wrote.

She also wrote that just because Stinson had a personal stake in the vote, he did not necessarily violate the constitution.

"Article III was designed to prevent deception in the enactment of legislation," she wrote, adding, "Here, there is no secret, undisclosed interest."

Friedman also dismissed the GOP assertion that delaying Heckler's seating violated his right to vote and thus was unconstitutional.

"The right to vote guaranteed by the Pennsylvania Constitution is the right of suffrage to elect one's representatives," she wrote. "It is not the right of Heckler to vote on a constitutional point of order before receipt of his election returns by the Senate."

Stephen C. MacNett, general counsel to Senate Republicans, said the GOP would probably appeal the decision to the state Supreme Court.

"We are disappointed the Commonwealth Court would sanction a proposition as ludicrous as a member sitting as a judge in his own case," MacNett said.

"I could only hope," MacNett added, "that [the fact] that the judges who participated in this decision were Democrats had nothing to do with the result."

Senate Democratic leaders issued a statement calling the suit "frivolous and a waste of taxpayers' money."

Senate Majority Leader J. William Lincoln (D., Fayette) called the suit a "desperate attempt to seize power. Their constitutional objections were just so much pious hot air."

In her opinion, Friedman wrote that "underlying the legal issues in this case is political juggling over which party is to gain control of the Pennsylvania Senate."

Fighting between the chamber's Republicans and Democrats has been intense since 1992, when Republican Sen. Frank Pecora switched parties, swinging the composition of the Senate from 26 Republicans and 24 Democrats to 25-25.

Since Lt. Gov. Mark S. Singel, a Democrat, is permitted to break tie votes on procedural matters, the control of the Senate, including committee chairmanships and the right to set votes on legislation, quickly went to the Democrats.

Two vacancies occurred in 1993, and both were filled by special elections when the Senate was in recess - Heckler on July 13 and Stinson on Nov. 2.

Even though there were technically more Republicans than Democrats in the Senate before Stinson's election, the Republicans could do nothing about it. And when the Democrats reconvened the Senate on Nov. 22, they still could do nothing, since Stinson was seated first.

### "JUDGE OVERTURNS STINSON WIN"

(Allentown Morning Call 2/19/94)

By Anne Fahy Morris  
Of The Associated Press

PHILADELPHIA (AP) - Democrat William Stinson was ordered out of the state Senate yesterday by a judge who said Stinson's campaign broke the law by soliciting hundreds of absentee-ballot votes. His opponent Bruce Marks was named the winner.

The ruling from U.S. District Judge Clarence C. Newcomer could tip control of the state Senate to the Republican side.

"Political corruption in Philadelphia has gone on too long and can't be ended too soon," said Marks, a Republican. He has maintained since election day that Democratic absentee-ballot fraud gave Stinson his 461-vote margin of victory.

Newcomer said the Stinson campaign violated federal election laws by soliciting hundreds of people to cast their votes by absentee ballots rather than at the polls.

The judge ordered the Philadelphia Board of Elections to declare Marks the new winner within three days by recertifying the election based solely on voting machine tallies, which put Marks ahead in the 2nd District race.

Stinson "is hereby enjoined from acting in any capacity to vote, perform any duties or otherwise hold himself out as the duly elected senator from the 2nd senatorial district of Philadelphia," the judge wrote.

Stinson did not return a call seeking comment. His attorney, Ralph Teti, filed a motion with the 3rd U.S. Circuit Court of Appeals to stay Newcomer's decision.

Arguments on the motion were scheduled for Tuesday. Both sides agreed the order would not take effect until Wednesday.

"Justice is sweet, even late, but it's sweet," said Paul Rosen, Marks' attorney. The ruling, he said, "says the days of dirty Philadelphia politics are over. It's no longer business as usual."

Teti questioned Newcomer's authority, saying there was "no basis for the judge to throw out everybody's absentee ballot."

While Marks led Stinson in voting machine ballots, he trailed 1,391 votes to 366 in absentee ballots.

"The public interest will be served by having Marks, the candidate who prevailed on the undisputed legal votes, serve the remaining months of the term," Newcomer wrote.

Stinson was elected to fill the yearlong term of Democratic Sen. Francis Lynch, who died in May. He said last week he would not seek re-election in November.

Stinson's victory gave Democrats the 25th vote they needed to control the Senate. The Senate adjourned Monday until March 14 in a move designed to buy time if the ruling favored Marks.

Stephen MacNett, Senate Republican counsel, yesterday afternoon said Republicans discussed swearing in Marks and reconvening the Senate before March 14. However, he said no decisions have been made.

"I cannot deny it's a matter that has come up, but there hasn't been any hard focused discussion," MacNett said.

Last summer, Republicans held an impromptu swearing-in ceremony for Sen. David Heckler of Bucks County while the Senate was at recess. However, controlling Democrats said Republicans broke the rules by not having a court reporter at the proceeding. That decision allowed Democrats to maintain power until Stinson was elected.

MacNett said the judge's ruling shouldn't have any effect on the 30 or so bills Stinson voted on, because none of the bills passed by a one-vote margin.

More than 25 voters testified they were misled into believing that voting from home by absentee ballot was a new and legal practice. Others testified their signatures were forged and said they voted twice and cast ballots for others - including jail inmates.

State law allows people to vote absentee only if they are out of town or physically unable to go to the polls on election day.

Stinson has denied knowledge of wrongdoing, though a former aide testified he told Stinson about irregularities but was ignored.

Marks' allegations against Stinson also have led to a grand jury investigation ordered by state Attorney General Ernie Preate Jr. The investigation should be complete by March, Preate said yesterday.

Democrat Leader J. William Lincoln of Fayette County predicted the appeals court would overturn Newcomer's ruling because it excludes an entire class of voters.

"The federal judge really did us a favor because first off, I think it was legally unimaginable that he took jurisdiction, and I think that the decision he made was so outrageous that it will be overturned very quickly," Lincoln said.

He said Democrats expected the unfavorable ruling.

Sen. Roy Afflerbach, a Democrat, said he was not surprised by Judge Newcomer's decision, because the judge revealed his opinions during testimony in the case. The judge's comments were reported in Philadelphia newspapers.

"The judge's decision comes as no surprise to me whatsoever," Afflerbach said. "He's made up his mind about what he'd do long before he completed the hearings."

Senate Democrats adjourned the Senate last Monday based on the judge's comments from the bench. They were concerned that the judge's decision would be issued while the Senate was in session, allowing the Republicans to seize control. Democrats wanted the flexibility to appeal for a stay in the proceedings.

"This election has been a national embarrassment for Pennsylvania," Senate Republican Leader Robert Jubelirer said. "We want to bring the matter to closure, at least on the civil side."

Marks and his attorney, Paul Rosen, celebrated the victory with several Hispanic voters who said they were misled by Stinson campaign workers. Ruth Martinez, who testified she was told she could vote from home, hugged and kissed Rosen.

"They said the Puerto Rican people were illiterate. They said Puerto Ricans don't know what we're doing," Martinez said. "We showed them."

Rosen plans to seek damages from the city in a trial Newcomer also will hear.

Mayor Edward G. Rendell, a Democrat and Stinson supporter, has downplayed Marks' allegations, saying many states allow voting from home by absentee ballot to increase voter participation.

The judge's order, Rendell said, "is obviously not a plus for the city."

Marks lost several local and state court challenges to the election before yesterday's ruling.

"It is a beautiful thing to see justice work no matter how many times the door is closed," Rosen said. "This case is a tremendous civics lesson for the Latino community and us."

Newcomer ordered the city Elections Board to accept absentee ballot applications from voters only. The board last year allowed Stinson workers to take hundreds of ballots out to the streets and return them signed.

He also ordered the board to make ballots available in Spanish.

### "GOP TO GAIN SENATE EDGE"

(Pittsburgh Post-Gazette 2/19/94)  
By Frank Reeves

*Judge notes voter fraud, reverses Phila. election result; says Democrat didn't win*

Harrisburg -- Republicans were on the verge of regaining control of the Senate yesterday after a federal judge threw out the results of a Senate race in Philadelphia in which a Democrat had been declared the winner.

Citing widespread absentee voter fraud, as well as collusion by Philadelphia officials, U. S. District Court Judge Clarence J. Newcomer ordered the city's Board of Elections yesterday to void the results of a special election in the 2nd Senatorial District, which Democrat William Stinson had won by 461 votes. The judge gave the elections board 72 hours to declare Republican Bruce Marks the winner.

"Substantial evidence was presented establishing massive absentee ballot fraud, deception, intimidation, harassment and forgery," Newcomer wrote. "Candidate Stinson knew of and ratified the procedures and the board participated in and later tried to conceal its involvement in the scheme."

Until yesterday, the Senate had been split 25-25 between the Republicans and the Democrats. But the effect of Newcomer's decision would be to give the Republicans a 26-24 majority and control of the Senate.

The shift could result in quick action on issues including welfare reform, proposals to cut business taxes, and a cost-of-living adjustment for retired teachers and state employees, Senate Republicans said yesterday. It also vastly strengthens the GOP's clout in the all-important budget deliberations that will climax at the end of June.

"The switch in control is definitely not about offices, parking spaces and other legislative perks," said Stephen MacNett, counsel to the Senate Republicans.

Despite the development, a vote is still expected next month on legislation that would limit Allegheny County property assessment increases to 5 percent annually.

"This has not been a partisan issue. [Sen. Michael] Dawida [D-Carrick] has worked with us on this," said Sen. Melissa Hart, R-McCandless. Hart is now the ranking Republican on the Senate Finance Committee. With the Republicans in control, she would replace Dawida as head of the committee.

The Senate was not in session Friday and isn't scheduled to reconvene until March 14. The House also has recessed until March for budget hearings.

In his opinion, Newcomer painted a seamy picture of Philadelphia politics. He barred Stinson "from acting in any capacity to vote, perform any duties or otherwise act or hold himself out as the duly elected senator from the 2nd Senatorial District."

Newcomer ordered the Philadelphia elections board to declare Marks the winner based on the results of the ballots tabulated on election machines. Marks led Stinson in the tally registered on voting machines, 19,691 votes to 19,127 votes. But the Republican lost when the absentee ballots were tallied. Newcomer said the Stinson campaign broke federal election laws in its campaign to solicit hundreds of absentee ballot votes.

More than 25 voters testified that they were misled into believing that voting from home was a new and legal practice. Others testified that their signatures were forged, and said they voted twice and cast ballots for others, including jail inmates.

State law allows people to vote absentee only if they are out of town or physically unable to go to the polls on election day.

"The conduct of the Stinson campaign and [elections] board...goes well beyond a 'garden variety' election dispute and attacks the very integrity of the election process itself," Newcomer wrote.

While Republican Bruce Marks characterized the 2nd Senatorial District campaign as typical Philadelphia corruption, Democrats insisted that they had not taken advantage of their party's dominance in the city to steal an election.

Stinson was elected to fill the yearlong term of Democratic Sen. Francis Lynch, who died in May. Stinson said last week that he would not seek re-election in November.

Shortly after Newcomer handed down his decision, Stinson's attorneys asked the U.S. 3rd Circuit Court of Appeals to overturn the lower-court ruling. Arguments are scheduled for Tuesday.

Sen. Robert Jubelirer, R-Altoona, said the decision "is a long-needed message that fraud and abuse in elections cannot be accepted in Philadelphia or anywhere else in Pennsylvania."

In a telephone interview, Marks said he was "grateful for the federal courts, thankful for the Civil Rights Act and the Voting Rights Act, thankful for the Philadelphia Inquirer and other Delaware Valley media that have kept this story alive."

But, Sen. William Lincoln, D-Fayette, said the court's injunction was Draconian.

"Telling all 1,700 voters who cast absentee ballots that their votes did not count was going too far....I think the issue of alleged voter fraud...can be resolved without going to the extreme of disenfranchising innocent voters," Lincoln said.

With Republicans apparently on their way to asserting control, Sen. D. Michael Fisher, R-Upper St. Clair, said he expected the Senate to take up welfare reform, which he said has been bottled up in the Senate Public Health and Welfare Committee.

Republicans predicted that Gov. Casey's own welfare proposals -- which would eliminate as many as 29,000 people from the welfare rolls -- would fare better with Republicans now in the majority in the Senate.

Said MacNett, "I think you will see a coalition of Senate Republicans and the Casey administration pushing to get some welfare-reform bill passed."

### "MARKS ITCHING FOR A RACKET"

(Philadelphia Daily News 3/2/94)

By John M. Baer and Cynthia Burton

Squash.

After all that's happened to Bruce Marks in his quest to join the Pennsylvania Senate, the first official memo on his desk in Harrisburg yesterday was about squash.

It included prices and location for courts at the Harrisburg YMCA: \$50 to join and \$30 a month. Marks said he's interested.

He even asked a top Republican Senate aide if he could get a squash membership, since he's not taking a state car lease. The answer was no.

The aide, Mike Long, then tried to cover the issue by throwing a memo about election reform on Marks' desk, saying, "Here's something a little more substantive than squash."

Marks wasn't deterred. He said he hoped to play squash with state Public Utility Commissioner Joe Rhodes of Pittsburgh. And he said when he was an employee of well-known squasher U.S. Sen. Arlen Specter, R-Pa., "probably the best work I did for him was on the squash court."

So began another episode of the Marks saga.

Republican Marks took up residence in a cubby hole of a Capitol office. GOP leaders provided the space. Marks is to be sworn in March 14, his 37th birthday.

He still faces a March 10 appeal of the federal court ruling that made him a senator. The court ruled Philadelphia Democrat Bill Stinson won election last November by abuse of absentee ballots.

