

LIBRARY

SUPREME COURT, U.S.  
WASHINGTON, D.C. 20543

# OFFICIAL TRANSCRIPT PROCEEDINGS BEFORE

THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

**DKT/CASE NO.** 82-1889

**TITLE** SPRINGFIELD TOWNSHIP SCHOOL DISTRICT, ET AL., Petitioners  
v. MADELIN H. KNOLL

**PLACE** Washington, D. C.

**DATE** January 14, 1985

**PAGES** 1 - 33



ALDERSON REPORTING

(202) 628-9300

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE SUPREME COURT OF THE UNITED STATES

- - - - -x  
SPRINGFIELD TOWNSHIP SCHOOL :  
DISTRICT, ET AL., :  
Petitioners, :  
V. : No. 82-1889  
MADELIN H. KNOLL :  
- - - - -x

Washington, D.C.  
Monday, January 14, 1985

The above-entitled matter came on for oral argument before the Supreme Court of the United States at 10:02 o'clock a.m.

APPEARANCES:  
CHARLES POTASH, ESQ., Norristown, Pennsylvania; on behalf of the petitioners.  
ROBERT H. CHANIN, ESQ., Washington, D.C.; on behalf of the respondent.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C O N T E N T S

<u>ORAL ARGUMENT OF</u>	<u>PAGE</u>
CHARLES POTASH, ESQ.,	
on behalf of the petitioners	3
ROBERT H. CHANIN, ESQ.,	
on behalf of the respondent	18
CHARLES POTASH, ESQ.,	
on behalf of the petitioners - rebuttal	32

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

CHIEF JUSTICE BURGER: We will hear arguments first this morning in Springfield Township School District against Knoll.

Mr. Potash, you may proceed whenever you are ready.

ORAL ARGUMENT OF CHARLES POTASH, ESQ.,  
ON BEHALF OF THE PETITIONERS

MR. POTASH: Mr. Chief Justice, and may it please the Court, this case squarely presents to the Court the question whether a state statute of limitations applicable to the commencement of judicial proceedings should be disregarded in a Section 1983 suit solely on the ground that the limitation period, six months, is per se unreasonably short, and consequently inconsistent with the Constitution and laws of the United States.

Respondent commenced suit on April 21st, 1981, to redress alleged discrimination on the basis of sex by her employer, the School District of Springfield Township. One of her claims sought relief under Section 1983. In the alternative, respondent sought relief under Section 703 of the Civil Rights Act of 1964.

Under her theory, the last act of discrimination occurred in September of 1980, some seven



1 or eight months earlier, when a man was appointed as  
2 assistant superintendent, a job for which she had not  
3 applied.

4 The school district defendants moved for  
5 summary judgment, one of the grounds being that the  
6 Section 1983 claim was barred by the Pennsylvania state  
7 statute of limitations governing certain actions against  
8 public officials.

9 The District Court agreed. The Court of  
10 Appeals in a panel decision reversed the dismissal of  
11 the 1983 claim on the ground that the six-month statute  
12 of limitations was so short as to be inherently  
13 inconsistent with the policies fostered by the Civil  
14 Rights Act.

15 The school district defendants applied for  
16 rehearing, and the application was denied, with four  
17 judges voting to grant the rehearing.

18 Now, there is no question in this case that  
19 the statute at issue was properly identified as the most  
20 appropriate state statute of limitations. Therefore the  
21 question left for resolution is what the Court labeled  
22 in the recent case of Burnett versus Gratton as the  
23 third step in a Section 1983 inquiry, that is, is the  
24 state statute inconsistent with federal law?

25 I submit that this inquiry should be confined

1 to a determination whether the state statute  
2 discriminates against federal rights or provides so  
3 short a time so as to effectively preclude litigating a  
4 civil rights claim.

5 It is clear that the Pennsylvania statute does  
6 not directly conflict with the Civil Rights Act. The  
7 statute does not discriminate against federal claims.  
8 It was not enacted with any intent to discriminate  
9 against federal claims, nor is there any hostility  
10 toward any civil rights action. It applies to both  
11 state and federal claims.

12 A more cogent reason is found in the holding  
13 of the Third Circuit which held it was the analogous  
14 statute of limitations. Implicit in this finding was  
15 that the state and federal law claims were being treated  
16 equally. Here there is no basis for rejection of the  
17 Pennsylvania statute on the ground that it discriminates  
18 against federal civil rights actions.

