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Constitution Revision Symposium: Introduction

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CONSTITUTION REVISION SYMPOSIUM:

INTRODUCTION

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At the organizational session of the 1977-78 Florida Constitution Revision Commission, most of the members were probably filled with a sense of historic purpose, having been brought together for a task unique in the nation. Those appointed to the Revision Commission were to be allowed to review the Constitution and to make suggestions for revision, with final approval resting with the Florida electorate. No other state has ever had such a commission, and the significance of this was not lost on the members.

If the mood was optimistic and euphoric, that mood was somewhat shattered by a speech to the Commission by former governor and former justice of the Florida Supreme Court Millard Caldwell, who said that the advice given to the Commission which met in 1968 was that it "should meet, organize, adjourn sine die, and go home." Governor Caldwell gave essentially the same advice to the 1977 meeting. The Commission did not follow this advice, but it was not forgotten.

The Commission's first task was to conduct a series of public hearings. The public hearings conducted in 1965-66 had not been well attended by citizens, and the new Commissioners were warned that this had been the experience of other government "road shows" which attempted to reach out and gather in citizen comment.

Against this pessimistic background the Revision Commission membership was startled by the enthusiastic response. Ten public hearings, held in different parts of the state, attracted over 500 witnesses and large numbers of observers. The hearings frequently lasted twelve hours with many well-informed, well-prepared and articulate witnesses.

After this remarkable experience, the Revision Commission sat down to review those subjects which merited priority attention. Over 800 potential revisions had been suggested for consideration by the Commission. Of this initial list, 230 issues were earmarked for further study. Committees were formed to study these issues and draft formal proposals to revise various sections of the Constitution. Floor debate on these proposals began in mid-November and, at the time of this

*Chairman, 1978 Florida Constitution Revision Commission.

writing, over fifty proposals have been approved by the Commission. Many of the revisions are technical in nature, but others, such as a right to privacy, right to release on recognizance, and grand jury reform, are major departures from the status quo.

Many controversial revisions are still to be debated, and it is too early to tell whether or not the Revision Commission will do substantive work which merits approval of the people. It is also too early to tell whether or not the Commission will be worth the money that the people of Florida have spent on it. It is not, however, too early to say that Governor Caldwell was wrong in indicating that the people of Florida are not in the proper mood for the making of a Constitution. The great interest shown in constitutional revision indicates that now is an excellent time for such a project.

From the contact that the Revision Commission had with the people of Florida, it is clear that Floridians have an unusual amount of interest in their basic document and that they are unusually well-informed. Although it is difficult to state exact reasons for this, some explanations suggest themselves. First, it appears that the people of Florida, like those of the rest of the United States, learned a great deal about their basic institutions from the trauma of Watergate. They understand now, more than at other times, the significance of keeping those institutions vital. Recent Florida experience with allegations of corruption of cabinet officers and high judicial officers may have reinforced the national experience.

Second, the great national celebration of the bicentennial year must be given some measure of credit for the citizen awareness of our basic institutions and the importance of basic freedoms. There have been times when the people of the United States might have voted to repeal the first amendment or abandon our commitment to rights of defendants; I do not believe that now is such a time.

The Revision Commission, convinced that the mood is right and the dedication of its members sufficient to the task, will proceed in its work, abandoning the advice offered by the distinguished former governor—"meet, organize, adjourn sine die, and go home." In lieu thereof, the Commission has decided to meet, organize, listen to the people of Florida, engage in serious study, and propose a revision which responds to the highest ideals of American federalism and the aspirations of the people of Florida.

This present volume of scholarship deals with state constitutional law. It is, I hope, inspired in large part by the unique experiment in constitutional revision now in progress. The articles give essential background and suggest new, important revisions. They have already

been distributed to the Commission and, in some instances, are the basis for proposed constitutional change.

The range of these articles is wide, reflecting the diverse interests of the authors. Students of Florida constitutional law will find their old friend, Albert Sturm, still concerned about the process. A younger student of law and government, Jim Bacchus, also writes on constitutional procedure, drawing on practical and academic background. Readers will find other younger writers more concerned with substantive change: Representative Tom Moore on the legislative process, Robert Williams on grand juries, Judy Bass on access to the courts, and Martha Harrell on environmental concerns. Stephen Morton and Gilbert Hahn, students of the Vanderbilt College of Law, discuss the emerging area of statutory initiative. The Vanderbilt connection with Florida constitutional law is strong due to the influence of Professor Harold Levinson, one of the few true scholars of our organic law. The Revision Commission found Jerry Cope's article on the right of privacy to be of particular interest, and a proposal has been adopted to include this right expressly in the constitution.

Florida is particularly fortunate to be revising its constitution today when there is new national interest in state constitutions. State courts throughout the country have begun to recognize that state constitutions are a source of individual liberties with protections often extending beyond those required by the Supreme Court's interpretation of the Federal Constitution. State constitutions do not merely mirror the Bill of Rights, but contain many provisions not found in the federal document, and even more provisions that enlarge and enhance the basic rights conferred by the Federal Constitution. Hopefully, the process of constitutional revision will add impetus for practitioners, courts and scholars to rediscover the state constitution.

Certainly this symposium will aid in the rediscovery, for not only will it assist the revision process, it will also assist those who search for new rights and safeguards. It is a significant contribution that will aid our understanding of and appreciation for the constitution.

