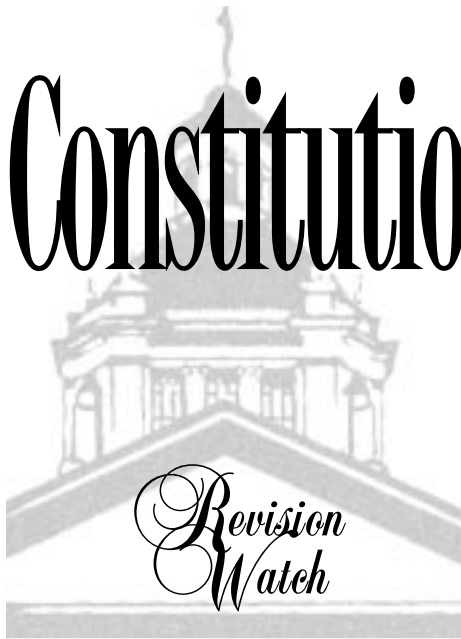


# Constitution Revision Commission



A look at the monthly highlights and happenings for the Constitution Revision Commission

**COMMISSION MEMBERS:**

- Dexter Douglass, Chairman
- Carlos J. Alfonso
- Clarence E. Anthony
- Antonio L. Argiz
- Thomas H. Barkdull, Jr.
- Martha Walters Barnett
- Robert M. Brochin
- Robert A. Butterworth
- Kenneth L. Connor
- Chris Corr
- Ander Crenshaw
- Valerie W. Evans
- Marilyn Evans-Jones
- Barbara Williams Ford-Coates
- Ellen Catsman Freidin
- Paul M. Hawkes
- William Clay Henderson
- Toni Jennings
- Gerald Kogan
- Richard Langley
- John F. Lowndes
- J. Stanley Marshall
- Jacinta Mathis
- Jon Mills
- Frank Morsani
- Robert Lowry Nabors
- Carlos Planas
- Judith Byrne Riley
- Katherine Fernandez Rundle
- James A. Scott
- H. T. Smith
- Chris T. Sullivan
- Alan C. Sundberg
- James Harold Thompson
- Paul West
- Gerald T. Wetherington
- Stephen Neal Zack

**Alternates:**

- Pat Barton
- Ira H. Leesfield
- Lyra Blizzard Logan

ISSUE 2

OCTOBER 1997



Dexter Douglass

## MESSAGE FROM THE CHAIRMAN

As we begin what is certain to be an exhaustive process, it has become apparent to me that the Constitution Revision Commission has established a most efficient and democratic way to examine proposals and establish possible amendments.

The 37 members of the Constitution Revision Commission recently accepted hundreds of public proposals over a two-month period, and quickly reduced those to about

100 that need closer scrutiny. While the public input served as the foundation to the process of ultimately proposing amendments to the Constitution, the next few months of committee work will essentially establish the pillars to this building process.

The Commission and its 10 committees will have nearly seven months to get more input on each issue before them, determine the merits of each and possibly recommend amendments. After the

continued on page 8

## ELEMENTARY SCHOOL STUDIES CONSTITUTION REVISION COMMISSION

What began as a method to bring law and order to a fifth-grade history class at Walton County's Butler Elementary School has resulted in a study of Florida's Constitution Revision Commission.

"These kids are real excited about the whole process," said Janet Stein, whose history class has dedicated itself this year to studying the United States and Florida constitutions. "The neat thing is that they are understanding the balance of power. They also are now understanding that the constitution is not a stagnant document.

"Since Florida is revising its constitution this year, we can take advantage of what the Revision Commission is doing. We can simulate some of that in the classroom."