19 The six-month statute of limitations at issue  
20 in this case is one expressly applicable to the  
21 commencement of judicial proceedings rather than  
22 administrative proceedings. The limitation period  
23 applies to judicial remedies enforceable in court in the  
24 first instance.

25 It does not limit who may bring suit. It does

1 not preclude money damages or injunctive relief. For  
2 these reasons, its enactment should raise a presumption  
3 that the legislature took into account the burden of the  
4 parties to the suit governed by the limitation, and the  
5 practicalities involved in litigating civil rights  
6 claims, and found the limitation period to be a  
7 reasonable one.

8 The determination of the Pennsylvania  
9 legislature that a six-month period is a reasonable one  
10 within which to commence litigation, whether in a state  
11 or federal court, is given support by the holding of the  
12 Court in DelCostello versus the International  
13 Brotherhood of Teamsters.

14 That case impliedly recognized that a  
15 six-month limitation period was sufficient for the  
16 commencement of relatively complex federal litigation.  
17 That case cuts across any conclusion that the  
18 practicalities of litigation necessarily mean that a  
19 six-month period is an unreasonable time in which to  
20 bring a federal cause of action.

21 An inquiry into the record of this case would  
22 disclose no basis for finding that the six-month  
23 limitation period was unreasonable. In this case, the  
24 type of injury alleged, its magnitude and consequence,  
25 the denial of appointment to a higher position, and the

1 consequent loss of increased pay, benefits, and  
2 opportunities for future advancement should have been  
3 immediately recognized.

4 In a case such as this, the degrees and  
5 certificates held by each applicant, as well as their  
6 relative experience is a matter of public record, and  
7 therefore the individual knows or should have known the  
8 merit of his credentials or her credentials relative to  
9 other applicants in the election process.

10 Finally, arguments that the six-month period  
11 is unreasonable also fail when balanced against the  
12 state policies sought to be fostered by state statutes  
13 of limitations, policies which have long been recognized  
14 as fundamental to a well-ordered judicial system,  
15 whether state or federal.

16 Here, because state and local governments are  
17 more likely to experience frequent changes in personnel  
18 than other employers, prompt assertion of claims is  
19 important. Because public officials' continued service  
20 is subject to the will of the electorate, or if they be  
21 appointed, to the discretion of elected officials, even  
22 a short passage of time may result in the departure of  
23 persons with knowledge of the circumstances surrounding  
24 the claim.

25 This in turn would impair the accuracy of the



1 factfinding process.

2 QUESTION: Does the same statute or does the  
3 same kind of a statute apply to discrimination actions  
4 against private employers?

5 MR. POTASH: No, Your Honor. The statute of  
6 limitations against private employers would be the  
7 six-month statute of limitations. There is a  
8 distinction. This is a statute of limitations which  
9 requires that the commencement of the action be brought  
10 within six months.

11 QUESTION: Against a public employer.

12 MR. POTASH: Against a public official. Yes,  
13 sir.

14 QUESTION: How about against private?

15 MR. POTASH: No, sir.

16 QUESTION: What about -- what is the statute  
17 of limitations if you sue a private concern for  
18 discrimination?

19 MR. POTASH: That would be six years, Your  
20 Honor.

21 QUESTION: Six years. What is the explanation  
22 for that?

23 MR. POTASH: Well, I think, Your Honor, there  
24 is a --

25 QUESTION: They would be suits under the same

1 statute, I suppose.

2 MR. POTASH: Well, under the -- the whole  
3 statutory scheme, yes, Your Honor, but not this  
4 provision, but there is a legitimate, Your Honor, I  
5 think there is a legitimate interest that the state has  
6 in having the matter brought to light, a discrimination  
7 matter brought to light very, very quickly.

8 The interest of the state would be that the  
9 matter be brought quickly so that corrective action  
10 could be taken. Perhaps a public official could be  
11 removed if he participated or continued unlawful  
12 conduct.

13 In the event that the unlawful conduct is  
14 against an appointed official, that appointed official  
15 could be removed immediately. If it was against an  
16 elected public official, the public could remove that  
17 individual from office at the next election.

18 The prompt assertion of these claims, I think,  
19 Your Honor, fosters deterrence and fosters remedial  
20 action, and I think that is a legitimate interest that  
21 the state has in that distinction that is made between  
22 the application of the statute of limitations to a  
23 public official as opposed to a private employer.