Marks said he'll sponsor election-reform legislation once sworn in. He told reporters, "some of you may know I have an interest in election law here in Pennsylvania."

Marks lost a series of legal moves in city and state courts before winning his case in federal court.

The seat he won was held by the late Frank Lynch, a Democrat. The normal four-year term of the seat is up this year and a small crowd of Democrats - not including Stinson - has filed to win back the seat in November.

One of them, Christine Tartaglione, officially announced her candidacy yesterday.

In a passionate speech about making the state Senate work for the working man, Tartaglione outlined her campaign.

She said the district "is a working class district where even the most prosperous live from paycheck to paycheck."

She called for gun control, better day care, racial and ethnic harmony, jobs and affordable housing.

Tartaglione is backed by the local AFL-CIO. Her campaign manager is Harry Lombardo, head of the Transport Workers Union. And, she made her announcement at the headquarters of the United Food and Commercial Workers.

Tartaglione, 33, is the daughter of Margaret Tartaglione, head of the city commissioners and a ward leader in the district.

The Stinson-Marks election will continue to be an issue. Tartaglione's mother was criticized in the court opinion that gave Marks the seat.

Tartaglione was not comfortable answering questions about that election yesterday. As reporters questioned her, Lombardo whispered apparent answers in her ears and then whisked her away.

In the May 10 Democratic primary, she will face Harvey Rice, Charles Cooper and Tom Forkin.

### "FOR MARKS, SENATE SEAT IS BETTER LATE THAN NEVER"

(The Philadelphia Inquirer 3/2/94)

By Robert Zausner  
Inquirer Harrisburg Bureau

*Forget the lack of elbow room and the spartan decor. The Republican has awaited this moment for months.*

Harrisburg -- Nearly four months after Election Day, Bruce Marks showed up for his first day of work in the state Senate yesterday, taking up residence in a tiny temporary office while the legal fight continues over his Second District seat.

The Republican, awarded a Senate seat by U.S. District Judge Clarence C. Newcomer Feb. 18, was both thrilled and a bit overwhelmed. He asked a lot of questions.

"Which way should I go?" he asked upon entering the office suite of Minority Whip F. Joseph Loeper Jr. (R., Delaware), who cleared a space for Marks until his planned March 14 swearing-in.

"How does this work?" Marks asked his new secretary as he tried to slide out the keyboard to his personal computer.

At one point he picked up a small black object from his new desk, looked at Senate aide Mike Long and asked, "Is this mine, Mike?"

Long responded that it indeed belonged to Marks, which evoked another query: "What is it?"

Long informed the senator-elect that the contraption was a portable telephone, to which Marks responded, "Oh really? Wow."

Democrats, who control the Senate at least until it reconvenes March 14, did not give Marks an office. The space provided by Loeper was small and sparsely furnished - a framed needlepoint, depicting an elephant wearing a tuxedo, hung behind Marks' desk -- but Marks' joy over finally getting to take a seat in the Senate was boundless.

He looked like a kid in a candy store.

"It's just an unbelievable feeling which is just beginning to sink in," he told reporters who crammed into his cubbyhole. "That I already have my own office and I even know how to get there now, it's a tremendous excitement to me."

He exclaimed it a few times: "I actually have my own office."

Marks spent his first moments poking around in his new surroundings. (A putter stood in the corner of the office, but Marks said later that it had been left there and wasn't his. "I don't even play golf," he said.)

He looked at a few memos left on his pint-sized desk. One was about membership at the downtown Harrisburg YMCA, another about election-reform proposals. Marks said he would introduce such a proposal in the first week after he is sworn in.

The Second District seat has been occupied by Democrat William G. Stinson since November, but Newcomer, in throwing out absentee ballots in the Nov. 2 race, made Marks



the winner. An appeal is underway and a hearing is set for March 10.

Marks' presence in the Senate before taking his oath of office is not unusual. Newly elected legislators traditionally begin their duties Dec. 1 following a November election even though they are not sworn into office until the following January.

Although Marks took an office, he said he would not lease a car at taxpayer expense. Senators are allowed up to \$600 monthly to lease vehicles, and most take advantage of the perk.

"None of my constituents have state cars, except maybe SEPTA bus drivers," Marks said.

Marks said he would be busy over the next few weeks with his legal fight over the still-contested election and with opening offices in his home district. He pledged to open one in the district's Latino community, where Newcomer said fraudulent absentee balloting was most evident.

#### "ANXIOUS TO MAKE HIS MARKS IN SENATE"

(Philadelphia Daily News 2/23/94)

By Ron Goldwyn, John Baer and Nicole Weisensee  
Daily News Staff Writers

Republican Bruce Marks is planning his swearing-in today as a state senator -- to be followed by more court and political battles to make it stick.

But Lt. Gov. Mark Singel, the Senate's presiding officer, said that would be an "empty exercise" because only the Senate itself, in recess until March 14, can decide its membership and administer the oath.

Marks moved a giant step closer to Harrisburg yesterday when a federal appeals court panel cleared the way for his certification as winner of the state 2nd Senatorial District election.

The recertification, by city and state election officials, is expected today. They are under order from U.S. District Judge Clarence C. Newcomer to recertify the Nov. 2 election with all absentee ballots voided, leaving Marks a 564-vote winner over defrocked Democrat Bill Stinson.

If the paperwork is done and the weather cooperates, Marks said he plans to travel to Harrisburg and arrange for a judge to swear him in. He called on Democratic leaders, who have repeatedly maneuvered to keep him out to call the Senate back into session and seat him.

Last night, Singel said no.

"I don't see any reason to accelerate the normal Senate schedule..." Singel said. "My responsibility is to do the right thing and I think this is the right thing."

He said, however, that once Marks is certified and if the legal picture doesn't change, he will swear Marks in as the first order of business when the Senate reconvenes March 14.

Paul R. Rosen, Marks' lawyer, warned: "Whatever they did for Stinson, they better do for Marks or they're going to have a federal judge on their backs. The order says, 'No more dirty tricks.'"

A panel of the 3rd U.S. Circuit Court of Appeals yesterday denied Stinson's motion for a delay of Newcomer's order, issued Friday. The three-judge panel then ordered an "expedited" schedule for the full fledged appeal, with oral arguments March 10.

Newcomer's order strips Stinson of the office, declares Marks the winner, and orders the City Commission to change the way it handles absentee balloting. The judge said he

found widespread absentee-ballot fraud by the Stinson Campaign, and collusion by the Democrat-controlled City Commission, to rig absentee balloting.

Lawyers for Stinson and the city argued yesterday that Newcomer took an extreme step by throwing out all 1,767 absentee ballots, including those legally cast. They will ask the appeals court next month to reverse Newcomer and bounce Marks back out of office.

"It is gross overkill to throw out all the ballots," said Arthur Makadon, arguing the case for Stinson to three judges listening in by speaker phone.

"This goes beyond anything before, not only by unseating an elected representative but by seating another one...resulting in a wholesale change of control in the Senate."

Rosen, noting that Marks got more than 300 absentee ballots himself, acknowledged that some absentee votes were cast legally. But he said the fraud was so widespread that a strong remedy is required.

"You cannot do away with fraud without some disenfranchisement," he said. "This is a two-sided sword, not just a Stinson sword. Both sides are losing votes because of the mechanism that went on in the polls."

The convoluted case still has more twists and turns.

Newcomer's order was a preliminary injunction, designed to grant emergency relief to Marks and a group of Latino voters who were included in his suit. Newcomer still must set a date for trial on Marks' suit, which seeks damages from Stinson and city officials as well as reversal of the election.

At stake in court is the last 10 months of the late Frank Lynch's term and party control of the Senate. Stinson's victory gave Democrats control with Singel's vote the tie-breaker, but Marks' seating would give the Republicans a 26-24 majority and the control of committees, perks, and the legislative agenda.

GOP Senate leader Robert Jubelirer fired off a letter to Singel urging he call the Senate back to session to swear in Marks.

"This is an opportunity to put controversy and uncertainty behind us and begin working on consequential issues awaiting legislative action," wrote Jubelirer.

But Democrats, who adjourned the Senate Feb. 14 in anticipation of the Stinson ouster order, say the Senate's on a normal budget hearings break and should stay out until the case is resolved.

"It makes logical sense to us to let this play out in the courts," said Senate Democratic spokesman Jack Freed. "Otherwise, we could get into another flip-flop situation" if the oust-Stinson ruling were reversed."

Democrats say Marks cannot be sworn in while the Senate's out of session. Republicans disagree.

GOP counsel Steve MacNett said the state constitution only requires a certification of election, a judge and "the hall of the Senate."

He said "traditionally" the body or at least a presiding officer is present. But he said if Democrats don't go along, Republicans might swear in Marks without such officers, setting up the potential for further litigation.

The fight over Marks' swearing-in echoes the fuss over Stinson. He was sworn in Nov. 18, about an hour after being certified the winner. But that took place in the Senate, in the presence of a judge and a presiding officer, President Pro Tempore Robert Mellow, of Scranton.



**"SLACK FOR ELECTION OVERSEERS"**

(Philadelphia Daily News 2/23/94)

By Dave Davies  
Daily News Staff Writer

Few politicians seem ready to call for the heads of the two Democratic city commissioners, despite a scorching condemnation of them by a federal judge.

Even Republicans, like party leader Bill Meehan are cautious.

"The commissioners have a tough job, and I've always found them to be pretty fair," Meehan said yesterday. Meehan said he wasn't worried about the commissioners handling the May 10 primary election. "We'll make sure they run it fair."

Fairness might be a serious concern, if you believe Judge Clarence Newcomer, who last week reversed Bill Stinson's narrow win over Republican Bruce Marks in the state 2nd Senatorial District election.

In his ruling, Newcomer excoriated not only the Stinson campaign, but also the commissioners. Newcomer found there were "secret dealings between the board and Stinson campaign workers," and departures from past practices to favor Stinson.

"Substantial evidence was presented establishing massive absentee ballot fraud, deception, intimidation, harassment and forgery," Newcomer wrote.

"The board participated in and later tried to conceal its involvement in the scheme."

Fred Voigt, executive director of the Committee of Seventy, the election watchdog group, said Newcomer's findings "were based on a very limited set of hearings."

"They are very serious accusations that give rise to grave concerns," Voigt said, "but until the attorney general has completed his investigations, it would be premature to judge the conduct of these elected officials."

Republican State Rep. Chris Wogan said he's often felt there was "a bias toward the Democrats" with the Board of Elections. He cited the board's handling of a dispute two years ago involving the location of a polling place in his Philadelphia district.

But Wogan also said he's "never had a problem with any of the lower or middle level employees in the office. I've always found they treat me fairly."

Wogan and Republican City Councilwoman Joan Specter said the commissioners' conduct may be a subject for the 1995 municipal elections.

"It will be up to the voters to see who should be kept in office," Specter said.

The language in Newcomer's ruling was a shock to Commission Chair Margaret Tartaglione. She declined comment yesterday, citing the advice of city attorneys.

Rookie Commissioner Alexander Talmadge, whose conduct was most sharply criticized by Newcomer, did not return a call yesterday. On Friday, Talmadge called Newcomer's findings "outlandish" and denied all wrongdoing.

**"SPECIAL ELECTION REQUEST REJECTED"**

(Pittsburgh Post-Gazette 3-27-94)

Harrisburg - Pennsylvania's Supreme Court on Friday rejected Democrats' request for a new special election in Philadelphia's 2nd Senatorial District.

A voter in the district, Barbara Deeley, had filed suit, contending that the extended vacancy in the district was violating her rights. Senate Democrats had joined her petition.

The Supreme Court's decision upheld one last week by Commonwealth Court.

The outcome of November's special election in the 2nd District is the object of an intense legal battle. At stake is control of the Senate. Republicans now have a 25-23 edge.

Democrat William Stinson won on the strength of the absentee ballot vote, but U.S. District Court in Philadelphia threw the absentee ballots out on grounds of fraud.

Then, the 3rd U.S. Circuit Court of Appeals blocked Republican Bruce Marks from claiming the seat. And District Court is now hearing testimony on Marks' allegations that the fraudulent ballots cost him the election.

Deeley's attorney, Christopher Craig, said he was disappointed.

"It would be a mistake for anyone to perceive this as a vindication or great victory for anyone else," Craig said.

He said it meant voters in the district still had no one to represent them in the Senate.

Lt. Gov. Mark S. Singel, who angered Senate Democratic leaders when he refused to order a new special election, said the courts had repeatedly sided with him.

"While some political leaders still do not accept it, the courts have made it clear that I made the right decision for the people of Pennsylvania," he said.

Senate Republicans said the decision meant time was running out for Democrats' efforts to salvage any victory in the 2nd District.

"This really eliminates the Democrats' last opportunity to use the state courts to obtain an order for an election while the matter is still pending before a federal court," said Steve MacNett, general counsel to the Senate GOP.

MacNett said the GOP expected U.S. District Judge Clarence Newcomer to "conclude absolutely that Marks was the winner without the fraud."

**"MARKS' AIDES CALLED TO TESTIFY FOR STINSON"**

(The Philadelphia Inquirer 4/6/94)

By Henry Goldman  
Inquirer Staff Writer

*The two admitted that they voted improperly. They said they weren't aware they were doing so at the time.*

They represented just two out of hundreds who cast illegal absentee ballots in last fall's Second Senate District election, but these two were special, because they had voted for Republican Bruce S. Marks.

Jennifer Zeamer and S. Kelly Glazier were high-level Marks campaign workers. They had taken leaves of absence from the staffs of two Republican state senators to work as fund-raisers for Marks' Senate bid.