The class recently hosted Constitution Revision Commissioner

Judy Byrne Riley and Executive Director Billy Buzzett for a question-and-answer session at the school. On Oct. 20, the class led the Constitution Revision Commission in the Pledge

continued on page 9



## In This Issue

- Commissioners Profiles ..... 2
- Commission Briefs ..... 3
- Debby Kearney ..... 3
- Sandy D'Alemberte ..... 4-5
- Public Hearing Summary ..... 6
- In The News ..... 7
- Message From Chairman cont ..... 8
- Butler Elementary cont ..... 9
- D'Alemberte cont ..... 10
- Revision Snapshot ..... 10
- Nature and Purpose ..... 11
- Important Dates ..... 12



**ROBERT A. BUTTERWORTH**

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*Occupation:* Attorney General  
*Birth date and place:* August 20, 1942, Passaic, NJ  
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*Telephone:* 850/487-1963  
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*Comment:* "Serving on the Constitution Revision Commission is both a tremendous challenge and a rare opportunity. The work we do here could have a profound and lasting impact on this state and its people. I feel extremely fortunate to be a part of this unique expression of democracy."



**KENNETH L. CONNOR**

*Appointed by:* Speaker  
*Occupation:* Attorney, Connor & Gwartney  
*Birth date and place:* April 24, 1947, Atlanta, GA  
*Education:* JD from Florida State University, 1972

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 Tallahassee, FL 32302

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*Comment:* "The thing that has impressed me most about our meetings is that there are a tremendous number of people who love their state and love their country and have had a real valuable contribution to make to this process. It's easy to become cynical about the role of government today, but the citizens of Florida and the Constitution Revision Commission have made me feel most comfortable about the way our government can work. Our goal is to make it a people's Constitution, and we have had significant citizen contribution to make it just that."



**CHRIS CORR**

*Appointed by:* Speaker  
*Occupation:* Senior manager, Walt Disney Imagineering  
*Birth date and place:* October 20, 1963, Lansing, MI  
*Education:* BA from University of Florida, 1986

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 Celebration, FL 34747

*Telephone:* 407/566-4038  
*Fax:* 407/566-4223  
*E-mail:* chris.corr@wol.disney.com

*Comment:* "Serving on the Constitution Revision Commission is all about recognizing our important role in shaping the future of our state and its citizens. I have a 9-year-old daughter and 5-year-old son, so it's easy for me to use them as examples as I visualize what Florida will be like in 20 years. The two of them will be out of college and presumably working in the state of Florida, and I'd like to think our Constitution will serve them — and all citizens of the state — well over the next two decades. When I think of the Constitution in those terms, it's humbling to know that I am a member of the Constitution Revision Commission."



**ANDER CRENSHAW**

*Appointed by:* President  
*Occupation:* Sr. Vice President, William R. Hough & Co.  
*Birth date and place:* September 1, 1944, Jacksonville, FL  
*Education:* JD from the University of Florida

*Address:* One Independent Drive, Suite 2502  
 Jacksonville, FL 32202-5010

*Telephone:* 904/355-6691  
*Fax:* 904/355-6691  
*E-mail:* roliver@hough.com

*Comment:* "We have a chance to use this 20-year checkup to help shape a new Florida for the 21st century."



**VALERIE W. EVANS**

*Appointed by:* Speaker  
*Occupation:* Former high school teacher and attorney; housewife and home school mother  
*Birth date and place:* November 10, 1950, Newton, MS

*Education:* JD from Florida State University, 1985

*Address:* 1808 Kalurna Court  
 Orlando, FL 32806

*Telephone:* 407/843-8379  
*Fax:* 407/843-0155

*Comment:* "Being a part of the Constitution Revision Commission is all about knowing our founding fathers' vision, which made our country great, and trying to realize it."



**MARILYN EVANS-JONES**

*Appointed by:* President  
*Occupation:* Realtor  
*Birth date and place:* November 19, 1928, Deland, FL  
*Education:* BA from Duke University, 1950

*Address:* 12 Painted Bunting  
 Amelia Island, FL 32034

*Telephone:* 904/277-4242  
*Fax:* 904/277-4242

*Comment:* "I have had the privilege of being a member of the Legislature for 10 years, and for various reasons there are issues that it will not address. Such is not the case with the Constitution Revision Commission. The Florida Constitution has placed unique confidence in its citizens by authorizing the Constitution Revision Commission to propose constitutional changes directly to the public. This is a tremendous opportunity for us, and an even greater responsibility."



## COMMISSION BRIEFS

### ✓ *Eleven are perfect*

Eleven members of the Constitution Revision Commission attended each of the 12 public hearings held over a nine-week period across the state.

