

NO. 21

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 10, 2017

FRIDAY, FEBRUARY 10, 2017

Friday, February 10, 2017
(Local Session)

~~Indicates Matter Stricken~~

Indicates New Matter

The Senate assembled at 11:00 A.M., the hour to which it stood adjourned, and was called to order by the ACTING PRESIDENT, Senator SCOTT.

CORRECTION TO THE JOURNAL

The following introduction was inadvertently omitted from the Journal of Wednesday, February 1, 2017:

H. 3346 -- Reps. Collins, Clary and Hiott: A BILL TO AMEND ACT 260 OF 1981, AS AMENDED, RELATING TO THE PICKENS COUNTY SCHOOL BOARD OF TRUSTEES, SO AS TO INCREASE THE NUMBER OF BOARD MEMBERS FROM SIX TO SEVEN, TO PROVIDE THE SEVENTH MEMBER INITIALLY MUST BE APPOINTED BY THE GOVERNOR UPON RECOMMENDATION OF A MAJORITY OF THE LEGISLATIVE DELEGATION OF PICKENS COUNTY TO SERVE AT LARGE UNTIL A MEMBER REPRESENTING A NEWLY CREATED SEVENTH SINGLE-MEMBER DISTRICT IS ELECTED AND QUALIFIED IN THE 2022 GENERAL ELECTION, AT WHICH TIME THE AT-LARGE SEAT TERMINATES, AND TO PROVIDE ALL PICKENS COUNTY SCHOOL BOARD MEMBERS MUST BE ELECTED BY MAJORITY VOTE BEGINNING WITH THE GENERAL ELECTION IN 2022.

The Bill was introduced and referred to the Local Delegation.

ADDENDUM TO THE JOURNAL

The following remarks by Senator MASSEY were ordered printed in the Journal of January 25, 2017:

Remarks by Senator MASSEY

Thank you, Mr. PRESIDENT. Before I get started, I have to say that Clemson purple looks really good on you. Mr. PRESIDENT, I rise today for a couple of reasons. First and foremost, I'm honored to nominate Senator HARVEY PEELER for the office of PRESIDENT *Pro Tempore*. Thank you for asking me, Senator. I appreciate that honor. I appreciate even more the fact that you stepped up in a circumstance where most of us understand what the outcome will be. You've earned

FRIDAY, FEBRUARY 10, 2017

the opportunity to be considered for PRESIDENT *Pro Tempore* and I appreciate you doing that. Second, I want to share with you some sincere concerns I have about what I expect is about to happen. When the Senate elected a new PRESIDENT *Pro Tempore* in June 2014, I expressed concerns then about the consolidation of power in one person who is elected by 1/46th of the State. I'm not going to rehash that speech. But I still have those concerns. In fact, not only have those concerns not been alleviated, I think they've become more apparent and troubling. To put that into focus, I think Senator LEATHERMAN actually articulates that problem much better than I can -- with this fundraising invitation. Take a look at that for a second. I couldn't have said any better myself what the real problem is. Senator PEELER recognizes this problem. Let's be honest. Nearly everyone in this Chamber recognizes the problem. Senator PEELER, though, has pledged that he would ensure a more proper distribution of power. I'm just going to leave it at that. Now, I really didn't come up here today to pick a fight with Senator LEATHERMAN. I didn't. I want to be clear about this. My goal here today is not to criticize Senator LEATHERMAN. That's not at all my intention. Because this really isn't about Senator LEATHERMAN. For that matter, it is really not about Senator PEELER. This is about all of the rest of us. This is about us. It is about the Senate in which we're all privileged to serve. Ladies and gentlemen, I believe rules matter. Most of our work here is to set out rules for civilized society in South Carolina. We establish rules for how men and women interact with each other. We make rules for the protection of our environment. We create rules to ensure our children are educated. We impose consequences for violations of those rules. Sometimes those consequences are criminal. Sometimes they are civil. Sometimes they are miniscule. But the statement we make by setting those rules says who we are and what we believe. The rules matter. The rules for what we're dealing with today are really very clear. The PRESIDENT *Pro Tempore* is a constitutional office. Article 4 Section 9 of the Constitution requires the Senate to choose a PRESIDENT *Pro Tempore*, and then it says why, "The Senate shall as soon as practicable after the convening of the General Assembly choose a PRESIDENT *Pro Tempore* to act in the absence of the Lieutenant Governor. A member of the Senate acting as Lieutenant Governor shall thereupon vacate his seat and another person shall be elected in his stead."

FRIDAY, FEBRUARY 10, 2017

That is the PRESIDENT *Pro Tempore*'s only constitutional job. To act in the absence of the Lieutenant Governor. That's his only constitutional job. It is the only one. So what does it mean when the person who occupies that office stands before us with his right hand raised, his left hand often on the Bible, and swears to exercise the duty of the office to which he has been elected and that he will, to the best of his ability, discharging the duties thereof, and preserve, protect, and defend the Constitution of this State and of the United States so help him God? The constitution gives the PRESIDENT *Pro Tempore* one job. When he swears to exercise the duties of the office of PRESIDENT *Pro Tempore*, when he swears he will discharge the duties of that office, when he swears that he will preserve, protect, and defend the constitution of this State, does he not swear while invoking God's guidance to perform the one job that the Constitution of the State gives him?