24 QUESTION: Did the court below make anything  
25 of this difference between suits against public

1 employers and against private --

2 MR. POTASH: Yes, Your Honor, the opinion of  
3 the court referred to it; however, it did not consider,  
4 I believe, the argument that I am making. I believe  
5 the --

6 QUESTION: Would it have rejected this  
7 six-month statute solely on the ground that it was so  
8 much shorter than the limitations period applicable to  
9 private employers?

10 MR. POTASH: It made reference to that in its  
11 opinion, Your Honor, but I believe that the appellate  
12 court just felt that a six-month period was just per se  
13 unreasonably short.

14 QUESTION: Do you think that its judgment that  
15 six months was too short was really the ground for its  
16 decision?

17 MR. POTASH: Yes, Your Honor, I do.  
18 Specifically with respect to cases --

19 QUESTION: Could I ask you a question?

20 MR. POTASH: Yes, Your Honor.

21 QUESTION: Are you familiar with the case that  
22 will be heard next?

23 MR. POTASH: Somewhat, Your Honor.

24 QUESTION: If the Court in that case should,  
25 and I am not saying it will, but if it should affirm the

1 Tenth Circuit in that case, will it have a bearing on  
2 this one, in your opinion?

3 MR. POTASH: It might, Your Honor, because I  
4 believe that this Court, if it adopts the fact that the  
5 appellate court must first characterize the nature of  
6 the action, and then refer to the state statute of  
7 limitations, it might affect the outcome of this case.

8 I believe, however, that Section 1988, which  
9 distinguishes my case from the case following, would  
10 direct that the Court consider the wisdom of the  
11 Pennsylvania legislature in regard to the specific  
12 provision pertaining to public officials.

13 We are past the second stage, because this has  
14 been already determined to be the appropriate statute of  
15 limitations. I believe that the case following me, that  
16 question still has to be addressed.

17 QUESTION: Let me ask you one more. A 1983  
18 case, your case could have been brought in state court,  
19 couldn't it?

20 MR. POTASH: Yes, Your Honor, it could.

21 QUESTION: And then suppose the state court  
22 says six months is it, and the federal court in a  
23 similar case says, no, it isn't six months. Does the  
24 state court have to follow the federal determination, or  
25 can we have different rules for each forum?



1 MR. POTASH: I believe, Your Honor, that we  
2 could have different rules in each forum, and I believe  
3 that the first consideration that the federal court  
4 would have to make is to determine what is the analogous  
5 statute of limitations, so therefore it may very well be  
6 -- as to what characterizes the type of action may very  
7 well determine whether that state statute or that state  
8 holding would be followed.

9 In the case, if I recall correctly, that  
10 follows me, the state supreme court did characterize the  
11 action one way, and the federal court was attempting to  
12 characterize it another way. I do not believe, however,  
13 and perhaps this is not directly in answer to your  
14 question, that uniformity is a requirement.

15 As far as uniformity as far as the country is  
16 concerned, or uniformity as far as the state is  
17 concerned, I think that what Section 1988 says is that  
18 -- or when it was passed by Congress, Congress  
19 understood or contemplated that there would be no  
20 uniformity.

21 QUESTION: But surely there ought to be  
22 uniformity as to a single case.

23 MR. POTASH: Yes, if the facts are identical.  
24 Yes, Your Honor.

25 QUESTION: It seems to me that 1988 has very

1 expansive provisions for reference to state law, but  
2 isn't the ultimate question of what is the appropriate  
3 statute of limitations nonetheless a federal one in  
4 light of -- it is a construction of 1988?

5 MR. POTASH: I believe that is correct, Your  
6 Honor.

7 QUESTION: So then really if a state court  
8 held contrary to -- held one way as to the statute of  
9 limitations after that had gone through the state system  
10 if that question were preserved a person could seek  
11 certiorari here because that is a federal question.

12 MR. POTASH: That is correct, Your Honor.

13 QUESTION: Counsel, does this statute apply to  
14 legislators?

15 MR. POTASH: Legislatures are public  
16 officials. Yes, Your Honor. I believe.

17 QUESTION: It applies to the people who passed  
18 it?

19 MR. POTASH: Yes, sir.

20 QUESTION: Now I understand.

21 MR. POTASH: Specifically with respect to  
22 cases involving discrimination in the hiring or  
23 promotion of public employees, each day of delay in  
24 commencing suit further establishes a person who was  
25 hired or promoted in the place of a complainant in his

1 or her position, and entitles a hired or promoted person  
2 to compensation, seniority, tenure, and due process  
3 rights.