Yesterday, they found themselves in roles they never imagined last fall, as witnesses called to help make the case for Democrat William G. Stinson and the city Board of Elections, who Marks says worked together to steal the election from him.

If they had known then what they know now, Zeamer and Glazier testified, they never would have applied for those absentee ballots; never would have voted from an apartment

they leased for a month; never would have checked the box on the ballot application that stated "out-of-the-county" on Election Day.

Inside the courtroom of U.S. District Judge Clarence C. Newcomer, Marks and his lawyers have decried such illegal conduct. They say Stinson gathered so many votes like this that the election should be set aside, and Marks declared the winner.

Glazier, 23, a legislative aide to State Sen. Joseph Loeper (R., Delaware), and Zeamer, 25, an administrative assistant to State Sen. Richard Tilghman (R., Montgomery), are two of five paid Republican workers for Marks who cast absentee ballots last fall. All five worked for Marks in Northeast Philadelphia's Second Senate District that day.

Newcomer must decide whether Marks would have won if no fraud had occurred. If he finds that voter confidence cannot be satisfied by installing Marks as senator, he may decide to order a new election.

He must also consider whether absentee voters who were misled into voting that way are innocent victims of the fraud whose votes -- although illegal -- should be counted. A federal appeals court has also asked him to consider whether these illegal absentee voters would have gone to the polls if they had not been misled into casting an improper absentee ballot.

"I thought I'd be able to vote absentee because I'd be at work all day," Glazier said.

She was wrong. Absentee ballots are permitted only when a voter is unable to get to the polls, or out of the city on business. Voting also requires legal residency.

"You thought your vote was valid, did you not?" asked A. Charles Peruto Sr., who represents city commissioners Chairwoman Margaret Tartaglione.

"You innocently thought you were voting properly? And for that reason, you think your vote should count?"

"I think the court has ruled otherwise," Glazier replied, referring to Newcomer's decision in February that the illegally gathered votes should be thrown out. "I didn't know at the time I had done anything wrong."

A key part of Marks' case has been his use of 1,250 questionnaires, based upon interviews his campaign conducted with absentee voters in the weeks after the election. A statistics expert hired by Marks has analyzed the survey and concluded that it shows Marks would have won had the election been clean.

Ultimately, it will be up to Newcomer to decide whether the hundreds of questionnaires provide a reliable sample upon which to decide whether Marks really won last fall's election.

Peruto and Stinson attorney Ralph J. Teti used Zeamer's and Glazier's testimony to attack the reliability of the survey, noting that the two women were among those who conducted the survey interviews.

The women both testified that they took an objective survey, asking each voter the questions on the interview sheet and writing down the precise answers.

Some of the questions dealt with whether the voter was really out of the city if that's what the voter had claimed on the ballot application -- just as Zeamer and Glazier had falsely claimed on their ballot applications.

"Would it be fair to say you concentrated your efforts on Democrats who would be likely voters for Stinson?" Peruto asked Zeamer.

She said she interviewed 104 voters, Democrats and Republicans, taken from a master list of all absentee ballot voters.

"Did you ever think about putting in a questionnaire for yourself?" he asked.

No, Zeamer replied.

### "GRAND JURY PROBES REPUBLICAN FLIER"

*It was aimed at Jewish voters. The question: Did it break a campaign-finance report law?*

(The Philadelphia Inquirer 4/20/94)  
by Mark Fazlollah  
Inquirer Staff Writer

A state grand jury probing November's Second Senate District race will focus today on a Republican mailing that was aimed at Jewish voters in Northeast Philadelphia, party officials involved with the brochure say.

At least three Republican Senate staffers who helped produce the campaign brochure in support of Bruce S. Marks' bid for the Senate have been subpoenaed to testify before the grand jury, according to Marks and two of the staffers called to testify.

The brochure was delivered the day before the Nov. 2 election to voters in the largely Jewish areas of the Northeast, encouraging residents to support four Jewish candidates - Marks, District Attorney Lynne Abraham, Municipal Judge Alan K. Silberstein and Commonwealth Judge Sandra Schultz Newman.

Silberstein and Abraham, both Democrats, and Newman, a Republican, have said they never gave permission for their names to be used.

Only Marks and his backers say they knew about the brochure before it hit the streets, though Marks said he did not see it.

Stephen MacNett, counsel to Senate Republicans, said in an interview last week that he and Senate Republican staff administrator Michael S. Long orchestrated the formation of a political action committee to publish the brochure.

All the money for the campaign brochure came from two Republican Senate campaign committees for which MacNett handles the funds. The Republican Senate Special Election Fund gave \$1,200 in in-kind contributions to the FDR Federation political action committee, and the Senate Republican Campaign Committee gave \$2,285 in in-kind contributions, according to the FDR committee's campaign finance report on file with the secretary of state.

Investigators are looking at whether the FDR Federation PAC violated a state law governing campaign finance reports.

Under state election law, any political action committee that is "established, financed, maintained, or controlled" by any other organization is considered an affiliate.

The FDR Federation political action committee said in its initial campaign finance report that it was not affiliated with any other organization.

MacNett said he could not recall with certainty who chose the name for the FDR Federation political action committee, but he said that either he or another Republican Senate staffer might have.

Abraham said the name appeared to be selected because it could be interpreted as being linked to the well-known and influential Federation of Jewish Agencies.

The brochure - decorated with the Star of David and a menorah - never mentioned that it was funded by the Republicans.

MacNett maintained in an interview that the goal of the brochure was to promote all four Jewish candidates - both Republicans and Democrats - not just Marks.

"It wasn't being done exclusively in advancing the Marks candidacy," he said. "It was to advance the candidacies of the Jewish candidates."

MacNett did not explain why he was so interested in supporting Jewish candidates across party lines.

Long, the Senate Republican staff administrator, said, "The underlying goal was to let Jewish voters know that Bruce Marks was Jewish."

Both Long and MacNett insisted that the formation of FDR was in no way aimed at concealing Republican involvement.

MacNett said he directed a Senate staffer to recruit two people in Harrisburg to serve as the officers of FDR - which was formed as a political action committee the same day the brochure went to the printer.

Joyce Mandel, the treasurer of FDR, said she was recruited to serve as an officer of FDR, but would not say who recruited her. And she said that while she knew the committee would send out a campaign brochure, she did not see the brochure until after it was distributed.

Mandel also said that the person listed on the campaign finance report as the FDR chairman, Richard E. Abrams, indicated to her that he also did not see the brochure before it was published. Abrams, a Harrisburg scrap-metal dealer, did not respond to requests for an interview.

Mandel said she was not pleased when she saw the campaign brochure.

"It wouldn't have been my choice," Mandel said in an interview last week. "Yes, it would have been nice to see it before then."

Mandel, a Democrat, said she and Abrams, a Republican, played the very limited role of signing required state paperwork to form the FDR committee.

FDR itself never spent any money, according to its campaign finance report. The bills for publishing and distributing the brochure were paid by the two Republican political action committees and then showed up in FDR's campaign reports as "in kind" contributions from the Republicans.

Mandel declined to identify the person who recruited her. MacNett would only say the recruiter was a Senate staffer.

Maria Keating, an aide to Sen. David Brightbill (R., Lebanon), said in an interview earlier this week that she was scheduled to testify before the grand jury about FDR this week. She would not discuss whether she was the Senate employee who recruited Mandel and Abrams.

Long, who confirmed that he would also appear before the grand jury today, said 19 different brochures were published for Marks during the 1993 campaign.

The FDR appeal to Jewish voters was the only one distributed by a group other than the Marks campaign committee or the Republicans. Long said the other 18 publications clearly stated that they were funded by the Republicans or by the Marks campaign itself.

The man who produced the brochure was Mayer S. "Bob" Kutler, a consultant who last year resigned his \$90,000-a-year post at the Philadelphia Housing Authority after The Inquirer disclosed that he had bounced \$30,000 worth of

checks at Atlantic City casinos and had amassed more than \$700,000 in business debts.

"I ginned it up," Kutler said of the campaign brochure's design and production. Kutler, co-owner of a delicatessen in the Old City section of Philadelphia, said he designed the brochure on his personal computer. "I'm a little guy with a PC designing things," he said.

Marks said that while he knew about the appeal to Jewish voters before it was mailed to homes in Northeast Philadelphia, he never saw it. He said that before the mailing went out, he was told only that there were "Jewish people in Harrisburg that wanted to help my candidacy."

He said he could not recall whether MacNett or another Republican Senate staffer had first broached the idea of the mailer.

"I'm pretty sure it was MacNett who said they wanted to do a mailing for me," Marks said in an interview earlier this week. "I was unsure what the message would be."

He said the first time he learned that two Republican Senate political action committees paid for the brochure was when he was questioned about the brochure last month by the grand jury - which started reviewing evidence about the election in December.

Marks said that before being shown documentation by the grand jury, he had no knowledge of how the printing was financed.

"That wasn't until I was at the grand jury," he said. "They could have got money from [jailed Philadelphia mob boss Nicodemo] Scarfo for all I know."

James Reilly, owner of Cougar Graphics in Huntingdon Valley, said Kutler handled all the arrangements with Cougar to print 14,000 copies of the brochure. The invoice was dated Oct 28 - the same day FDR was formed - and paid Nov 1.

The invoice from Cougar Printing, which did much of the printing for the Marks campaign, listed the billing address for the FDR Federation brochure as being "Republican Senate Special Election Fund, c/o Bruce Marks." It gave Marks' home in Northeast Philadelphia as the billing address.

Marks said he did not know why his home was listed as the billing address. He said he did not make any payments for the work and never received a copy of the invoice.

#### "MARKS, WIFE DISAGREE IN COURT"

(The Philadelphia Daily News 5/5/94)

By Leigh Jackson  
Daily News Staff Writer

Republican Bruce Marks testified yesterday that his campaign did not gather absentee ballots illegally in last November's race in the 2nd Senatorial District.

But in contradictory testimony before a federal judge, Marks' wife and a Republican friend testified they gathered and delivered eight absentee ballots illegally, but did not realize they were doing anything wrong.

"My campaign did not handle absentee ballot pickup and delivery to voters. Period," said Marks, who is seeking to regain the seat.

Irene Rosen Marks later testified that she delivered six absentee ballots to the City Commissioner's office, a practice ruled illegal last February by U.S. District Court Judge Clarence Newcomer.

She said she did not know until the court case began that her actions were illegal or improper.

Republican State Sen. John Perzel, who is also a ward leader, testified that he went with Marks door-to-door to solicit absentee votes and that he also picked up and delivered two absentee ballots from his aunt and uncle.

He also said he told his staff members to solicit absentee votes and deliver them to the City Commissioner's office.

"I never gave it much thought," he said. "I never sat there and said, 'Yes,' or 'no, it's illegal.'"

Marks' opponent, Bill Stinson, was declared the winner last November. Newcomer in February threw out Stinson's victory and declared Marks the winner.

In his February ruling, Newcomer ruled illegal the practice of having campaign workers deliver absentee ballots to the City Commissioner's office.

An appellate court later threw out Marks' win and returned the case to a crabby Newcomer, who could barely restrain his impatience yesterday as he faced a phalanx of the most famous, longwinded lawyers in Philadelphia.

Newcomer crossed swords mainly with A. Charles Peruto Sr., who represents City Commissioner Marge Tartaglione.

"I'm telling you your attitude is not professional," Newcomer barked at one point, after Peruto complained the judge was cutting short Peruto's questions.

Peruto and four other lawyers representing the City Commissioners and Democratic party argued that Democratic efforts to solicit absentee ballots were no different from Republican efforts -- except maybe more successful.

A total of 1,757 absentee ballots were cast in the November election. Stinson won by 461 votes.

Under questioning from Ralph Teti, who represents Stinson, Marks recalled his own campaign's effort to solicit absentee ballots through direct mail and a telephone bank.

Fred Voigt, executive director of the Committee of Seventy, an electoral watchdog group, defended his organization's proposed reforms in the wake of the scandal.

Voigt said his group had proposed steps that would still allow campaign workers to go into houses soliciting votes but would prohibit workers from accepting money for their actions.

"That strikes me, frankly, as putting the fox inside the henhouse," said Newcomer.

"I take exception to the judge's statement. It's premature," said Richard Sprague, lawyer for a group of absentee voters.

"Are you speaking on behalf of the fox or the hen?" asked the judge.

"The fox," laughed Sprague.

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**SPECIAL ORDER OF BUSINESS  
SENATE RESOLUTION No. 129  
CALLED UP**

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, at this point in our proceedings today, I would call for the immediate consideration of the election contest resolution, Senate Resolution No. 129, and move for its adoption.

The PRESIDENT. Senator Loeper asks unanimous consent for the immediate consideration of a resolution.

**POINT OF ORDER**

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow. For what purpose does the gentleman rise?

Senator MELLOW. Mr. President, once again, a point of order.

The PRESIDENT. The gentleman will state his point.

Senator MELLOW. Mr. President, nationally, today is being celebrated as Take Our Daughters To Work Day, and we have a number of individuals, both Members and staff people, who have decided to take advantage of that, including yourself. I wonder if we could go ahead and make some introductions, prior to the consideration of this resolution, of the young ladies who have come here today to watch either mom or dad at work.

The PRESIDENT. The Chair is delighted with the suggestion, and the Chair would offer the opportunity for those who have young ladies on the floor to introduce them to the Members of the Senate, starting perhaps with the gentleman from Delaware, Senator Loeper.