Commission Chairman Dexter Douglass set the precedent and was joined at all meetings by Thomas Barkdull, Barbara Ford-Coates, Clay Henderson, John Lowndes, Jacinta Mathis, Jon Mills, Frank Morsani, Judith Riley, Katherine Rundle and Stephen Zack.

Those who attended 10 of the public hearings included Martha Barnett, Ellen Freidin, Stanley Marshall and H.T. Smith.

### ✓ *Manual available soon*

The 1997-1998 Florida Constitution Revision Commission member's manual will be available soon.

Included in the manual are brief biographies of each commissioner, a complete list of Constitution Revision Commission rules, travel policy and reimbursement procedure, the complete Constitution of Florida, calendars and more.

To obtain a copy of the manual, call the Constitution Revision Commission office at 850/413-7740.

### ✓ *Kids Voting*

The Constitution Revision Commission has hooked up with Kids Voting of Leon County to better promote the Constitution and its possible revision.

Initially, the two groups would like to organize a public forum and panel discussion in February of 1998, and possibly another in October of 1998. The forum would help educate Leon County students and their parents about the Constitution Revision Commission.

Kids Voting is a national organization with operating chapters in several Florida counties. It is primarily an educational organization in which students learn about the voting process in public schools. Children then go to the polls and vote along with their parents in separate Kids Voting booths.

Kids Voting volunteers man election precincts, count the votes and release the results to the media.

For more information about the forum in February, call Ron Morris at 413-7749. For more information about Kids Voting, call Thomas or Jane DeRose at 656-3168.

## DEBBY KEARNEY PROFILE



Debby Kearney

As a Florida State University College of Law student in 1978, Debby Kearney had an inkling that the Florida Constitution Revision Commission would play a part in her future. That's when members of the '78 Commission visited the Law School and spoke to students about the unique process and its effect on the Florida Constitution.

"It made a tremendous impact on me," said Kearney, who now serves as general counsel for the Constitution Revision Commission. "It has been something in the back of my head; something that I saw as an honor to be associated with then. . . . I've kind of shaped my career to be in the position to do this kind of work.

"Now, the timing and my background make this the perfect fit for my career."

As the Commission's general counsel, Kearney is responsible for the drafting of proposals. Essentially, she is the point person for the actual writing of any proposed revisions to the Constitution.

Kearney said she has been impressed with the public proposals submitted to the Commission over the past three months.

"People have drafted the language they want," Kearney said. "A lot of times they have hired an attorney to do it, or they are attorneys themselves. Others have gone to the library and studied how it should be written and have drafted their own proposals.

"I may help shape some, I may write some and some may just go on the ballot exactly as they were submitted."

After graduating from the FSU College of Law in 1981, Kearney

joined the Florida House of Representatives as a staff attorney for the Committee on Judiciary. In eight years with the House of Representatives, she was responsible for substantial rewrites of the Condominium Act, the Time-Share Act and the child support enforcement law. She had occasion to review most of the constitutional amendments placed on the ballot by the Legislature during her tenure.

For the eight years prior to joining the Constitution Revision Commission, Kearney served as deputy general counsel to the governor. She supervised a staff of 11 in the Legal Affairs section and handled much of the office's litigation. She dealt with a broad array of issues such as suspension and removal of public officials, judicial appointments, budget and appropriations matters, extradition, complaints against public officials, and legislation on virtually every subject. She also handled coordination with the general counsels of other state agencies and supervised litigation involving the governor.

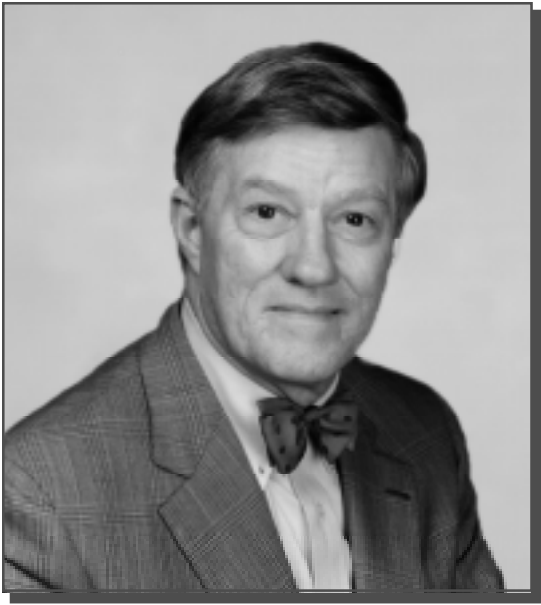
Early in her stint with Gov. Lawton Chiles, Kearney mentioned to other staffers that her goal in his second term was to gain an appointment to the Constitution Revision Commission.