4 Thus in the event that the public employee's  
5 conduct is ultimately found to be discriminatory,  
6 government service may be substantially disturbed.

7 That again, Your Honor, I may point out, is a  
8 legitimate reason for the distinction between the  
9 statute of limitations which may apply to a public  
10 official and to a private employer. Two salaries may be  
11 required to be paid for a single service, and the public  
12 employer and the hired or promoted employee would have  
13 to commence the process of undoing that which was the  
14 initial decision.

15 QUESTION: But that would be true in the case  
16 of a private employer, too, wouldn't it?

17 MR. POTASH: Yes. Yes, Your Honor, but that  
18 is also a legitimate concern regarding the public  
19 official because we are dealing with the compensation  
20 that might be due the injured individual. We are  
21 dealing with the fact that the public employer may have  
22 to budget, may have to make certain financial  
23 considerations which the private employer might not  
24 have.

25 The public employer may rely on taxation, and

1 have to in preparing his budget prepare for the  
2 eventuality that there may be a finding that the action  
3 was discriminatory, and therefore would have to provide  
4 some how or some way from the tax revenues rather than  
5 the private employer, who has his own private resources  
6 or the resources of the private enterprise.

7 QUESTION: Do you assume a private employer  
8 has infinite resources?

9 MR. POTASH: No, Your Honor, I do not.

10 QUESTION: I don't understand why that is a  
11 difference then. Doesn't he also have to budget for  
12 contingent liabilities?

13 MR. POTASH: That's correct, Your Honor.  
14 However, the public employer does have to answer for the  
15 tax measures that he raised, the budgetary requirements  
16 that he has.

17 QUESTION: A private employer has to answer to  
18 his stockholders, and he has to decide what prices to  
19 charge. I don't --

20 MR. POTASH: The private employer may only  
21 have to answer to himself, not to the public at large.

22 Most significantly, however, the prompt  
23 assertion of claims by the filing of complaints of  
24 discrimination on the public record would foster  
25 deterrence of unlawful conduct by public officials in



1 addition to putting the governing body on early notice.  
2 The government body or the public employer can take  
3 corrective measures.

4 Prompt, well-founded accusations against  
5 public officials for discrimination in hiring or  
6 promotion on the basis of sex would increase the  
7 likelihood that they would be accountable for their  
8 violations of the federal rights of others.

9 If they are elected officials, and if the  
10 public knows of their conduct, it can respond at the  
11 next election by voting them out of office. If  
12 appointed officials are accused, the public body  
13 appointing them can respond by removing them from  
14 office.

15 Absent prompt assertion of employment  
16 discrimination claims, no such sanction would be imposed  
17 upon the responsible public officials, who in turn could  
18 continue to practice on notice, and it is these three  
19 public policy considerations, I believe, that are far  
20 more significant than perhaps the policy considerations  
21 to which I have just referred.

22 I believe that the legislative intent which  
23 can be deduced from the language of this statute is the  
24 obligation that the public employer feels that it must  
25 take corrective action, that it must remove or somehow

1 curb the abuse of state power, and this statute of  
2 limitations accomplishes that.

3 QUESTION: Mr. Potash, may I just ask this?  
4 Your argument seems to boil down to the notion that the  
5 shorter the statute of limitations, the greater the  
6 deterrent value of the underlying cause of action.

7 MR. POTASH: The effect would -- Your Honor,  
8 the shorter the statute of limitations would affect have  
9 a greater curb on the perpetuation perhaps of the  
10 unlawful conduct.

11 QUESTION: May I ask --

12 MR. POTASH: However --

13 QUESTION: Go ahead.

14 MR. POTASH: However, Your Honor, what I am  
15 saying, that the facts in this case, in the ordinary  
16 employment discrimination case, a six-month period is  
17 not unreasonably short. I am saying that the quicker  
18 that it is brought to the attention of the public  
19 employer, the public employer has the interest, the  
20 interest that he must perform as a public employer, of  
21 remedying this situation, and the six-month statute of  
22 limitations accompanies that.

23 I do not believe, and the other thrust of my  
24 argument is, is that the six-month period is not per se  
25 unreasonably short.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

QUESTION: I understand that.