Now I understand the significant differences between the offices of PRESIDENT *Pro Tempore* and Lieutenant Governor. We all do. And frankly, I understand a PRESIDENT *Pro Tempore* not wanting to vacate his Senate seat and become Lieutenant Governor. PRESIDENT *Pro Tempore* is arguably the most powerful position in South Carolina state government. The Lieutenant Governor is arguably the least powerful. I understand not wanting to do that. But if you took the oath, you ought to do it. Why would we, the rest of us who are called Senator, sanction efforts to disregard that constitutional obligation? Senator PEELER has pledged he will fulfill the duty if it comes. Senator PEELER has pledged to honor his oath. If you don't want to do the one job the Constitution gives you, though, there is a way out. You can resign. And that's the argument that we've heard today. That we're not really violating the Constitution with this shameless and obvious game of musical chairs. That we're not technically breaking the rules. In fact, we have a legal opinion to that effect. As Senator RANKIN just referenced and the Senator's resignation letter from about an hour ago referenced, his attorney has advised us this is a proper course. The problem, of course, is that the Constitution gives the PRESIDENT *Pro Tempore* just one job -- to act in the absence of the Lieutenant Governor. Which is why when he vacated his Senate seat and accepted that one job the Constitution required of him, former PRESIDENT *Pro Tempore* Glen McConnell said, and I quote, "I will not contort the words of both Constitution and my oath of office in order to keep a position that I might personally prefer; nor should we ever allow that in the future" -- nor

[SJ]

FRIDAY, FEBRUARY 10, 2017

should we ever allow that in the future. Senator PEELER has stepped up today in an effort to not allow that now. Everyone in here, all of us who are honored to have the title "Senator" -- all 45 of us -- we know this is wrong. Every one of us knows that we violate the spirit and the intent of the Constitution by sanctioning this conduct. Everybody knows that. That same Constitution that all 45 of us asked God's help in our efforts to preserve, protect, and defend.

Folks, I believe the rules matter. I believe that you believe that, too. Why with your votes today would you say otherwise? I believe our examples matter. Now, I'm fairly confident that most South Carolinians couldn't tell who you the PRESIDENT *Pro Tempore* is. I'm even more confident that most of them don't care. Unless you really pay attention to state government, you probably don't understand just what power and influence the PRESIDENT *Pro Tempore* has. But you know what people do understand? I am absolutely confident that people understand politicians not playing by the rules. They understand when other politicians cover for their friends who don't play by the rules. Now we've seen that some in the past 16-17 hours with the emails and phone calls many of us have received. I would argue that was one of the most significant issues of the recent presidential election. Folks, the public already thinks we don't play by the rules. You ask the lady walking down the street right now if she thinks politicians follow the rules? What's she going to tell you? Better yet, when you go home, ask folks what they think will happen if they don't follow the rules. Then ask them if they believe there will be consequences when they don't follow the rules. And, then, ask them what they think about a politician who disregards the rules. Do they think he or she will face the same consequences? We don't need to ask those questions, do we? We already know the answers. Some of us have heard from a small and determined number of South Carolinians last night and this morning. I appreciate their input. Unfortunately though, we're not going to see a lot of public outrage about this. There's not going to be a march on the State House. There won't be widespread anger. But that's not because people don't care. It is because in large part, sadly, they expect us to do this. Too many people expect that given the choice between doing the right thing and doing the wrong thing, the politicians will do the wrong thing. As former Senator McConnell said just before he accepted his constitutional obligation, "...for the people of South Carolina who hear these words today or read them in the future, I want them to know that what I do today should not

[SJ]

FRIDAY, FEBRUARY 10, 2017

be considered remarkable. If what I'm doing is considered special, then it is a sad indictment of the public's view of elected officials and our commitment to what is right." Sad indictment indeed. If you care at all about that, if you care what people think -- that they think that all elected officials are dishonest and corrupt -- if you care about the integrity of this Body -- even if you just care about your own integrity -- why in the world would you vote today to confirm their suspicions?

Again, this isn't about Senator LEATHERMAN or really even Senator PEELER. This is about the Senators who are going to allow this to happen. A majority of this Senate says it is important that people follow the rules and follow the law -- unless, of course, it prevents you from doing what you really want to do. Then it is okay not to follow the rules. Well, as long as you're an elected official, right? It is a heck of an example for us to set. It is a terrible example. This is a terrible example to set for the college students who are in here today, watching us right now, working in our offices, to our pages and law clerks, to our students in the balcony, and to everyone watching. The rules matter! It is not okay to disregard the rules just because they're inconvenient. Our example matters. I encourage you to support Senator PEELER because he believes these rules matter.

Now during my remarks, I quoted a few comments from McConnell's speech. I agree with his statement; but, I also think those statements are relevant to the situation we have before us today. Also because I know everyone who served with him listened when he talked about the Constitution. We respected his positions and valued his input on constitutional questions. So much so that some of us still ask his advice. In that speech, Senator McConnell reminded those listening of the constitutional standards he championed during his Senate career. Then he said this, "When I walked in the Senate thirty-one and a half years ago, I saw in that chair that I occupy today, Marion Gressette, Chairman of the Senate Judiciary Committee. He became an inspiration to me about the importance of this institution as a Body where detail and fairness were the norm for operation. I was one of only five Republicans that year, and yet I was welcomed as an active participant in the process of legislation. His character and values became my goal as a legislator." Thank you, Mr. PRESIDENT. We, too, have a duty. We too, have oaths to uphold. Ladies and gentlemen of the Senate, let's do the right thing.

Mr. PRESIDENT, I nominate the Senator PEELER, HARVEY PEELER, for PRESIDENT *Pro Tempore*.

[SJ]

FRIDAY, FEBRUARY 10, 2017

CO-SPONSOR ADDED

The following co-sponsor was added to the respective Bill:
S. 365 Sen. Sabb

ADJOURNMENT

At 11:05 A.M., on motion of Senator CROMER, the Senate adjourned
to meet next Tuesday, February 14, 2017, at 2:00 P.M.

* * *

FRIDAY, FEBRUARY 10, 2017

SENATE JOURNAL INDEX

H. 3346**1**