"Being general counsel is even a better fit for me. I'm just bubbling over about being afforded this once-in-a-lifetime opportunity," Kearney said. "Looking back, I seem to have been preparing for this for 16 years and it feels like the culmination and the crowning touch in my career — so far."



# ADDRESSING THE CONSTITUTION REVISION COMMISSION

by Sandy D'Alemberte



Sandy D'Alemberte

Twenty years ago, I had the great pleasure of chairing the first Commission, and although one wag said that “never before have so many labored so long with so little result,” the truth is that I look back on that service with a great sense of pride.

Not only did the 1977-78 Constitution Revision Commission launch a number of important ideas that ultimately became a part of our constitution — most notably, the free standing right of privacy that has been so important to individual rights in this state — but it allowed a discussion of very important basic issues. Indeed, the best debate before our Commission concerned the abolition of the death penalty, and anyone who was in the chamber when Governor LeRoy Collins and Jesse McCrary spoke to this issue will never forget it. Whatever fate may hold for the work of this Commission, I wish for it the satisfaction I still feel for honorable service with splendid colleagues.

I want to use this opportunity to address several issues briefly, but, even more, I want to discuss some approaches to constitutional revision.

Many commentators have said that

the current Constitution is largely a conservative panel. As I may be the last person in Florida public life who still thinks of himself as a liberal, I hope the reader will permit me a word from the left. Those who are familiar with my political leanings will be surprised to hear that I am enthusiastic about having a conservative commission. I do not fear a conservative panel, as long as its conservatism is a traditional one in the best sense of the word. I believe that true conservatives will be very careful to think about the long view of history and that

they will have a high regard for the continuation of those freedoms that protect us against the excesses of the modern state.

Some of our worst mistakes have been the adoption of provisions that react to a particular set of contemporary conditions with little thought to long-range philosophy. Florida has made many mistakes of this type. Our 1868 Constitution was a product of the politics of Radical Reconstruction, an era that brought peace after a terrible national conflict. This peace, though, had its own difficulties, with one wag calling it “the peace that passeth all understanding.”

The Constitution of 1868, sometimes referred to as the “Carpetbag Constitution,” placed most executive power in the Governor. In the period following the adoption of that Constitution, many of Florida’s pre-Reconstruction leaders felt humiliated by the new regime, which, though it brought many important reforms to our state, was characterized by unstable and often corrupt government. In reaction, Florida’s post-Reconstruction 1885 Constitution created a new system with a weak Governor.

That old system with its fragmented executive survives today, and I believe that it robs Florida of the opportunity for the decisive and responsive leadership needed by our state.

I will use education as one example. Accountability for education is virtually non-existent in Florida. We have a public expectation that the Governor and Lieutenant Governor will lead us in this area, but we also have a two-house Legislature, a separately elected member of the Cabinet — the Commissioner of Education — and the entire Cabinet operating as the State Board of Education. This fragmentation continues with a split in authority between the state and local government, as well as a division in many of our counties between an elected superintendent and the local school board.

People who believe in classical American constitutional theory will probably agree that our executive ought to have the power to execute laws and to provide leadership. Confusion of authority is hampering our system.

Tom Lazar, in his recent contrarian book, *The Frozen Republic*, argues that the United States is more hindered than helped by its system of checks and balances. Whatever you think of the system of checks and balances in our federal system, the fragmentation in Florida clearly goes several steps further. Florida has taken this system of dividing power to such an extreme that its citizens are bound to be frustrated by a hobbled and ineffective government, incapable of vigorous action.