QUESTION: Counsel, do you know of any federal statute that has as short a period as six months for this kind of a claim?

MR. POTASH: No, Your Honor, I do not.

QUESTION: For administration claims, yes.

MR. POTASH: Yes, but not for actions judicially enforceable.

QUESTION: All right.

MR. POTASH: Thank you.

CHIEF JUSTICE BURGER: Mr. Chanin.

ORAL ARGUMENT OF ROBERT H. CHANIN, ESQ.,  
ON BEHALF OF THE RESPONDENT

MR. CHANIN: Mr. Chief Justice, and may it please the Court, although we believe that this case can and should be decided on narrow grounds, the petitioners suggest that it implicates certain broad principles set forth by this Court in Tomanio, in Robertson, and other cases.

Accordingly, we think it is appropriate at the outset to make clear what is and what is not at issue. We are not contending that a state statute of limitations is simply a technical obstacle to be circumvented if possible. We recognize, as this Court indicated in Tomanio, that in most cases these statutes

1 are binding rules of law.

2 Nor do we contend that a state statute of  
3 limitations should be rejected merely because it would  
4 cause a litigant to lose the lawsuit. Again, we  
5 recognize, as this Court has stated in Robertson, there  
6 must be some cutoff point in most cases, and inevitably  
7 some plaintiffs will fall on the far side of the line.

8 We make a much more focused argument, an  
9 argument that fits comfortably within the framework  
10 established by the principles set forth by this Court in  
11 prior cases. What we are contending is that this  
12 particular Pennsylvania statute of limitations, Section  
13 5527(b)(1), should not be borrowed because its  
14 application would be inconsistent with the federal  
15 policy underlying Section 1983.

16 That policy, as this Court has made clear on  
17 numerous occasions, most recently in the Burnett case  
18 last term, is to augment the remedies that are available  
19 to individuals whose federal constitutional or statutory  
20 rights are abridged by state action. Our argument --

21 QUESTION: Mr. Chanin, are you taking the  
22 position that Pennsylvania, had the claim been filed in  
23 the Pennsylvania court, would have applied the six-month  
24 residual statute of limitations period?

25 MR. CHANIN: Yes, Your Honor, Pennsylvania



1 courts would have done that.

2 QUESTION: Your argument --

3 QUESTION: Six years.

4 MR. CHANIN: Six months.

5 QUESTION: -- in your brief in Note 9  
6 indicated that you thought the Pennsylvania legislature  
7 never intended the six-month statute to apply.

8 MR. CHANIN: No, Your Honor, the point we make  
9 is a little different than that. We indicate that the  
10 Pennsylvania legislature never considered this type of  
11 action when it passed that six-month statute of  
12 limitations.

13 That goes to the nature of what we have here,  
14 what kind of a statute of limitations we have. We have  
15 a statute of limitations that is exceptionally short by  
16 any standard, six months. It applies only to suits  
17 against public officials as compared to suits not only,  
18 as Justice White has asked, against private employers,  
19 but it does not apply to suits against the government as  
20 an entity.

21 And in response to your question, Justice  
22 O'Connor, it is a residuary statute. It applies only to  
23 those types of lawsuits which the Pennsylvania  
24 legislature considered so uncommon or so unusual that  
25 they did not make subject to a more specific statute of

1 limitations.

2 The point we make at the footnote is, they  
3 never considered this, because it was a residuary  
4 statute.

5 QUESTION: Isn't there some precedent in the  
6 state and the federal courts sitting in Pennsylvania for  
7 the proposition that it should have been treated as a  
8 breach of implied contract claim?

9 MR. CHANIN: There is such precedent for  
10 that. Indeed, prior to this case there was a variety of  
11 analogies made in regard to employment discrimination  
12 cases in Pennsylvania, and it was not really until this  
13 case that a definitive holding was made that those cases  
14 should be analogized to the tort of injury to economic  
15 rights.

16 Prior to that, there were cases that  
17 analogized it to personal injury and some even to  
18 contracts.

19 QUESTION: Do you think that the Court of  
20 Appeals below really looked into the question of what  
21 the applicable statute should be had the action been  
22 brought in Pennsylvania?

23 MR. CHANIN: I think there was no dispute on  
24 that point, Your Honor. I think both the District Court  
25 and the Court of Appeals agreed that the Pennsylvania

1 courts would have applied this six-month residuary  
2 statute.