**SPECIAL ORDER OF BUSINESS  
GUESTS OF SENATOR F. JOSEPH  
LOEPER PRESENTED TO THE SENATE**

Senator LOEPER. Mr. President, I am very pleased today to have as guests to watch the Senate proceedings two daughters of my chief of staff, David Woods, both Kristen and Lisa Woods. Kristen is at the E. T. Richardson Middle School in Springfield Township, Delaware County, and Lisa attends the Sabold Elementary School in Springfield Township, Delaware County, and I would ask them if they would please rise so that the Senate can issue them their usual warm welcome.

The PRESIDENT. Would the guests of Senator Loeper please rise? We are delighted to have you two with us.

(Applause.)

**GUESTS OF SENATOR ALLYSON Y.  
SCHWARTZ PRESENTED TO THE SENATE**

The PRESIDENT. And the Chair recognizes the gentlewoman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Mr. President, I also would like to introduce a young lady who is with me today. She is not my daughter. I have two sons, so I had to borrow one for the day. This is Lauren Wagner. She is the daughter of Tom Gluck, who is on my staff here in Harrisburg. She is 10 years old. She is in fifth grade at Shaull Elementary School, which is part of the Cumberland Valley School District. And although she does get to visit the Capitol on occasion, as her mom is a lobbyist here on child care, so Lauren is familiar with the work that we do, but she is going to watch us closely today. So I am pleased to introduce Lauren Wagner to everyone and ask that the Senate give her a warm welcome as well.

The PRESIDENT. We are delighted to have you, and the Senate joins me in welcoming you to the Senate, Lauren.

(Applause.)

#### **GUESTS OF SENATOR ROBERT J. MELLOW PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, we also have two young ladies whom I would like to introduce. The first is the daughter of Sheri Geyer. Sheri is a member of our Democratic legislative legal staff, and she has brought to work with her today her 9-year-old daughter, Dillon, who is seated up in the gallery. I wish Sheri and her daughter would kindly stand and be recognized.

The PRESIDENT. Would the guests of Senator Mellow join us, and thank you for coming. We welcome you to the Senate of Pennsylvania.

(Applause.)

Senator MELLOW. Mr. President, I would like to be able to make an additional introduction. Steve Kniley, who is a member of our Democratic staff, also has his daughter at work with him today for the same purpose, so they can see exactly what takes place. I would like Steve's daughter, Lisa, who is up in the gallery, to also stand and be recognized.

The PRESIDENT. Would the guest of Senator Mellow please rise. We welcome you to the Chamber of the Senate of Pennsylvania.

(Applause.)

Senator MELLOW. Mr. President, may I make a final introduction?

The PRESIDENT. The gentleman is recognized for that purpose.

Senator MELLOW. Mr. President, I remember a number of years ago when I had the opportunity of bringing my youngest daughter here with me, and Senator Hager was the President pro tempore of the Senate and the presiding officer that day. He introduced my daughter, Tressa, as the princess of the Senate on that particular day. Today we have a number of young ladies who can share that title, but we also have your daughter who can share that title, and I am sure you would like to introduce her, but as the Democratic Leader, I wish that you would give me that honor since I remember that child when she was a little baby when you were not only a Member of the Senate but, equally as important, a candidate for Lieutenant Governor. I know that you have your 10-year-old daughter, Allyson, with you and we would love to see what she looks like.

The PRESIDENT. The Chair thanks the gentleman and will be pleased to give you that pleasure in just a moment. Let us hear first from our colleague from Chester County, Senator Baker.

#### **GUEST OF SENATOR EARL M. BAKER PRESENTED TO THE SENATE**

Senator BAKER. Mr. President, it gives me a great deal of pleasure to introduce Miss Alexis Woodruff, who is the daughter of my office administrator. Lexie is working very hard in my office today. She has even typed a memo and has been inaugurated into the business of the Senate, so I would like to introduce her at this time.

The PRESIDENT. We welcome you to the Senate of Pennsylvania and we thank you very much for joining us.

(Applause.)

#### **GUEST OF SENATOR EDWIN G. HOLL PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Holl.

Senator HOLL. Mr. President, we have with us today, in the gallery, a gentleman who has done extensive research and has done extensive writings on State and local government. I would like to have the Senate extend its usual warm welcome, Mr. President, to Robert Linden, a guest of the Senate today.

The PRESIDENT. Robert Linden, would you please rise. We welcome you to the Senate of Pennsylvania.

(Applause.)

#### **DAUGHTER OF THE LIEUTENANT GOVERNOR PRESENTED TO THE SENATE**

The PRESIDENT. And, indeed, the Chair is most delighted to introduce to the Members of the Senate Allyson Jean Singel. She is 11 years old. She has been accompanying me today. We have already been at one event in the Reading area. We had intended to spend a few hours in Pittsburgh together today, but these duties take precedence. Allyson Jean is a sixth grader at Lickdale Elementary School, and she is a budding politician in her own right. I am delighted to have my daughter, Allyson, here because I can turn it over to her and just take off.

Ladies and gentlemen, Allyson Jean Singel, my daughter.

(Applause.)

#### **LEGISLATIVE LEAVES**

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Afflerbach, Senator Jones, and Senator Fumo, and legislative leaves for Senator Andrezeski, Senator Dawida, Senator Lincoln, Senator Porterfield, Senator Stapleton, Senator Stewart, Senator Stout, and Senator Williams.

The PRESIDENT. Senator Mellow requests temporary Capitol leaves for Senator Afflerbach, Senator Fumo, and Senator Jones, and legislative leaves for Senator

Andrezeski, Senator Dawida, Senator Lincoln, Senator Porterfield, Senator Stapleton, Senator Stewart, Senator Stout, and Senator Williams.

The Chair hears no objection. Those leaves will be granted.

### LEAVES OF ABSENCE

Senator MELLOW asked and obtained leaves of absence for Senator FATTAH, Senator PECORA, and Senator LEWIS for today's Session, for personal reasons.

### SENATE RESOLUTION

#### DECLARING BRUCE MARKS AS WINNER OF THE SPECIAL ELECTION HELD NOVEMBER 2, 1993, AND DIRECTING THAT HE BE ADMINISTERED THE OATH OF OFFICE AND SEATED AS A MEMBER OF THE SENATE

Senator LOEPER offered the following resolution (Senate Resolution No. 129), which was read as follows:

In the Senate, April 28, 1994

#### A RESOLUTION

Declaring Bruce Marks as winner of the special election held November 2, 1993, and directing that he be administered the oath of office and seated as a member of the Senate.

WHEREAS, An election was held on November 2, 1993, to select a Senator to fill the vacant seat representing the Second Senatorial District; and

WHEREAS, On November 18, 1993, the Philadelphia County Board of Elections certified William Stinson as the winner, and pursuant to that certification and a certification by the Secretary of the Commonwealth, William Stinson was that same day administered the oath of office; and

WHEREAS, On November 19, 1993, a Contest of Election was filed in the court of common pleas by electors of the Second Senatorial District pursuant to section 1742 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code; and

WHEREAS, On January 10, 1994, the Election Contest was dismissed by the Philadelphia County Board of Elections; and

WHEREAS, On January 20, 1994, Bruce Marks filed a Petition for Election Contest with the President pro tempore of the Senate pursuant to section 1747 of the Pennsylvania Election Code; and

WHEREAS, The petition was referred to the Senate Committee on Rules and Executive Nominations on January 31, 1994; and

WHEREAS, The Senate Committee on Rules and Executive Nominations appointed a Subcommittee on the Election Contest, Second Senatorial District; and

WHEREAS, The subcommittee, chaired by Senator J. William Lincoln, initially met on February 7, 1994, adopted a pleading schedule and pursuant thereto received extensive filings on behalf of both petitioner Marks and respondent Stinson; and

WHEREAS, On February 18, 1994, United States District Court Judge Clarence C. Newcomer voided the certificate of election of William Stinson and ordered the recertification of the election based on the voting machine tabulations which resulted in the certification of Bruce Marks as the winner; and

WHEREAS, The decertification of William Stinson was upheld by the Third Circuit Court of Appeals; and

WHEREAS, The Third Circuit Court of Appeals stayed the certification of Bruce Marks and remanded the case to Judge Newcomer for further consideration; and

WHEREAS, Judge Newcomer, after receiving extensive testimony on the conduct and outcome of the election, on April 26, 1994, issued an order accompanied by findings of fact and conclusions of law directing the Philadelphia County Board of Elections to recertify the results of the special election based on the conclusion "that Bruce Marks received a plurality of the legally cast votes" and "would have won the election but for the wrongdoing"; and

WHEREAS, The Subcommittee on the Election Contest, chaired by Senator F. Joseph Loeper, met to consider the evidence and oral argument presented on the Election Contest; and

WHEREAS, The subcommittee found that the improper and discriminatory conduct of the Philadelphia County Board of Elections in conjunction with the Stinson campaign resulted in a range of between 500 and 1,000 absentee ballots being improperly cast on Stinson's behalf in the November 2, 1993, special election, which conduct proved outcome determinative; and

WHEREAS, Public confidence in the integrity of the electoral system demands that the proper person be seated; and

WHEREAS, The testimony, records and expert statistical analyses by experts relied on by the Federal court and evaluated by this subcommittee establish a reasonable basis to determine that Bruce Marks would have won the election but for the improper conduct of the Stinson campaign and the counting of illegally and improperly cast absentee ballots; and

WHEREAS, The Subcommittee on the Election contest found that the evidence supported the petitioner and that Bruce Marks is the duly elected Senator for the Second Senatorial District of Pennsylvania; therefore be it

RESOLVED, That the Senate declare that Bruce Marks is the winner in the special election held November 2, 1993; and be it further

RESOLVED, That Bruce Marks be administered the oath of office and seated as a member of the Senate.

On the question,

Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, the resolution before us cites the events that have transpired in the election challenge in the Second Senatorial District since the election that occurred on November 2, 1993. Bruce Marks, at that time, filed the election challenge in the Senate, and this resolution cites the chronology of those activities and provides that the subcommittee found that the improper conduct of the Board of Elections and the Stinson



campaign resulted in between 500 and 1,000 ballots being cast on Mr. Stinson's behalf, which affected the outcome of the election. And further, Mr. President, the resolution resolves that Bruce Marks be declared the winner and sworn in and seated as a Member of the Senate.

The PRESIDENT. On the resolution, the Chair recognizes the gentlewoman from Northampton, Senator Reibman.

#### REIBMAN AMENDMENT OFFERED

Senator REIBMAN offered the following amendment No. A1857:

Amend Resolution, page 1, lines 1 through 18; page 2, lines 1 through 30; page 3, lines 1 through 27, by striking out all of said lines on said pages and inserting:  
Directing the Senate to afford William Stinson an opportunity to have his interests represented.

WHEREAS, The Subcommittee on the Election Contest has unconstitutionally infringed upon the constitutional due process rights of William Stinson, by refusing him and his attorney opportunity to appear before the committee and represent their views and interests; and

WHEREAS, This blatant disregard for the constitutional rights of William Stinson has never been replicated in the history of this Commonwealth and subjects this body to further litigation and tarnishes the action of this body to seat and swear in Bruce Marks; therefore be it

RESOLVED, That the Senate direct that this resolution be rereferred to the Subcommittee on the Election Contest so that William Stinson may be afforded an opportunity to have his interests and views represented.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, we have not seen any of these amendments, and I would ask that we be at ease until we have an opportunity to review the amendment.

The PRESIDENT. The Senate will be at ease while the amendment is reviewed.

(The Senate was at ease.)

The PRESIDENT. On the amendment, the Chair recognizes the gentlewoman from Northampton, Senator Reibman.

Senator REIBMAN. Mr. President, what this amendment is, it is really a due process amendment. We are saying that Mr. Stinson and his attorney had no real opportunity to appear before the duly constituted subcommittee of the Committee on Rules and Executive Nominations at a hearing yesterday.

Under the Pennsylvania Constitution and the statutes which implement that constitutional provision, the Senate is the judge of who should be seated in its Chamber, and in order to determine who should rightfully be seated, a hearing is to be held in which all of the parties should be given an opportunity to be cross-examined, to testify, and that did not occur yesterday as far as Mr. Stinson was

concerned. Not enough time was given, the members of the subcommittee were not given an opportunity to examine any of the witnesses. While Mr. Marks was represented by an associate attorney, he could not answer many of the questions that were posed to him by the members of this committee.

It seems to me that when we take an oath to uphold the Constitution of Pennsylvania, we ought to be pretty serious about that and make sure that all of the procedures are really constitutional and legal. I do not know what the rush is at this moment to seat a person when there are still questions regarding the way in which the election was held. I, for one, feel very uncomfortable--

The PRESIDENT. Would the gentlewoman yield for just a moment.

#### POINT OF ORDER

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Tilghman.

Senator TILGHMAN. Mr. President, point of order.

The PRESIDENT. The gentleman will state his point.

Senator TILGHMAN. Mr. President, I would like to ask who is the gentleman standing on the floor behind Senator Reibman?

The PRESIDENT. Would the gentlewoman from Northampton be kind enough to introduce her staff assistant?

Senator REIBMAN. I will, Mr. President.

Senator TILGHMAN. Would it be appropriate for her to talk from the microphone over there where the staff is? I did not know that they were allowed on the floor of the Senate other than at the desk of the Minority Leader.

The PRESIDENT. Is the gentleman from Montgomery objecting to the gentleman's presence on the floor?

Senator TILGHMAN. Yes, I do, Mr. President.

The PRESIDENT. The Chair understands the objection. Under the rules of the Senate, the gentlewoman really should be making her presentation from the Minority Leader's position, which then would allow her to utilize staff at the time.