By now, we should have lived down Reconstruction. We should have the courage to provide for an executive branch that can be effective and accountable.

Similarly, the legislative branch ought to have the power to provide for the needs of our citizens, yet our Constitution places severe, radical limitations on the taxing powers of the Legislature.

The movement restricting the power to tax also began in reaction to an exceptional event, the general pattern of property tax reassessment during the 1960s. People who have some memory of that time will remember that tax assessors (we now call them property appraisers, for they do not want to have the word “tax” uttered in their presence) were systematically under-appraising homestead property so that businesses were carrying a disproportionate tax burden. The Florida courts found that this practice violated our Constitution and ordered it stopped. When reappraisal began under the new guidelines, there was a large public backlash, and the constitutional restrictions on the taxing power were suddenly on the public agenda.

From what philosophical base do these extraordinary limitations on the taxing power spring? Under what banner do we declare that we do not trust the very people we elect? For those of you who believe in the power of the electorate, I ask, is it a democratic idea? For you who believe in representative government, I ask, is it a republican idea?

Back when the founding fathers were debating this nation’s Constitution, Alexander Hamilton made the very strong point that a government ought to have the means to accomplish all the goals entrusted to it. Yet we are creating a deficit in Florida of unmet needs that will stunt our growth if we do not address this issue.

Our Legislature is paying immense sums for a criminal justice system and not investing in the activities that we all know can provide for a better future. It is easy to see how the Legislature gets into this fix. It has immediate pressing needs, yet the

limitations on its taxing powers are so profound that it cannot provide the resources for a more reasonable long-term course of action.

I acknowledge that these very basic mistakes in our Constitution will be difficult to correct. It sounds so democratic to say that Floridians get to elect each of their cabinet officers. Citizens in Miami will probably be reluctant to give up the right to select the person who runs our Department of Agriculture, but the price of this right is accountability.

I know that the present climate of distrust will make it difficult to restore legislative taxing powers and to change our status as a tax haven, but the result of these restrictions on taxation is an extremely expensive short-term approach to the problems of this state.

I encourage the Constitution Revision Commission to raise these issues and force a public debate that may, in time, lead us to a more rational path.

As I offer advice, you should know that I admit to having made a large number of mistakes. I was, for instance, one of the legislators who pushed for a liberalization of the much-maligned initiative provision. In response to the many critics of this provision, I give two answers. First, I was wrong. Second, the measure was offered and adopted before the U.S. Supreme Court decided *Buckley v. Valeo*, radically changing the ability of legislators to regulate political activity dealing solely with “issue only” elections.

Others have suggested that the Commission ought to examine the initiative provision. I agree, and I would like to raise an argument that did not occur to me at the time, now over a quarter of a century ago, that I proposed we broaden the initiative provision. The argument is fairly fundamental: There is a serious question as to whether the initiative provision meets the United States Constitution’s guarantee of a

republican form of government. Whatever label we place on the process through which citizens directly place provisions in our most basic document, I doubt that the label “republican” comes to mind.

I will not chew further on this delicious constitutional question, but it is a useful reminder that, when we are thinking about our Constitution, we ought to think about the very significant basic questions.

The Commission ought also to look at some of the dubious provisions that the initiative process has placed in our Constitution. There are so many worthy of examination and repeal that I will limit myself to comment on the two in which I played a direct part, the lottery provision and the ethics in government provision.

Each of these was drafted and adopted in response to the perceived pressures of a particular time, and although I had a role in drafting each, I must say that they are both flawed. I do not think that either of these is the worst provision the initiative process has placed in our Constitution. That title belongs to the “English only” provision. However, the reader is more likely to pay attention if I confess personal error.

Again, these errors came about because those advocating changes were using the Constitution to respond to a temporary situation. In the case of the lottery, it was the prospect of having other states sell lottery tickets to our citizens. Polls showed that a lottery initiative would pass, and a number of people were putting together lottery petitions with various designated beneficiaries such as the police or senior citizens. The people who recognized that education was woefully under-funded felt that if we were going to have a lottery, the proceeds should go to education. Of course, the single subject rule prevented the proposed amendment from containing the provisions that

**B**ernadette Carter approached the microphone carrying with her a police officer's jacket and a written testimony quite unlike any the Florida Constitution Revision Commission had heard in seven previous public hearings around the state. Like hundreds of others who addressed the Commission, the Royal Palm Beach woman wanted to propose a change to our state Constitution.