3 Because of these features of this statute, we  
4 believe that this Court can decide this case on narrow  
5 grounds. It need not reach the more basic question of  
6 six months per se is too short for instituting a 1983  
7 action.

8 Quite apart from the answer to that question,  
9 it would, we submit, as the Third Circuit found as a  
10 wholly independent ground for its decision, not simply  
11 because six months was unreasonably short, the Third  
12 Circuit found as an independent ground for its decision  
13 that the application of this statute of limitations  
14 would be inconsistent with the policies underlying  
15 Section 1983.

16 Let me begin by focusing on some of the  
17 features of this particular statute. To begin with, six  
18 months is an abbreviated time limit by any comparative  
19 standard. Certainly that is true within the overall  
20 limitations schema in Pennsylvania.

21 There is no statute of limitations in  
22 Pennsylvania that requires the bringing of any lawsuit  
23 in court for less than six months, and there are only  
24 three other statutes of limitations, narrowly focused  
25 causes of action, essentially in the Uniform Commercial

1 Code area, which have a six-month statute.

2 Even for those actions that depend most  
3 heavily on conduct and unwritten evidence, such as  
4 assault, or slander, or personal injury, the  
5 Pennsylvania legislature has established minimum  
6 statutes of limitations of one year and up to six. It  
7 almost never drops below the one-year threshold.

8 And there is a similar pattern in other  
9 states. It is extremely rare to find any statute of  
10 limitations below one year. There are some that go at  
11 six months, but invariably they are Uniform Commercial  
12 Code actions involving highly sophisticated parties on  
13 both sides.

14 In sum, what we have here is an abbreviated  
15 statute of limitations at the extreme low end of the  
16 continuum, and it should be noted that this is  
17 particularly significant because we have a residuary  
18 statute. In most states residuary statutes run five,  
19 seven, even ten years, reflecting a broad legislative  
20 judgment that when you deal with the unknown, you give  
21 the benefit of the doubt to the potential plaintiff.

22 The Pennsylvania legislature in this statute  
23 of limitations turns that presumption on its head, and  
24 it comes up with a residuary statute of six months.

25 The second relevant feature of this statute of



1 limitations --

2 QUESTION: Are you saying that latter is an  
3 impermissible judgment for the State of Pennsylvania to  
4 make?

5 MR. CHANIN: No, we are suggesting merely to  
6 characterize six months as atypical, unusually short, it  
7 is in any event, but when dealing with a residuary  
8 statute, it sticks out like a sore thumb. That is the  
9 only point I make at this instance.

10 QUESTION: Most states have residuary statutes  
11 at a different end of the time spectrum.

12 MR. CHANIN: Yes, my research indicates some  
13 20 of them, and they run generally four to ten years.

14 The second feature of this statute of  
15 limitations is that it applies only to actions brought  
16 against government officials. If an identical  
17 employment discrimination action such as respondent's  
18 was brought against a private employer, the plaintiff  
19 would have six years in which to file, a period that is  
20 12 times longer.

21 Now, I suggest that on its face, that  
22 distinction between public and private at least suggests  
23 that this statute is inconsistent with the policy  
24 underlying 1983, and it certainly warrants a careful  
25 investigation of the purpose of the Pennsylvania

1 legislature in enacting it.

2 That investigation leaves no doubt as to the  
3 purpose. From 1772 until 1978, Pennsylvania had a  
4 six-month statute of limitations for actions brought  
5 against a justice of the peace or a constable. The  
6 purpose of that abbreviated time period was expressly  
7 stated. Its purpose was, and I quote, "to insulate  
8 those officials from vexatious actions brought against  
9 them."

10 That statute of limitations was generalized in  
11 1978 to become the residuary statute that applies to  
12 actions against government officials, and there is no  
13 dispute that the statute of limitations now before this  
14 Court is the extension of that 1772 statute, and it  
15 seems equally clear as to the purpose of the  
16 Pennsylvania legislature in 1978.

17 It was to extend to all public officials the  
18 same protection it had given for 200 years to justices  
19 of the peace and to constables, to protect all public  
20 officials from "vexatious actions that might be brought  
21 against them."

22 In *Burnett v. Grattan* last term, this Court  
23 made it clear that when a state, as here, abbreviates a  
24 statute of limitations to protect public officials from  
25 actions that might be brought against them, indeed, to

1 restrict the remedies available, that that purpose is  
2 inconsistent with Section 1983, and the federal court  
3 should look elsewhere in state law to find a statute of  
4 limitations to borrow.