Senator MELLOW. Mr. President, Senator Reibman, would you kindly come over here, since there has been an objection?

Senator REIBMAN. Mr. President, I found it a little bit difficult to traverse over to that area because my leg is still stiff.

The PRESIDENT. The gentlewoman from Northampton is recognized for her remarks.

Senator REIBMAN. Mr. President, I believe that the amendment goes to the very heart of our duties as duly elected Senators in deciding who shall be a Senator and who shall be seated. And I believe that we are unconstitutionally infringing upon the constitutional due process rights of a candidate, and, therefore, I would ask that this amendment be adopted.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I would remind the Members of the Senate that Section 3408 of the Election Code requires that the petition to be referred to a standing committee on election, which must proceed to hear the claims of the contestant and respondent and report the facts.

There is no requirement in the Election Code, Mr. President, for a public hearing. The purpose of the subcommittee meeting yesterday was to notify both parties, which accordingly was done with 24-hour notification. And I share Senator Reibman's disappointment that there was no legal representative for the respondent in this matter, William Stinson, because I believe, as do many of the Members, Mr. President, that they missed an opportunity to orally present his position before the members of the subcommittee. However, as I had stated, he had ample opportunity to present any and all documentation he desired, in accordance with the pleading schedule, over the last several months. I would indicate also, Mr. President, that there was submitted, on behalf of Respondent William Stinson, over two boxes full of material representing thousands of pages of documentation supporting his point of view in the particular matter that is before us.

Mr. President, it would be my view that Mr. Stinson's constitutional due process rights have clearly been accorded in this matter, and I think regardless of whether he or his legal representative chose to appear before the subcommittee to make any final concluding arguments, was not really relevant to that process. The various issues surrounding the massive scheme to fraudulently impact the special election in the Second District, I believe, Mr. President, have been exhaustively addressed and reviewed in the various court proceedings that have occurred to date and, therefore, Mr. President, I find that it would be my view that the due process accorded William Stinson was, in fact, in place and, therefore, I would oppose the adoption of the amendment.

The PRESIDENT. The Chair recognizes the gentlewoman from Northampton, Senator Reibman.

Senator REIBMAN. Mr. President, I would like to remind the gentleman from Delaware, Senator Loeper, that it was the gentleman from Blair, Senator Jubelirer, when he was in the Minority, who asked for a public hearing on this question. What I have been asking for is not so much a public hearing for the public to come in but for the people involved in the election, witnesses, to appear before a duly constitutional committee to hear the seating of a Senator. Now, it is true that we were provided lots of materials and documents and a court decision. I maintain that the Senate of Pennsylvania is not a rubber stamp for a court decision, that we are empowered and we have, indeed, the duty under the Constitution to hold our own trial with respect to who shall be seated, and we have not had that opportunity to hear the other side of this, nor have we had the

opportunity to listen and to interview witnesses in this contested election.

#### LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Jones. Her temporary Capitol leave will be cancelled.

And the question recurring,  
Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Mr. President, will the gentleman from Delaware, Senator Loeper, consent to brief interrogation?

The PRESIDENT. He indicates that he will. The gentleman may proceed.

Senator O'PAKE. Mr. President, I was not at the meeting. I am not a member on that subcommittee on elections, but who was there to speak on behalf of the 1,700 voters who were disenfranchised by Judge Newcomer's decision?

Senator LOEPER. Mr. President, in answer to the gentleman's inquiry, the action before the subcommittee had to do with the petitioner and the respondent in the election contest. Under the Election Code and the provisions for the subcommittee, it is limited to the petitioner and the respondent, and the procedures have been followed explicitly in the course of the conduct of those subcommittee hearings.

Senator O'PAKE. Mr. President, since Judge Newcomer's decision, which is the basis for this petition, relied so heavily on the statistical experts and the theorizing and the postulating that they did, were any one of those three experts at the hearing so that the Senate, in its proceeding, could cross-examine those experts? It is a shame to allow an election to rise or fall on the opinion of a statistician.

Senator LOEPER. Mr. President, the testimony in the Federal court of those experts was distributed to the members of the subcommittee as part of Judge Newcomer's decision.

Senator O'PAKE. Mr. President, but my question is why were none of the statistical experts available at the hearing so that he or she could be cross-examined by the finders of fact, which is this tribunal?

Senator LOEPER. Mr. President, the committee did have an opportunity to review those reports of the statisticians of the testimony and findings of fact that were found in the Federal court, and I believe they stand on their own merits.

Senator O'PAKE. Mr. President, but the question is whether or not this body should decide an election on the basis of the opinions of some experts without having the opportunity to cross-examine and probe the theories that those experts made.

Senator LOEPER. Mr. President, I think that for the Members of the Senate, I do not have to indicate to them how pervasive the fraud was in that election and the evidence so clear that lengthy proceedings rehashing the issues that have already been testified to under oath are unnecessary, and it seems to me, Mr. President, that what we are simply hearing today from the other side are delaying tactics.

The PRESIDENT. On the amendment, the Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I think the gentleman from Delaware, Senator Loeper, said how pervasive fraud was among those who voted in the election, and I think that we have to make sure that the record is very clear, that if, in fact, there was fraud, there was fraud on both sides, because the candidate's wife herself was involved in at least 40 fraudulent absentee ballots. So let us just make it clear that if there was, in fact, fraud, the fraud did not just come on one side of the equation here, the fraud was based on both sides of the equation.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator REIBMAN and were as follows, viz:

YEAS—19

Afflerbach	Dawida	Musto	Stapleton
Andrezeski	Fumo	O'Pake	Stewart
Belan	Jones	Porterfield	Stout
Bodack	Lincoln	Reibman	Williams
Bortner	Mellow	Schwartz	

NAYS—25

Armstrong	Hart	Loeper	Robbins
Baker	Heckler	Madigan	Salvatore
Bell	Helfrick	Mowery	Shaffer
Brightbill	Holl	Peterson	Shumaker
Corman	Jubelirer	Punt	Tilghman
Fisher	Lemmond	Rhoades	Wenger
Greenleaf			

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request a legislative leave for Senator LaValle.

The PRESIDENT. Senator Mellow requests a legislative leave for Senator LaValle. The Chair hears no objection. That leave will be granted.

And the question recurring,  
Will the Senate adopt the resolution?

MELLOW AMENDMENT A1852 OFFERED

Senator MELLOW offered the following amendment No. A1852:

Amend Thirteenth Whereas Clause, page 3, line 4, by striking out "argument presented" and inserting: claims of the petitioner only

Amend Fourteenth Whereas Clause, page 3, line 5, by striking out "found that the" and inserting: was unable to determine whether there was any

Amend Resolution, page 3, lines 7 through 18, by striking out "resulted in a" in line 7, all of lines 8 through 18 and inserting: which proved to be outcome determinative; and

WHEREAS, No testimony was offered to this Subcommittee to establish a reasonable basis as to the winner of the special election; and

Amend Seventeenth Whereas Clause, page 3, line 20, by striking out "the evidence supported" and inserting: there was insufficient evidence to support

Amend Seventeenth Whereas Clause, page 3, line 20, by striking out "and that Bruce Marks is" and inserting: as

Amend Resolution, page 3, lines 23 through 27, by striking out all of said lines and inserting:

RESOLVED, That the Senate dismiss the election contest petition of Bruce Marks; and be it further

RESOLVED, That a vacancy is declared in the Second State Senatorial District.

On the question,  
Will the Senate agree to the amendment?

The PRESIDENT. On the amendment, the Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, there has been a lot said about this election since November 2, and yet for a very brief, short period of time, Mr. President, when Senator Stinson served to represent the people of the Second Senatorial District, at least as it goes here in the State Senate, they have been without formal or official representation, although it can be said that they have been represented here in Harrisburg by the legislative delegation in the House of Representatives that also encompasses the Second Senatorial District. And, Mr. President, I realize what took place today with the Third Circuit Court, but I honestly do not believe that what is being said and done here today is the end of the seating of Mr. Marks in the Senate representing the Second Senatorial District. In fact, Mr. President, if Mr. Marks is seated, it will represent the first time in history that an individual in a race where there were only two contestants received less than 50 percent of the vote and by a Federal court order was given a seat in the Pennsylvania State Senate, something that is absolutely unheard of and is beyond my realm of comprehension.

And even as it was stated, Mr. President, in the meeting that we had earlier today in the Committee on Rules and Executive Nominations, by the gentleman from Bucks, Senator Heckler, that there were a lot of improprieties in this election and that there were a lot of areas of great concern in this election, and I think this is shared by a lot

of people. Then if that is the case, Mr. President, and since there is no balance of control of the Senate based on whether Mr. Marks is or is not sworn in today, and I do not know what the magic thing about this particular date is, what I have done is offered an amendment to the resolution, and this amendment basically should have bipartisan support where every Member of the Senate should be able to strongly support it and then go back into their districts and say that in the Second Senatorial District there was an election that potentially could have been fraudulent, although nothing yet has been proven, that there was some fraud that was represented at least in court hearings that even went as far as the candidate's wife and members of the staff of the Republican Party in the Senate.

Keeping all these things in mind, Mr. President, we think it would be a very prudent thing to do if there was a vacancy declared in the Second Senatorial District, and then if we would allow the government to take place in Pennsylvania, allow the rules of the Constitution to govern in Pennsylvania, Mr. President, and to have a special election in the Second Senatorial District where perhaps, once and for all, the people of that district will have an opportunity of saying who, in fact, in a majority status will represent them in the State Senate. Now, I know full well, Mr. President, that there will be 25 Republican votes against anything that might not bring about a seating of Mr. Marks. I realize full well that the vote will be 25 Republicans in the negative and 20 Democrats in the affirmative. Nevertheless, Mr. President, if you want to talk about good government and if you want to talk about the way it should be and if you want to talk about a number of the newspaper editorial comments that we have seen across this great State of ours, then the only real way of correcting this situation is for the adoption of this resolution, which basically would vacate the seat in the Second Senatorial District and give the Chair, as the Presiding Officer of the Senate and the Lieutenant Governor of the Senate, the opportunity of calling a special election.

Mr. President, it seems that it is the only proper thing to do to once again ensure democracy in our system and to make sure that the best interests of the people are represented, and I would ask for an affirmative vote, knowing full well, Mr. President, that Senator Loeper will invoke his unit rule in his Caucus and there will be 25 Republicans voting against a good-government piece of legislation.

The PRESIDENT. On the amendment, the Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I find it fascinating to hear the Minority Leader define the term "good government." Essentially what the Minority Leader's amendment would do, Mr. President, is to reward election fraud, and I think, Mr. President, that what we have seen is that we recognize the importance of validating elections where possible. Otherwise, the only recourse for voter fraud would be a new election, hardly a deterrent to any type of

illegal conduct. It has been established in the courts, in the appellate process, that there was rampant voter fraud in the Second Senatorial District, and in order to validate a new election, which the Federal courts have rejected, both in the district court and in the appellate Federal court, essentially all we would be doing is rewarding voter fraud.

Mr. President, I would ask for a negative vote on the amendment.

The PRESIDENT. On the amendment, the Chair recognizes the gentleman from Bucks, Senator Heckler.

Senator HECKLER. Mr. President, I would just like to briefly observe that the Minority Leader has an interesting idea of good government. What is now the Minority kept the people of my district unrepresented for 11 months because their likely choice of a Senator was not going to suit the balance of power prevailing at that time. Now we have the opportunity, finally, to give the people of the Second Senatorial District representation in this Chamber, but because the outcome of that election as found by the Federal courts does not suit the purposes of the Minority, again we should exclude those folks from representation for some indefinite time into the future. That is not good government at all, and I would urge that we defeat the amendment.

The PRESIDENT. On the amendment, the Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, it is obvious either the gentleman from Bucks, Senator Heckler, has not learned from experience, does not understand history, or probably did not read the Journal of the summer of 1992 when the Republican Majority in the Senate, under the direction of Senator Loeper and President pro tempore Senator Jubelirer, recessed or adjourned the Senate in June and did not call the Senate back into Session, with the exception of a Special Session that was called by Governor Casey for the purpose of discussing some very important legislation, until after the November election. I think it is also important for the gentleman to note, so that we can make the record clear and, as Paul Harvey says, talk about the rest of the story, because if he is going to talk about the story, I only hope he is accurate in what he says. The Senate was not in Session when he was elected. He was elected, I believe, on July 13, 1993. He was sworn into Session immediately when we came back into Session after the gentleman from Philadelphia, Senator Stinson, was, and the reason that was done was because it was done based on the numerical sequence of the senatorial district.

#### POINT OF ORDER

Senator MELLOW. Mr. President, do you think we could have order in the Senate? I would think that such a very important issue such as this should not draw such type of laughter from the Republican Members of the Senate, and I would think it is important that we do have order here in the Chamber and the body.

The PRESIDENT. The Chair thanks the gentleman. The Chair would simply remind everybody that we should proceed with the decorum suitable for the Senate of Pennsylvania.

Senator MELLOW. Mr. President, Senator Heckler was given every bit of consideration as a Senator-elect from July 13 until the day in November when he was sworn in, given every bit of courtesy that is extended to a Senator, and could go ahead and do everything possible that any Member of this body could do. If he for some reason chose not to do that, that was his own negligence in the way he represented his district. That had absolutely nothing to do with what takes place here on the floor of this Senate, and I think it is important, Mr. President, that the record clearly indicate that.

