

In *Wirtz v. Quinn*, Justice Burke wrote for a unanimous court in reversing the appellate court's Opinion which had declared the 2009 Capital Projects Acts unconstitutional. This Opinion will serve as a modern Baedeker for the law of legislative drafting.

This action, brought by Rockwell Wirtz and Wirtz Beverage Illinois, LLC, on behalf of taxpayers generally, was initiated by a complaint seeking to enjoin the disbursement of public funds pursuant to 735 ILCS 5/11-303. The statute requires that the action be commenced by filing a petition for leave to file, and requires that the circuit court find reasonable ground for filing before the complaint may be filed. The circuit court concluded that reasonable ground did not exist, and denied the petition. The appellate court found that PA 96-34 "An Act Concerning Revenue" violated Article IV, § 8(d) of the Illinois Constitution of 1970, the single subject clause. The remaining three acts, consisting of an Appropriation Bill, a Trailer Bill and a Budget Implementation Bill, each expressly provided that it was passed contingent upon PA 96-34 becoming law. Because the appellate court found that PA 96-34 was void in its entirety, the remaining three bills were found to fall as well because of that contingency. The appellate court did not then have occasion to take up any of the other constitutional challenges to the bills.

The supreme court granted the Petition for Leave to Appeal filed by the numerous governmental defendants and handled the case in a compressed timeframe. The supreme court reversed the appellate court's holding that PA 96-34 violated the single subject clause. Then, in the interest of judicial economy, and perhaps in recognition of the practical fiscal importance of this dispute, the court addressed all of the other constitutional challenges pled in the taxpayers' complaint, rather than remanding the case to the appellate court.

The court reviewed the reasons underlying the single subject clause. Among those are (a) an attempt to preclude the passage of legislation which, standing alone, would not receive the necessary votes for enactment ("logrolling"), and (b) promotion of an orderly legislative process, in which each bill can be more intelligently discussed. The court carefully catalogued the many wide-ranging topics covered by the bill. The court then framed the debate by noting defendants' assertion that the single subject of the Act is "capital projects," rather than merely "revenue" as contained in the title of the Act. The court then examined each of the many aspects of the Act and concluded that they had a "natural and logical connection to the subject of capital projects." The connection was found in that the measures established increased revenue services to be deposited into the Capital Projects Fund.

The Opinion is notable for its inclusion of numerous quotations from legislators explaining the bill. The court looked upon those comments favorably as indicative of "legitimate compromise on a bill which comprised a single subject." "There is a difference between impermissible logrolling and the normal compromise which is inherent in the legislative process."

Moving beyond the scope of the appellate opinion, the court found that the remaining three Acts do not violate the single subject clause. The court found that whether the enactment of a statute may be made contingent on the enactment of another statute is an issue of first impression. The court found the enactment of the legislature to be permissible here because there was a reasonable relationship between the statutes. The court found that the various separate acts were necessary because of "the practicalities of implementing a large and complex capital projects program, while complying with constitutional guidelines." The court further observed that "it makes little sense to raise taxes to fund capital programs without appropriating the money toward those programs, and vice versa.

The Opinion presents a useful summary of the alternating burdens encountered in presenting and defending a challenge brought under the Uniformity Clause. The taxpayer is not required to prove that every conceivable explanation for the tax is unreasonable. Rather, the taxing body must produce a justification for its classifications. However, the taxing body does not have an evidentiary burden nor must it produce facts to justify the classification. Once that justification is offered, the plaintiff then has the burden to persuade the court that the defendant's explanation is insufficient, as a matter of law or as unsupported by the facts. Driving to the heart of this challenge brought by liquor wholesalers complaining of the differential tax treatment of wine, beer and spirits, the court stated that "temperance is a legitimate public goal and the classifications established ... are in furtherance of that goal." The legislature's judgment "is not a matter that may be factually refuted."

The court agreed with defendants that challenges to the appropriations for the 2009 fiscal year are now moot because the court cannot at this point grant “effective relief.” The court found, though, that the public interest exception to mootness applied, and went on to resolve that challenge in favor of defendants.

This opinion has the additional historical distinction of being the first opinion to be assigned a Public Domain Citation number (2011 IL 111903). Paragraph numbers also appear, which will be needed for proper citation from this day forward.