5 We do not understand the petitioners to  
6 quarrel with that basic proposition. They attempt  
7 instead to get around it, and they do that by suggesting  
8 other, presumably more acceptable state policies that  
9 might have prompted the Pennsylvania legislature.

10 They cite in their brief the high turnover of  
11 public officials. That requires prompt initiation. To  
12 safeguard the efficacy of factfinding. To avoid payment  
13 of two salaries. To deter unlawful conduct by promptly  
14 exposing defalcations, and an argument we have just  
15 heard, another reason, to enable the state to budget  
16 more effectively and efficiently.

17 Although we do not concede that those policies  
18 would in any event justify this type of six-month  
19 statute, we need not debate the point here, because  
20 there are two other features of this statute which make  
21 it abundantly clear that those could not possibly have  
22 been the policies which motivated the Pennsylvania  
23 legislature.

24 All of those suggested policies, safeguarding  
25 factfinding, the turnover of public officials, et

1 cetera , are just as relevant to a lawsuit brought  
2 against government as an entity as they are when brought  
3 against a public official.

4 Indeed, I would suggest they are more  
5 relevant, because what they go to is the ability of  
6 government to function as government, the capacity of  
7 government to defend itself. So, if anything, they  
8 should apply more to a suit against government as an  
9 entity.

10 And yet it is conceded in this case that if  
11 this very same suit were against a government entity,  
12 the filing time would be 12 times as long, six years  
13 instead of six months.

14 The remaining feature of this statute of  
15 limitations that is relevant here is that it is a  
16 residuary statute of limitations. It applies only to  
17 those actions that the 1978 Pennsylvania legislature  
18 could not identify, those uncommon actions, and two  
19 conclusions emerge from this.

20 If the purpose of the Pennsylvania legislature  
21 was the types of things that petitioner has suggested,  
22 to protect factfinding, better budgeting, high turnover  
23 of officials, why would the Pennsylvania legislature  
24 limit the six-month statute to those unknown and  
25 uncommon actions and allow a one, a two, and a four-year



1 statute of limitations for the actions that are most  
2 commonly brought against public officials?

3 Indeed, if this were a contract claim, which  
4 would involve all those relevant factors, two people  
5 claiming an office, budgeting, the Pennsylvania  
6 legislature expressly said, four-year statute of  
7 limitations.

8 The fact that we are dealing here with a  
9 residuary statute is significant in another, more basic  
10 respect, a respect, I suggest, that goes to the whole  
11 purpose of borrowing under Section 1988, and the reasons  
12 that this Court has understood as why Congress has asked  
13 for such borrowing.

14 The rationale for borrowing under 1988  
15 reflects a deference to the judgment of state  
16 legislatures. The federal courts in effect rely on the  
17 balance struck by a state legislature between the need  
18 to protect the assertion of valid claims on the one hand  
19 and the need to protect stale actions being brought on  
20 the other.

21 The presumption is that the state legislature  
22 has weighed these interests, and after weighing them has  
23 come up with a cutoff point that reflects the balance.  
24 The petitioners rely very heavily on this, and they  
25 sprinkle their brief with such phrases as "the

1 considered judgment of the state legislature," "the  
2 state's wisdom in setting a limit," "The legislature  
3 took into account the burdens borne by the party."

4 I suggest, Your Honors, that this reliance is  
5 totally misplaced when we are dealing with, as here, a  
6 residuary statute. By definition there has not been  
7 this type of analysis. There has been no weighing of  
8 competing interests. There has been no consideration of  
9 the practicalities of litigation.

10 QUESTION: May I interrupt you with a  
11 question? Supposing you did have the kind of weighing  
12 that you say did not take place here, and the  
13 Pennsylvania legislature had hearings on 1983 litigation  
14 and concluded that for the most part they are quite a  
15 burden on the state and they really are not meritorious  
16 except in a minority of the cases, and deliberately  
17 passed a statute that said in all 1983 litigation the  
18 statute of limitation will be six months, whether the  
19 state is brought in state or federal court.

20 Would you make the same -- what would your  
21 view be of such a statute?

22 MR. CHANIN: I would make a different argument  
23 leading to the same conclusion, that it should be struck  
24 down, probably slightly more quickly than the one that  
25 is before you right now. I think that type would be

1 discriminatory.