I also think, Mr. President, it is very important that we address the statements by Senator Loeper when he said that we are awarding an election based on fraud. Mr. President, nobody wants to award an election based on fraud. But when you talk about potential vote fraud in the Second District, there is enough to go around, Mr. President. I have in front of me a copy of an article that appeared in the Philadelphia Inquirer on April 20, 1994, when it says that "Grand Jury Probes Republican Flier." That Republican flier, Mr. President, was a Republican flier that was used and was aimed solely at the Jewish vote in the Second Senatorial District. It was sponsored by Republican staff members of the Senate, and now, Mr. President, because there is potentially, and I say potentially because I do not know whether there actually has been, but since it has been alleged that this is a fraudulent way of doing business, the grand jury now has called in some very top employees of the Senate Republican Caucus, to include their chief counsel, to include, according to the article, Mr. Mike Long, to include Maria Keating, who is an employee of the gentleman from Lebanon, Senator Brightbill, and to also include two individuals who serve as the treasurer and the chairperson of the FDR PAC. So let us make a very clear point here, Mr. President. If, in fact, there is fraud--

#### POINT OF ORDER

Senator LOEPER. Mr. President, point of order.

The PRESIDENT. Would the gentleman yield for a second.

The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I understand that the gentleman has another amendment to offer to deal with the subject that he has been debating currently, and I would think that the debate is far afield of the amendment that is before us, that is whether, in fact, a special election should be called or not.

The PRESIDENT. The Chair thanks the gentleman and tends to agree that the gentleman was wandering off on a completely different subject.

Senator MELLOW. Mr. President, I never mentioned fraud until it was brought into the discussion by the gentleman from Delaware, Senator Loeper, and the only way that I could make the clarification that if, in fact, there was a fraudulent election in the Second Senatorial District, then the record must be clear.

The PRESIDENT. The Chair thanks the gentleman but still would suggest to the gentleman that the amendment, the issue before the body is an amendment that substantially changes the resolution, and we really should limit our arguments to the subject of this amendment for the time being.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, and I do respect the Chair's judgment and what the Chair has just said, but again, it is important to note that Senator Loeper mentioned fraud. I did not. I wanted to speak only on the merit of the amendment, and that is what I spoke on. I wanted to speak only on what is proper at this point in time and what is right, and that is a special election, and Senator Loeper was the one who inserted fraud into the amendment process, discussion that is taking place with regard to this amendment.

I think also, Mr. President, it is important to show that as we talk here today, there has been a 3-day election taking place in South Africa. Mr. President, that election is a free election to elect a President. There is only one way that we can have democracy work the way democracy is supposed to work, and that is not by today swearing in an individual who in his own family potentially there is fraud involved in the election, who did not receive 50 percent of the vote that was cast, who is disenfranchising at least 1,700 individuals who voted by absentee. If all of those things that are stated are correct, then the only true way that you can resolve this, Mr. President, is by declaring the seat to be vacant and by calling a special election, and whomever wins the special election then appropriately should be sworn into the Senate. But this is not an appropriate way, Mr. President, of doing business.

Thank you.

The PRESIDENT. On the Mellow amendment, the Chair recognizes the gentleman from Bucks, Senator Heckler.

Senator HECKLER. Mr. President, I have two points: First, as to the issue of disenfranchising voters and the need for a special election. Candidate Marks and the Republicans supporting him begged the courts of Philadelphia simply to hold in place all of the absentee ballots which were plainly suspect before the election. If that had been done, and if only that had been done, we would have had the opportunity to numerically determine the true outcome of this election. We would have had the opportunity to sort the many fraudulent votes from the legitimate absentee votes, and we could have had an absolute, fair count ultimately. Justice could specifically

have been done in this election. That result was obstructed by the courts of Philadelphia. That result left the Federal courts in the position of relying upon statistical data. Again, all of those efforts were bitterly opposed by the Democratic organization both here and in Philadelphia and by the Stinson campaign. It is inappropriate now to suggest that the only way democracy can be served is by having a special election at this late date.

My second point to get the whole story on the record, as the Democratic Leader suggests, I made the point that my people were disenfranchised for 11 months, Mr. President. My predecessor, Jim Greenwood, was sworn into Congress in early January and tendered his resignation immediately before that swearing-in. An election could have and should have been held in my district to coincide with the primary election. It could have been held as early as March to get representation very promptly for my people. It certainly could have been held without additional expense in May at the time of the primary. It was not specifically so that the likely Republican vote from the 10th District would not be available during the most important part of our deliberations for the year, the budget proceedings. It is absolutely true. I was sworn in, I was elected--

#### POINT OF ORDER

Senator MELLOW. Mr. President, point of order.

The PRESIDENT. Would the gentleman yield.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, point of order.

The PRESIDENT. The gentleman will state his point.

Senator MELLOW. Mr. President, I was admonished by the gentleman from Delaware, Senator Loeper, because I was commenting on what he had referred to with regard to a fraudulent election. I believe the debate and the discussion right now by the gentleman from Bucks, Senator Heckler, has absolutely nothing to do with the amendment that has been offered, and I would hope that the Chair would advise him to that effect.

The PRESIDENT. Fair is fair. The Chair does agree with the gentleman from Lackawanna, Senator Mellow, and suggests to the gentleman from Bucks, Senator Heckler, that arguments about the special election in that senatorial district really has no bearing on the amendment presently before us.

Senator HECKLER. Mr. President, my only other observation was going to be that I certainly did find that once I was elected I was extended every courtesy by the then-Majority, aside from the fact that, of course, we were not here voting.

I would simply conclude by pointing out that further denying the people of the Second District representation in this Chamber as we go forward into, once again, the most important part of the legislative year is not good government. It is a very bad idea, and this amendment should be defeated.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I realize I am only supposed to speak twice on any particular issue and on this amendment this would be my third time to speak, but I think there were a few things said that must be disputed.

First of all, I think it would be better, Mr. President, to have no one represent the Second Senatorial District until we have a special election than to have someone represent that district who received less than 50 percent of the vote, who was being appointed by one Federal judge, not by the Federal court, and, Mr. President, whose family would have participated in the illegal voting activity, as has been reported throughout the news media.

Secondly, Mr. President, I think it is also very important to note that had Mr. Marks followed the Election Law on election evening, or his supporters, or the supporters of the Senate Republican Campaign Committee, under the direction of the Republican staff, had they followed the Election Law on election night and challenged every absentee ballot, those absentee ballots would have, in fact, not been opened. Therefore, on the returns on that particular evening, I assume the winner of the election only on the open returns, without counting those 1,700 absentee ballots, would have been Mr. Marks.

Thirdly, Mr. President, Judge Maier from the Common Pleas court in Philadelphia gave Mr. Marks and his legal counsel the opportunity. He gave them 48 hours, once again, to post bond for the purpose of challenging and having the absentee ballots opened. Once again, Mr. President, they did not do it the second time and, to their dismay, at that point in time the Philadelphia Board of Elections certified Mr. Stinson as the winner, based on 1,700 absentee ballots.

Mr. President, I am asking to vacate the election because I think to the people in the Second Senatorial District, right now, we owe them more than what we are giving them. We are potentially going to give them an individual who did not receive a majority of the vote. Potentially, we are going to give them an individual who has been appointed by a Federal judge. Potentially, we are going to give them an individual, Mr. President, who has disenfranchised some 1,700 people and, for the most part, those people are minority and not bilingual. I do not believe, Mr. President, that is democracy at work. If there was a problem, and I do not think anyone would dispute that at this point, then the only avenue of properly resolving the problem is to vacate the election and let the people of the Second Senatorial District decide who should, in fact, be their State Senator. I do not know what the Republican Party is afraid of. Mr. Marks ran twice. He could run a third time, and perhaps he could receive the majority of the votes that would be cast in that special election. But I believe, Mr. President, to deny the people that opportunity and to do that immediately, because we could do that within a 60-day period of time, is a total disenfranchisement and it further



goes to show what type of election was run not only by the Democrats, who have been accused over and over, but also by the Republican Party.

I would again, Mr. President, ask for an affirmative vote on the amendment.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, just finally, I think it is important to note that when we are talking about the merits of this amendment, Judge Newcomer is the judge who was assigned to this case by the entire district court. It was by no magic that all of a sudden Judge Newcomer rose up to hear this case, and that the decision that Judge Newcomer made is bound and accountable by the entire court. It is not just one person's decision that has been upheld on appeal, Mr. President, and I believe that if we were to look at the absentee ballot issue, the process by which absentee ballots were cast and counted, when the Marks campaign went into court on election eve and the judge ordered that the ballots be opened, we saw half the ballots opened during the course of Election Day before the election was even over. Mr. President, to try to dispute that there was no fraud or abuse involved in the absentee ballot process, that voters were disenfranchised of their votes in this district, is ludicrous.

Mr. President, I would ask for a negative vote on the amendment.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator MELLOW and were as follows, viz:

YEAS—20

Afflerbach	Dawida	Mellow	Schwartz
Andrezski	Fumo	Musto	Stapleton
Belan	Jones	O'Pake	Stewart
Bodack	LaValle	Porterfield	Stout
Bortner	Lincoln	Reibman	Williams

NAYS—25

Armstrong	Hart	Loeper	Robbins
Baker	Heckler	Madigan	Salvatore
Bell	Helfrick	Mowery	Shaffer
Brightbill	Holl	Peterson	Shumaker
Corman	Jubelirer	Punt	Tilghman
Fisher	Lemmond	Rhoades	Wenger
Greenleaf			

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,  
Will the Senate adopt the resolution?

MELLOW AMENDMENT A1853 OFFERED

Senator MELLOW offered the following amendment No. A1853:

Amend Resolution, page 1, lines 1 through 18; page 2, lines 1 through 30; page 3, lines 1 through 27, by striking out all of said lines on said pages and inserting:

Calling for a special Senate committee to investigate the campaign activities of Bruce Marks during the recent special election for the Second Senatorial District.

WHEREAS, Government is based on the consent of the governed; and

WHEREAS, Every citizen is entitled to have complete confidence in the integrity of the election process; and

WHEREAS, In the recent special election in the Second Senatorial District, there were numerous charges and countercharges regarding the conduct of that special election; and

WHEREAS, The campaign of Bruce Marks benefitted from election campaign activities of Senate Republican staff which, if not illegal, were clearly immoral and are under investigation of the Attorney General to wit:

(1) Senate Republican staff, including Kelly Glazier and Jennifer Zeamer, illegally registered and voted in the special election of the Second Senatorial District although they had not established residence in that district.

(2) Senate Republican staff, Stephen MacNett and Michael Long organized a fictitious campaign committee which in printed campaign material employed the indicia of the Philadelphia Jewish Federation for the purpose of misrepresenting the relationship between the organized Jewish community and the campaign of Bruce Marks and used the names and pictures of Jewish public officials and candidates in printed campaign materials to further misrepresent the relationship between well-known Jewish persons and the campaign of Bruce Marks;

and

WHEREAS, A refusal to administer the oath and to seat Bruce Marks with the Senate itself investigating the matter would operate as a public recognition of and commitment to the moral duty and leadership that is incumbent upon this body; and

WHEREAS, Notwithstanding determinations made by Federal and State courts, the Constitution of Pennsylvania specifically grants the Senate of Pennsylvania the power to determine the eligibility and qualifications of its members; therefore be it

RESOLVED, That the Senate refuse to administer the oath and to seat Bruce Marks; and be it further

RESOLVED, That the President pro tempore of the Senate shall appoint a special committee of six, equally divided between the majority and minority members, to investigate the activities of Bruce Marks and his campaign during the special election involving the Second Senatorial District. The committee shall have subpoena powers and shall report its findings and recommendations to the Senate within 30 days; and be it further

RESOLVED, That should the special committee recommend and the Senate adopt the administration of the oath and seating of Bruce Marks, he shall receive all salaries, benefits and emoluments of his office accrued to him from this date.

On the question,  
Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, this particular amendment to the resolution, once again, addresses the heart of potential voter fraud. And, Mr. President, it hits the heart of potential voter fraud because there was a committee that was formed known as the FDR Federation PAC. It was formed right before the election. Sufficient time was not given for the proper and legal formation of the committee. It was formed by the chief counsel of the Republicans, Mr. Steve MacNett. It was also, Mr. President, used for the support of the campaign of Bruce Marks. It was meant, Mr. President, to blatantly try to mislead the Jewish voters. It was an extremely controversial flier, Mr. President. I held it up once before, and I am going to hold it up once again, because in the flier it shows photos of Judge Newman, who at that time was candidate Newman running for Commonwealth Court. It shows District Attorney Lynne Abraham, who was the current district attorney who was running for reelection without opposition, and it shows candidate Bruce Marks. Mr. President, it was a flier that was mailed out on the weekend prior to the election. The political action committee, which has been known as the FDR Federation PAC, was started by the counsel to the Senate Republicans, as indicated in the newspaper on April 20, 1994, Mr. Steve MacNett. It further goes on to say that staff administrator Mr. Michael S. Long orchestrated the formation of the political action committee to publish the brochure.

Now, Mr. President, it goes on further and it talks about the two individuals who were used to serve as both the treasurer and the chairperson of the political action committee. Mr. President, the treasurer is a woman by the name of Joyce Mandel, and the chairman is a gentleman by the name of Richard Abrams.

Now, Mr. President, we have talked about this over and over, about how illegal it was for the Republicans to do this, how questionable it was and how potentially unethical it was to use Senate staff on the Republican side to do this. Finally, Mr. President, after talking about it for weeks and weeks and even months, the grand jury probe has begun and these individuals have been called in front of the grand jury. In fact, Mr. President, it cites a quote that Mr. MacNett directed two Senate staffers to recruit two people in Harrisburg to serve as officers of the FDR PAC. It further goes on to talk about, Mr. President, how a Senate staffperson herself was used and then was interviewed by both the newspaper and potentially now by the grand jury about what her activity was within the FDR PAC.