Carter told of a medical-records mistake in Ocala that ultimately took the life of her mother, Patricia Carter, on Jan. 5. She told how she identified the corpse as that of her mother and not that of a woman 11 years younger who was thought to be on the hospital operating table. And she told of how her mother's siblings are restricted by Florida law from seeking compensation in a medical malpractice suit because all are over age 25.

"Help us change this law and you will make it discriminatory in the state of Florida to deny compensation to children over the age of 25," Carter said. "I assure you (that) every dollar awarded to a family like mine will be directly proportionate to the decreasing number of mistakes that is killing our families. Help us change this law, and doctors and hospitals will not be able to afford to kill one more person."

The commissioners listened intently as Carter described her mother as a courageous, caring and giving member of the Marion County Sheriff's Office. And Carter held up the jacket once worn by her mother for the hundreds in the Orlando audience to see.

"You'd think I would be able to wear this jacket," Carter said as she fought back tears. "But I haven't been able to put it on yet because it's a constant reminder that I've only got this piece of vinyl and a piece of cotton to wrap around me instead of my mother's arms.

"If it weren't for a certain medical

mistake, it would be a different story."

Regardless of Carter's stance, her presentation represented the best of what proved to be a most democratic process. As the Constitution Revision Commission concluded its initial round of public hearings, its members were more keenly aware that the citizens of Florida do, indeed, have a voice in making changes to our state's basic document.

By the conclusion of the public hearings, the commissioners were worn from a taxing schedule, yet invigorated by a process that afforded a viable voice for the public. The 37 commissioners, all of whom accepted the responsibility to serve without remuneration, traveled nearly 2,000 miles to 12 cities in every region of the state over a nine-week period and heard almost 100 hours of public testimony from more than 600 citizens.

But it wasn't the number of people who left an impression on me and the commissioners. Rather, it was the passion with which the brief talks were presented. It was the depth of knowledge that speakers brought to the dais. And it was the belief that the citizens of the state have a voice in government and its process. These citizens addressed the Commission with verve and with an unwavering belief that their ideas and their words were important and should be a part of this historic process.

The first charge for the Constitution Revision Commission was to ensure that the public had a say in this unique process. No other state allows its citizens to propose changes to its Constitution every 20 years, and I'd like to believe no other state has as concerned a citizenry as the state of Florida.

From the first speaker in Panama City on July 22 to the last in Tallahassee on September 12, the

## PUBLIC HEARING FACTS

- Hearings: 12
- Miles traveled: 1,909
- Hours of testimony: 96
- Number of speakers: 696
- Estimated attendance: 3,240
- Average number of commissioners in attendance: 31
- Commissioners with perfect attendance: 11

commissioners were impressed.

The Commission found citizens willing to sit on hard chairs, sometimes in cramped quarters, and for as long as eight hours to make a statement. The public hearings allowed for written proposals, as well, and they were submitted in all forms. There were volumes typed and presented in well-designed folders as well as those hand-written on lined pages.

No matter the manner, the beauty of the public hearings was that every citizen in the state had a chance to speak. There were many subjects that, frankly, were not of constitutional concern. Yet we allowed those speakers their few minutes simply because it was not the Commission's duty at public hearings to determine the importance of any subject.

That's the Commission's next challenge. We recently sorted through the hundreds of proposals and determined which ones should be examined further. Those proposals will be considered and, no doubt, vigorously debated by the full Commission in session. The arduous task will conclude in May when we present any possible amendments to the Constitution for the people to vote up or down in November 1998.

As the Commission weaves its way through the process of shaping an

“Two things are notable from this first round of (public) hearings: The small turnout most have generated and the passion of those who have taken the time to show up and speak out.

“These are symptoms of democracy’s power and problems: The power to involve average people in extraordinary efforts, the problem of reaching out to all those who have something to say.