2 QUESTION: Well, they say 1983 or claims based  
3 on the Pennsylvania constitution as well.

4 MR. CHANIN: I would still say it should be  
5 struck down, and I would rely heavily on Burnett. I  
6 think what you would still have would be an abbreviated  
7 statute of limitations that is abbreviated precisely for  
8 the reasons this Court found unacceptable in Burnett.  
9 It is being abbreviated to restrict the remedies against  
10 public officials, to restrict the remedies that 1983 was  
11 designed to augment.

12 I would say that type of a statute should be  
13 struck down on that ground.

14 QUESTION: And that would be even if it was,  
15 say, a year or two years?

16 MR. CHANIN: Well, you reach a point. If we  
17 have a statute that equally treats private and public,  
18 government entity, public officials equally, I think you  
19 reach a point where it is not sufficiently abbreviated,  
20 and then we would have to deal with the question we  
21 don't have to deal with in this case: What is an  
22 unreasonably short period of time for 1983 actions?

23 When you ask me about one year, two years, it  
24 is a difficult question. Fortunately, it is one I don't  
25 have to address in this case.

1                   QUESTION: I am assuming a time that would not  
2 be per se unreasonably short. That is all. I am just  
3 wondering if a state legislature could recognize all the  
4 confusion in the courts about 1983 litigation and just  
5 try and enact a 1983 statute of limitations in the  
6 interest of certainty, and so forth and so on, as well  
7 as cutting it down.

8                   MR. CHANIN: No, I can conceive of  
9 circumstances, pursuing your hypothetical, where we  
10 would have no quarrel. The quarrels we have in this  
11 case are because this statute does virtually everything  
12 wrong, everything that we think this Court has said it  
13 should not do.

14                   So, my final point, Your Honors, would be,  
15 this is, unlike what you suggest, Justice Stevens, a  
16 residuary statute, and obviously there was no balancing,  
17 there was no consideration of the practicalities. The  
18 intent of the Pennsylvania legislature was very clear.  
19 It was to give to all public officials what for 200  
20 years it had given to constables and justices of the  
21 peace.

22                   Its purpose, pure and simple, was to protect  
23 those people from "vexatious actions that might be  
24 brought against them." We submit that that is a purpose  
25 which is in direct conflict with the policies underlying



1 Section 1983. It should not be borrowed, and the  
2 decision of the Third Circuit should be affirmed.

3 CHIEF JUSTICE BURGER: Do you have anything  
4 further, Mr. Potash?

5 ORAL ARGUMENT OF CHARLES POTASH, ESQ.,  
6 ON BEHALF OF THE PETITIONERS - REBUTTAL

7 MR. POTASH: Yes, Your Honor, Mr. Chief  
8 Justice, I do. I would like to comment just on two  
9 points made by my opponent.

10 Firstly, in the action against the public  
11 official, as distinguished from the action against the  
12 body, the public body, the public body does have other  
13 defenses it can raise. There is sovereign immunity.  
14 There is the Eleventh Amendment. And there is the  
15 Monell doctrine, and so on.

16 As to the preamble, which my opponent has also  
17 cited, that preamble was stricken, and there is no  
18 reason to believe that that was the purpose for enacting  
19 the six-month statutory period which was part of the  
20 limitation scheme adopted in the revision and  
21 codification of all the statutes of limitations and all  
22 the statutes applicable to judicial proceedings in 1978.

23 A clear reading of the language of the statute  
24 would support a reasonable explanation which I presented  
25 to this Court.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHIEF JUSTICE BURGER: Thank you, gentlemen.  
The case is submitted.

(Whereupon, at 10:43 o'clock a.m., the case in  
the above-entitled matter was submitted.)

CERTIFICATION

Alderson Reporting Company, Inc., hereby certifies that the attached pages represents an accurate transcription of electronic sound recording of the oral argument before the Supreme Court of The United States in the Matter of:

#82-1889 - SPRINGFIELD TOWNSHIP SCHOOL DISTRICT, ET AL., Petitioners v. MADELIN H. KNOLL

---

and that these attached pages constitutes the original transcript of the proceedings for the records of the court.

BY Paul A. Richardson

(REPORTER)

RECEIVED  
SUPREME COURT, U.S.  
MARSHAL'S OFFICE

'85 JAN 22 AM 1:19