Now, when you talk about fraud, Mr. President, you are talking about fraud, because although there were 1,700 absentee ballots, and let us assume that every one of those absentee ballots was an illegal absentee ballot, how do we know how many people were influenced by this flier that was sent out the weekend before the election that tried to mislead people by stating that Sandra Newman, who was a

candidate for Commonwealth Court, was supporting Bruce Marks; by trying to have people believe that the Democratic district attorney in Philadelphia, Lynne Abraham, who was running for reelection without opposition, was supporting Bruce Marks? Did the individuals who started this political action committee, who circulated the Republican flier, have the permission of Ms. Newman? Did they have the permission of District Attorney Abraham to put their photos on the front of this brochure and to send it out? Furthermore, Mr. President, when you talk about what is right and what is wrong with the makeup of this great country of ours and how this great country of ours is a melting pot, should they have used the people of the Jewish faith as a pawn in their election process, to try to lead them to believe that these particular people, because they are of Jewish faith, were supporting Mr. Marks in his bid to become a Member of the Pennsylvania Senate?

Mr. President, what we are asking for is an investigation. Accept the resolution the way it is. Run the Senate with your 25 Republican votes. Let us find out once and for all who was guilty of fraud. Let us find out, as also was shown in the Philadelphia Inquirer, about an article that was written that shows two Republican staff individuals - one, Kelly Glazier, and the other one, Jennifer Zeamer; one works for the gentleman from Delaware, Senator Loeper, the other one works for the gentleman from Montgomery, Senator Tilghman - where they did conspire themselves to influence the outcome of the special election by illegally registering in Philadelphia and illegally casting absentee ballots.

Now, Mr. President, I can only ask you, as the Presiding Officer of this body, if this happened in your governing domain, if you were the person who was responsible for staffpeople doing this particular type of activity, I think I know what you would do. It is incredible that the Republican Members of this Senate have chosen only to focus on the 1,700, quote, "fraudulent absentee ballots," some of which the wife of the candidate who is going to be sworn in today is responsible for, and to totally ignore a political flier that was put out illegally to try to influence the vote of the Jewish community in favor of Mr. Marks, and it was done by Republican staffers, and to this point the Republicans have done absolutely nothing to admonish them. They have done absolutely nothing to defend them. They have done absolutely nothing to explain what has taken place here. Thank God, Mr. President, for the State grand jury, and thank God for the individuals who are responsible for that grand jury, because they have brought these people in front of that grand jury, and I would believe that it is extremely possible that some form of charges will be brought against these people. There is no way that we should today be swearing in anyone, let alone Mr. Marks, because, without question, it is a tainted ceremony.

Mr. President, I again ask for an affirmative vote, but I realize full well that Senator Loeper will invoke his unit

rule on his Caucus and 25 Republicans will march to the beat of his drum, and the vote to defeat the amendment to the resolution will be 25 Republicans voting not to investigate this particular incident that has taken place that is wrong, and 20 Democrats will vote for it.

Thank you very much, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I think it is unfortunate that the Minority Leader continues to badger various members of the staff on this side of the aisle. Maybe the Minority Leader has a very short memory, Mr. President. If he recalls, it was his chief of staff who authorized the entering of offices throughout this Capitol some year and a half ago, leading to where wires were cut, entire offices and their computer systems--

Senator MELLOW. Mr. President.

The PRESIDENT. If the gentleman would yield.

Senator MELLOW. Mr. President.

Senator LOEPER. --and again, I want to know what was done with his staff person, Mr. President.

The PRESIDENT. The gentleman will please yield.

#### POINT OF ORDER

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, point of order. What the gentleman is saying has absolutely no merit to be discussed in this amendment.

Secondly, Mr. President, he is trying to hide behind the fact that he has violated his own oath of office by not finding out exactly what has taken place here and his own violation of the Constitution.

Finally, he should tell the rest of the story, again, and that is the fact that the State Police were the ones that did not do that investigation properly. If he would only tell the Senate and the people of Pennsylvania what has happened, that my chief of staff was found totally innocent of any wrongdoing whatsoever by not only the Attorney General of this State but also the Pennsylvania State Police. It is unfortunate that the gentleman would stoop to such a level.

The PRESIDENT. The Chair is compelled to interrupt the gentleman from Lackawanna. The gentleman started by saying he was going to raise a point of order and lapsed back into giving a speech. The Chair apologizes for allowing both Members of the Senate to be afield on this debate. It is necessary to deal with the issue at hand, namely the amendment put forth by Senator Mellow, and the Chair would instruct all of the debaters to limit their remarks to that amendment.

The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I would just suggest that the jury is still out yet on the other matter, and a report is due from the Attorney General's Office.

Mr. President, I think as far as the amendment and some of the issues that have been raised in the amendment, that the individuals who have been cited have already been before courts to testify about these various matters. To date, the only indictments that have been issued have been to William Stinson, Ramon Pratt, and Barbara Landers, and it seems, Mr. President, to the extent that any wrongdoing may have occurred, other investigatory forums are the proper place for that type of review, and not through an election contest here in the Pennsylvania Senate. I think, Mr. President, it is interesting to further note that there has been no claim advanced whatsoever that any of these activities had absolutely any impact at all on the outcome of the election in the Second District.

I would ask for a negative vote on the amendment.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, once again, to try to clarify the story, I guess it is very difficult clearing up after an elephant, and I guess this just shows that much greater how difficult it is to get the area clean and clear.

Mr. President, it is important for us to note that Mr. Stinson was indicted on a misdemeanor charge for helping to unlock a machine and for being present in an area where a voting booth was located. There was no way, Mr. President, that Mr. Stinson could have affected the outcome of the election by unlocking a machine and by being present in the voting area where the voting booth was located. Incidentally, Mr. President, it is the same thing that Mr. Marks tried to do.

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, just a moment for a comment. In criminal defense work and in criminal prosecutions, when you are being charged with something, the ideal defense is what I call the red-herring defense. The red-herring defense is when you do not have anything to defend and you are purely and completely guilty of what has been alleged, you start attacking the other side and throwing things up, whatever you can throw up, in alleging and raising the issues that have been raised here today in attacking Republican staff and then, unfortunately, the Democratic staff had to be involved, and that is not what we are talking about here today.

We are talking about whether Mr. Stinson should be sworn in and what the facts are. And the facts are that the allegations set forth here are so blatant and so outrageous that a Federal judge had to throw out the whole election and remove a sitting Senator who was involved in those actions and then replace him with Mr. Marks. That is a precedent-setting decision. It was such because of the outrageousness of what happened there. I mean, we have seen the newspaper reports, we have seen other reports, this committee report. You know, there was a joke for years that I used to tell about, oh, you know about election fraud, that you would be voting the dead. Well, in actuality

that is what happened in Philadelphia. That is what happened in this Senate district. It was so blatant that they were voting people who had died. They were voting people who did not live in the district. I mean, personally, I would not be up here defending that. I would hang my head in shame if that was the situation. But if you want to use the classic defense of the red-herring defense and get up and attack everybody in sight, attack people with allegations made against them, there are no findings against them. We have a report here from the subcommittee. There were almost 20 violations of the Election Code in this election. It is a situation in which it is okay to delay and delay the gentleman from Bucks, Senator Heckler, for 11 months in setting that election date and swearing him in because he is a Republican, and the Bucks County voters happened to elect a Republican, so let us delay that. The people in the Second Senatorial District elected a Republican, so let us delay that. Let us take every action we possibly can to delay the swearing-in of that individual or the process of making sure that they seat him. When a Democrat is up for election, then it is okay. Then we will set up the election for replacing Senator Scanlon. We will set up and make sure that Mr. Stinson is sworn in within hours of the election conclusion.

Senator MELLOW. Mr. President.

POINT OF ORDER

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, point of order. I think he has gone far afield.

The PRESIDENT. The gentleman, Senator Mellow, raises a legitimate point of order that again--

Senator GREENLEAF. Mr. President, well, my point is that these motions and these amendments are merely delaying motions to prevent a duly elected individual who had already been defrauded out of his election process, and now we are here in the Senate debating another attempt, through procedural efforts, to further deny him the right to sit in the Senate.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, only in rebuttal to-- Senator LOEPER. Mr. President.

The PRESIDENT. Will the gentleman yield for just a moment.

Senator MELLOW. I have the floor, Mr. President.

Senator LOEPER. Mr. President, am I correct that this is the gentleman's third time speaking on the same amendment?

The PRESIDENT. The gentleman has already spoken twice. This would be his third time. If the gentleman objects, the gentleman is technically out of order.

Senator LOEPER. Mr. President, I do not object.

Senator MELLOW. Mr. President, if he objects, I would be only too happy to interrogate the gentleman from

Montgomery, Senator Greenleaf, whoever wants to discuss it, unless the gentleman, Senator Loeper, would like to move the previous question.

The PRESIDENT. The Chair has not entertained any objection to your speaking again, Senator. The gentleman may proceed.

Senator MELLOW. Mr. President, I would only like to answer what was stated by the gentleman from Montgomery, Senator Greenleaf. He said that people voted absentee who did not live in the community, and he is absolutely, positively correct, because two of them who are staffpeople for the Senate Republicans stated in the newspaper on April 6 that they registered in an apartment in the district for the purpose of voting. They stated in this particular article, Mr. President, that was written by Henry Goldman in the Inquirer, again on April 6, that both S. Kelly Glazier and Jennifer Zeamer testified that they improperly cast absentee ballots for their boss, Bruce S. Marks. Now, I do not know whether they work for Bruce Marks in his law firm, but certainly Bruce Marks is not a Member of the Pennsylvania Senate, and if they do work for him, then they are illegally being paid by both the gentleman from Montgomery, Senator Tilghman, and the gentleman from Delaware, Senator Loeper, because they then are not employees of the Pennsylvania State Senate.

Now further, Mr. President, I did not say that Members acted illegally. My motion and my amendment to the resolution asks for an investigation. If they did not act illegally, then they should not have a cloud of suspicion over them, because now, Mr. President, those Members who were employed by Senator Loeper and Senator Jubelirer and company have a cloud of suspicion over them as to what form of impropriety they were involved with regard to this campaign. So if those individuals, Mr. MacNett and Mr. Long and company, did not act illegally, the only way that we can possibly have them vindicated, the same way my chief of staff was vindicated by both the Attorney General and by the State Police, is to hold an investigation and let us find out exactly what they did. With regard to the two women who voted on fraudulent absentee ballots, the gentleman from Montgomery, Senator Greenleaf, is absolutely correct when he said, and his quote was, people voted absentee who did not live in the community, and two of them work for the gentleman's Caucus.

I ask for an affirmative vote.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator MELLOW and were as follows, viz:

YEAS--20

Afflerbach	Dawida	Mellow	Schwartz
Andrezeski	Fumo	Musto	Stapleton
Belan	Jones	O'Pake	Stewart

Bodack	LaValle	Porterfield	Stout
Bortner	Lincoln	Reibman	Williams

NAYS—25

Armstrong	Hart	Loeper	Robbins
Baker	Heckler	Madigan	Salvatore
Bell	Helfrick	Mowery	Shaffer
Brightbill	Holl	Peterson	Shumaker
Corman	Jubelirer	Punt	Tilghman
Fisher	Lemmond	Rhoades	Wenger
Greenleaf			

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,  
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I would just like to make one final statement. I will be very brief. We are not here to try to defend any potential impropriety in the election. We realize full well, Mr. President, that there were a number of things that could have taken place in this election that might have been inappropriate. We do not know how far-reaching they are, Mr. President. We do not know if they extend to Mr. Stinson because the indictment that was brought down on him certainly does not indicate that to be the case. We do not know if they do extend, Mr. President, to the individuals who represented the Republican staff in Philadelphia through their FDR PAC. Perhaps they did nothing wrong, although there are allegations and there is some concern that they may have done something wrong. We do not want to, Mr. President, under any circumstances, if Mr. Marks did win the election in a proper fashion, then he should be able to take his seat, and by the same token, if someone else won that election in the proper fashion, then they should be able to take that seat. But the truth of the matter is, Mr. President, there is not one person in this body here today, and that would include Judge Newcomer if he were before us, who can, with any degree of authority and with any degree of accuracy, tell us exactly what happened in that election and exactly who won that election.

Mr. President, it is unfortunate that, again, for the first time in the history of Pennsylvania, not only do we have a Member of the Senate who will be sworn in and will take his seat on the fact that he did not receive more than 50.001 percent of the vote, but in fact, Mr. President, we have an individual who will take his seat because he has been appointed by a Federal judge, based on some form of statistical data, Mr. President, that not too many people understand. In fact, what I tried to do, on the subject of regression analysis, I tried to get briefed, to the best of my ability, on what it means, not in a political connotation but so that I have some degree of understanding. And the only thing that I can understand, Mr. President, is that when Judge Newcomer says that regression analysis is used to

narrow a standard deviation which results in pinpointing flaws, and he pinpoints that the flaws were anywhere between 500 and 1,000 votes were cast fraudulently in absentee ballots, there is no way that any one of us can appropriately comprehend that. Mr. President, if Judge Newcomer was able to say to us that through his statistical analysis, through the regression analysis that took place, that somewhere between 978 or 754, or if he could narrow it down to a much smaller number of individuals who had cast a fraudulent vote, then perhaps, Mr. President, I could fully understand what we are doing here today.