“It’s too easy for critics to belittle this process, especially when it draws so few of the people its deliberations will affect. But it’s too important to reaffirm this connection to the common citizen, to make the effort to seek their ideas and input and to show them that they can have influence on what must be properly called one of the state’s most important undertakings. . . .

“Our state Constitution should be a place where citizens can see their rights and responsibilities spelled out in simple, succinct terms. That’s its place; that’s its power.

“Protect it well.”

*Fort Myers News-Press  
September 12, 1997*

“The Constitution Revision Commission is the ideal forum for addressing Cabinet reform.

“The group has heard several proposals for shrinking or doing away with the Cabinet. One of the more intriguing solutions was brought to the group by Insurance Commissioner Bill Nelson, a Democrat sitting on the Cabinet, and Comptroller Bob Milligan, a Republican on the Cabinet.

“They would scale the Cabinet back to two people — the attorney general and a state fiscal officer. The two would meet with the governor to do many of the functions the governor and Cabinet now perform.

“This reorganization makes sense because it would allow a governor to set the state agenda. It would set responsibility for decision making instead of diffusing it among a governor and six Cabinet members. It would promote government efficiency by taking the Cabinet out of the day-to-day, minor concerns it now must waste its time deciding.

“Florida’s Cabinet doesn’t work. As the state gets larger, the defects of the system have become steadily more apparent. The Constitution Revision Commission should live up to its mandate and consider this and other plans to do away with the Cabinet or at least cut it down to size.”

*Daytona Beach News-Journal  
September 13, 1997*

“If I were on the Constitution Revision Commission, I’d propose an amendment earmarking all the lottery money to scholarships, with at least half to be based on need. I’d entitle any Florida student who can get admitted to an accredited college anywhere in the country. And I’d put in a ‘hold harmless’ clause requiring our jellyfish Legislature to compensate the schools, community colleges and universities for every penny they would no longer be getting from the lottery. It would mean a tax increase, of course, but one that the Legislature could graciously blame on the voters.

“Is the Commission bold enough? Are the voters wise enough? Maybe not, but it’s worth a try.”

*Martin Dyckman  
St. Petersburg Times  
September 25, 1997*

“Florida’s Constitution Revision Commission appears to be more grounded in reality than its lofty name implies. After listening to every idea under the sun during a series of public hearings, the commission has started casting aside some of the brainstorming that would generate too much heat. It is prudently mapping an agenda that should lead to a consensus on recommendations that have a realistic chance of winning voters’ approval.

“The focus of the upcoming debates has to remain on recommendations of consequence that have a realistic chance of being adopted. There are all sorts of issues to sort out regarding the overhaul of the elected Cabinet, for example. There also are any number of ways to nudge Florida toward meaningful tax reform without asking voters to immediately accept an

income tax. Whether the Constitution should continue to ban one outright is a more reasonable topic for discussion.

“One of the commission’s procedural rules will help keep it on track. Any final decision to put an amendment on the ballot will require at least 22 of 37 votes. That makes it less likely that fringe issues will be put before the voters and taint more reasonable recommendations.

“It is vital to the future of Florida that the Constitution Revision Commission continues to work diligently toward a set of sensible, pragmatic recommendations. This state cannot afford to squander an opportunity that comes around only once every 20 years.”

*St. Petersburg Times  
September 28, 1997*

“The existence of all . . . other methods of revising the Constitution ought to make it easier for this Constitution Revision Commission to heed Governor (Lawton) Chiles’ advice and avoid trying to do too much. In deciding which proposals to advance and which to scuttle, for instance, the commission could give priority to those proposals that are unlikely to emerge from any of the other processes.

“The Legislature, for instance, is unlikely to advance amendments curbing legislative abuses; the commission could. Arcane reforms of governmental structure usually aren’t glamorous enough to stir a grass-roots petition drive; the commission could propose those. And the Taxation and Budget Reform Commission is limited to fiscal topics; the Revision Commission isn’t.

“If the Revision Commission handles the next phase of its job — the sorting — as well as it handled the listening during marathon public hearings, then the current revision process could be much more productive than the last.”

*The Miami Herald  
September 30, 1997*

## MESSAGE FROM THE CHAIRMAN continued

first round of committee meetings in mid-October, it was clear to me that every commissioner aims to be as knowledgeable as possible on every issue. And the hope is that the Commission will go to all lengths to inform commissioners and their respective committees about those issues.