But what we do here today, Mr. President, is going to be far-reaching to the Senate. It is going to have great consideration as to what is going to happen in the Federal court. The Federal court has now decided to do something they have never done before, even during the problems of civil rights of the 1960s. Never before has a Federal court taken this extraneous action to have someone seated in a body when they have not received the majority of the votes. They have vacated an election, and maybe that is what should be done, and, Mr. President, that is what I tried to do by offering my amendment to vacate the Second Senatorial District and to call for a special election, but the Republicans would not support that. I also, Mr. President, tried to, through the amendment process, call for the proper type of investigation so that if people can be vindicated, there should be no cloud of suspicion over their heads, but by the same token, if these people did something wrong, then they should be brought to task for it. It is unfortunate, Mr. President, the Republican Party in the Senate today has denied the people of Pennsylvania that opportunity and will once again use their 25 votes to do that which basically by all thinking of all people by the discussion that we have had with many, many lawyers, not necessarily those lawyers who have directly worked in this case, that this is improper, that this in itself is an impropriety, that Mr. Marks should not be seated, and that we should have a special election in the Second District. Unfortunately, the Republican Party wants the 26th vote in the Senate and does not see it that way. But I only want to caution them, Mr. President, there will be another day.

Thank you very much.

The PRESIDENT. On the motion, the Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, just some final comments on the resolution that is before us. I think the gentleman from Lackawanna, Senator Mellow, makes some good points. Mr. President, it is unprecedented, unprecedented that the Federal courts would have to intervene to overturn an election because of the fraud, the abuse, the violation of civil rights that took place in that Second District in Philadelphia. Mr. President, what we are talking about today is a major, dark blemish on Pennsylvania, a blemish that is not going to easily be erased for a long time because of the violation of the election process in that Second Senatorial District.

I think, Mr. President, it is important to note that the people of that Second Senatorial District have been without proper representation in the Senate now for almost 1 year, and the Federal courts have commendably halted the assault on unfair elections in that Second District. I think, Mr. President, that what we have seen through this resolution before us today is the Senate makes clear our judgment, and that judgment, Mr. President, is clearly that Bruce Marks, by virtue of the votes legally cast, is the winner of the special election. And further, I think that the key finding, Mr. President, is that the improper conduct of the Philadelphia County Board of Elections and the Stinson campaign resulted in between 500 and 1,000 absentee ballots being illegally cast for Bill Stinson. The analysis, Mr. President, demonstrates that Bruce Marks was the winner based on legally cast votes.

It is my view, Mr. President, that today, by our action in trying to determine the rightful winner in this election contest, we serve the interests of the people of the Second Senatorial District. Even more, Mr. President, we reaffirm the commitment of State government that we must have toward fair and clean elections in every segment of this Commonwealth. Our citizens must have the confidence that elections, whether in Philadelphia or in any other part of this State, are run by the rules and law and not decided by their votes, whether that past practice has existed since the time of Billy Penn or not, and that the system will fight and not accept any more fraud.

Mr. President, I would ask for an affirmative vote on the adoption of the resolution.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, the gentleman from Delaware, Senator Loeper, said that because it was an unprecedented election that the Federal government and the Federal courts were involved in it. And maybe, Mr. President, because it was such an unprecedented election and because, according to some reports, there was widespread voting fraud that went right to the wife of the gentleman who potentially could be sworn in later on this afternoon, that is the reason why, Mr. President, we need a special election in the Second Senatorial District.

Mr. President, once again, this is a history-making day because in the history of Pennsylvania, this is the first time that a candidate has not been elected based on popular vote, has not been elected based on the majority of the people who cast their ballots on November 2, but, in fact, has been elected based on a statistical analysis which is referred to as regression analysis, and if you take the regression analysis, Mr. President, and you want to simplify it, you can talk about the consumption in Pennsylvania of apples versus oranges. There is absolutely no way with the regression analysis that is being used here that one could statistically determine who won this election unless it is being done right now through the interpretation of the Republican Party in a very strong partisan way.

And I realize that there is not one thing that I can say or do here today that is going to change the minds of the 25 Republican Members, and I assume when we come back, unless some higher court intervenes and unless some higher court vacates the election, when the Republicans come back they will have 26 votes. But what is good about 26 votes, Mr. President, is that we have to deal with the budget and they will have to deal with it. We are going to have to deal with certain things like workmen's compensation, Mr. President, and they are going to have to deal with it. We are going to have to deal with health reform, Mr. President, and they are going to have to deal with it. They have now been given their own mandate, by themselves, incidentally, to lead in the Senate of Pennsylvania, and the people of Pennsylvania will be watching everything they do. And I only hope they can use their 26 votes in a positive way and not in the blatant political way that they have in the past.

Thank you very much. I again, Mr. President, ask for a negative vote.

And the question recurring,  
Will the Senate adopt the resolution?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

#### YEAS—25

Armstrong	Hart	Loeper	Robbins
Baker	Heckler	Madigan	Salvatore
Bell	Helfrick	Mowery	Shaffer
Brightbill	Holl	Peterson	Shumaker
Corman	Jubelirer	Punt	Tilghman
Fisher	Lemmond	Rhoades	Wenger
Greenleaf			

#### NAYS—20

Afflerbach	Dawida	Mellow	Schwartz
Andrezeski	Fumo	Musto	Stapleton
Belan	Jones	O'Pake	Stewart
Bodack	LaValle	Porterfield	Stout
Bortner	Lincoln	Reibman	Williams

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. The resolution is adopted.

#### RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, at this time I would ask for a recess of the Senate to the call of the President pro tempore. We expect to reconvene as soon as the official certification is received here for Bruce Marks in order that we may proceed with his official swearing-in.

The PRESIDENT. Senator Loeper moves that the Senate do now recess to the call of the President pro tempore.

The Senate stands in recess.



**AFTER RECESS**

The PRESIDENT. The time of recess having expired, the Senate will come to order.

**SPECIAL ORDER OF BUSINESS  
SWEARING-IN OF NEW MEMBER**

The PRESIDENT. Without objection, the next order of business will be the administration of the oath of office to Senator-elect Bruce S. Marks of Philadelphia County.

**PRAYER**

The Chaplain, Reverend EFRAIN COTTO, Pastor of the United Church of Christ, Philadelphia, offered the following prayer:

Mr. President, Members of the Senate, several years ago I had the distinguished honor of bringing the invocation to a city council meeting of Philadelphia in Spanish and in English, and today, Senator Bruce Marks has given me an even higher privilege by requesting I bring the blessing to this most important event. We have assurances that our voice will be heard in these halls in a constructive and collaborative manner. So is the hope of the Latino community, and it would be appropriate to address God, our Creator and Maker, in the tongue of Cervantes as well as in the tongue of Shakespeare. So, for the first time, and yet I hope in many other occasions, we will hear a prayer in Spanish.

Let us pray:

Amado Dios, y Padre de todos nosotros, te damos gracias por habernos permitido esta oportunidad de estar juntos en este evento de gozo y justicia. Y, que podamos avn elevar esta oracion en Espanol en este sagrado salon.

Permite que nosotros, Latinos podamos optener plena participacion en la vida de nuestro estado. Amen.

Father God, Thou Great Governor of all the world, we pray for all who hold public office in power and for the life and welfare and virtue of the people who are in their hands. Strengthen the sense of beauty in our political life, and grant that the servants of the State may feel ever more deeply that any diversion of their public powers for private ends is a betrayal of their country.

Purge our cities, States, and nation of the deep causes of corruption, which have often made sin profitable and uprightness hard. Breathe a new spirit in this Senate and in our nation, and give our leaders new vision and set their hearts on fire with large resolves. Rise up a new generation of public men with the faith and daring of the kingdom of God in their hearts, who will enlist for life in a holy warfare for the freedom and the rights of all people. Amen.

The PRESIDENT. The Chair thanks Reverend Cotto, who is the guest today of Senator-elect Bruce S. Marks.

**PRESENTATION OF ELECTION RETURNS**

The PRESIDENT. The Chair laid before the Senate the following communication from the Secretary of the Commonwealth, which the Clerk read:

**COMMONWEALTH OF PENNSYLVANIA**

**TO THE HONORABLE PRESIDENT AND MEMBERS OF THE SENATE OF THE GENERAL ASSEMBLY OF PENNSYLVANIA, GREETINGS:**

I have the honor to present the returns of the Special Election for Senator in the General Assembly of the Commonwealth of Pennsylvania held in the Second Senatorial District, as the same has been certified to and filed with my office by the Philadelphia County Board of Elections, as directed by the Order of the United States District Court for the Eastern District of Pennsylvania entered April 26, 1994 in Bruce S. Marks, et al. v. William Stinson, et al., Civil Action No. 93-6157. Bruce S. Marks, having received a plurality of the legally cast votes in the Special Election, as determined by the Court, and having complied with the provisions of Article XVI of the Pennsylvania Election Code pertaining to Primary Election Expenses, was duly elected a Senator in the General Assembly.

(SEAL)

IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of my office at the city of Harrisburg, this twenty-eighth day of April in the year of our Lord one thousand nine hundred and ninety-four and of the Commonwealth the two hundred and eighteenth.

ROBERT N. GRANT  
Deputy Secretary of the  
Commonwealth

**STATEMENT BY THE PRESIDENT**

The PRESIDENT. For the record, the Secretary of the Commonwealth has also certified that the Senator-elect has filed the accounts and affidavits as required by Article XVI of the Pennsylvania Election Code.

**ADMINISTRATION OF OATH OF OFFICE**

The PRESIDENT. The next order of business will be the administration of the oath of office to Senator-elect Marks.

It is an honor and a privilege to have with us today Judge Clarence Morrison, President Judge of the Court of Common Pleas of Dauphin County. He has kindly consented to come here today to administer the oath of office to Bruce S. Marks in accordance with Article VI, section 3, of the Pennsylvania Constitution.

Will the Senator-elect please present himself, along with his Bible, to the bar of the Senate.

And now, would you all please rise. Judge Morrison will now administer the oath.

Judge Morrison.

Judge MORRISON. Thank you, sir.

If you are prepared to take the oath of office, sir, will you place your left hand on the Bible and raise your right hand and repeat after me:

I, Bruce S. Marks, do solemnly swear that I will support, obey, and defend the Constitution of the United States and the Constitution of this Commonwealth, and I will discharge the duties of my office as a Member of the Senate of the Commonwealth of Pennsylvania with fidelity.

Congratulations, sir.

(Applause.)

The PRESIDENT. At this time, the Chair would invite those who wish to take photographs to please come forward, and the Judge has consented to re-enact the swearing-in celebration for all of the photographers, professional and otherwise.

(The Senate was at ease.)

The PRESIDENT pro tempore (Robert C. Jubelirer) in the Chair.

#### PETITIONS AND REMONSTRANCES

The PRESIDENT pro tempore. The Chair recognizes the Majority Leader, Senator Loeper.

Senator LOEPER. Mr. President, today is certainly an historic occasion in this Chamber. Unfortunately, it is an occasion that should have occurred several months ago, when the gentleman who should have been elected and duly certified from the November 2 election, Bruce Marks, should have been sworn in in January to fill the seat that he now holds representing the people of the Second Senatorial District. But, Mr. President, today it is so fitting that we have so many family, friends, Members of the Senate, everyone who was on the team to ensure that democracy worked. And, Mr. President, I think what we are seeing today is really a lesson in democracy. We have seen where a wrong has been righted, and it has been righted through the system. The system many times may appear cumbersome and many times we may think that that system does not work and it is not in our best benefit, but, Mr. President, I could not help, but I think we all had a tear in our eye this afternoon when that oath of office was administered to Bruce. We all are very proud of him and his team, his family, his friends, but most of all the residents of the Second Senatorial District in Philadelphia who stood beside Bruce Marks in his quest to have justice prevail. And, Mr. President, it is a proud moment for us this afternoon to count among our ranks Senator Bruce Marks from the Second District.

(Applause.)

The PRESIDENT pro tempore. It is quite a day. Any further Petitions and Remonstrances?

Senator LOEPER. Mr. President, you are usually reminding me to move on with the order of business.

#### STATEMENT BY PRESIDENT PRO TEMPORE

The PRESIDENT pro tempore. Without objection, the Chair would just like to add to the comments of Senator Loeper. That was one of the most emotional moments of my life and I shall never forget it. I think I told Senator Marks that likely the day I saw his hand on the Bible taking the oath--and it was a great honor for me to provide my Bible for him to do that--would be an incredible day for me. I want to say to Bruce, to Irene, to Harriet and the entire family, how wonderful it is that you could all enjoy this, as my family enjoyed mine and the Members of the Senate had their families here. This is special. And Bruce, I say to you, as I said before, I do not know what you are going to do when the cameras go away and the humdrum life of a Senator sets into effect. It is not all the glamour that we see. But, as Senator Loeper said, this is an historic occasion and I am deeply honored to be a part of it. Just as I will do the very best I can in saying to all of you, to the Marks family and the friends who traveled here, to Bruce: congratulations, mazel tov, congratulations.

(Applause.)

#### PETITIONS AND REMONSTRANCES

(Continued)

The PRESIDENT pro tempore. I am delighted and thrilled to recognize the Majority Leader for an adjournment motion.

Senator LOEPER. Mr. President, before making that final motion, I would also just like to indicate to Senator Marks that he is now a member of the team, all 26 of us, and we are very proud and look forward to his continuing to be with us for a long time to come.

(Applause.)

#### ADJOURNMENT

Senator LOEPER. Mr. President, I move that the Senate do now adjourn until Monday, May 16, 1994, at 2 p.m., Eastern Daylight Saving Time, unless sooner recalled by the President pro tempore.

The motion was agreed to.

The Senate adjourned at 4:05 p.m., Eastern Daylight Saving Time.