At this writing, commissioners are seeking input from as many sources as possible. Also, the Commission has sought the help of the Senate staff to research and examine issues. The Commission also will solicit testimony from experts at the remaining committee meetings.

As we head deeper into committee meetings, it is probably important to recognize some of the differences between the Constitution Revision Commission process and that of our state legislative operation.

Legislative rules committees determine what items will be placed on the calendar. Our Rules Committee will only determine the order in which items are addressed, since all proposals will automatically be placed on the calendar. That's important because, under our system, no proposal can be killed because it does not appear on the calendar for consideration. Our committees only can recommend a proposal as favorable or unfavorable.

Our Commission is non-political in nature. Members of a committee were selected solely on the basis of expertise in specific areas as well as their subject preferences. Because political affiliation was not a consideration in committee selections, a proposal should be examined on its merits not on the political welfare of a committee member.

Our Commission also operates much more as a whole, rather than a closed body. Unlike the Legislature, our Commission includes representatives of the Judicial and Executive branches of government. Commission members include Attorney General

Bob Butterworth, Senate President Toni Jennings and Chief Justice of the Supreme Court Gerald Kogan. Thus, it stands to reason that we should have much expertise from a varied field of sources on any given subject.

Perhaps the most intriguing difference between the way the Legislature operates and the way the Commission works is in the voting process. In establishing the voting process for this Commission, we thoroughly studied and ultimately modified the 1978 process. In so doing, I trust that we will benefit from the experiences of the 1978 Commission.

As you may know, the 1978 Commission actually approved approximately 60 amendments and grouped them into eight units for voter consideration. Few would argue that there was too much on the ballot for the voting public to consider, and the result was more confusion than clarity. All eight amendments were rejected.

Combining the lessons learned from the '78 Commission and the advice of Governor Lawton Chiles, Senate President Toni Jennings and House Speaker Daniel Webster to be selective and cautious in proposing amendments to the Constitution, the current Commission revamped the voting process.

While the Commission's work allows for many more proposals to be studied by committees, it also makes it much more difficult for one to actually reach the ballot. Here is the voting process once a proposal reaches the full Commission:

- A majority vote is required of the Commission for further consideration of a proposal;
- The Style and Drafting Committee will then review those proposals, draft the ballot summary, and may recommend the grouping of any related proposals;
- Final adoption of a proposal shall require a vote of at least 22 members of the Commission.

The major difference in that process is the final step. In 1978, only a simple majority was necessary to adopt a proposal. This year, getting an amendment proposal on the ballot will be a much more difficult task. At the same time, all proposals will get much more scrutiny this time around.

It is imperative that the public trust be gained through the Commission's thorough examination of all issues. At the same time, the Commission should show great caution in proposing alterations to the state's most sacred document.

### CITIZEN'S GUIDE

The Collins Center for Public Policy has published a guide relating to the constitution revision process. The guide is published on the Commission's homepage or is available from the Collins Center at 904/ 644-1441.

### ON THE NET: COMMISSION IN CYBERSPACE

We are pleased that the web page has been so widely utilized (approximately 7,000 visitors since October 1996) and we hope to continue to add features that are of use to the public.



New to the Internet homepage:

- Meeting Summaries
- High School Lesson Plan
- Public Proposals
- Commission Members
- Student Materials

### THE COMMISSION CAN BE REACHED BY:

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of Allegiance, then served as pages at a Commission hearing in Tallahassee.

But the focus of attention for the class has been the writing and revision of its constitution.

Using the United States Constitution as a guideline, the class decided on three branches of government in the classroom, established term limits for officials and agreed on an election process.

Several weeks into the semester, the class recognized the need for constitutional revision. Term limits for the inaugural president, Jordan Bell, and his first vice president, Sarah Stein, were for three weeks. The class quickly recognized that terms needed to be six weeks, and went about revising the constitution.

But not all of the constitution dealt with government process. One article dealt with the classroom pencil sharpener. To help alleviate interruptions while Stein was lecturing, the class established a constitutional law that the pencil sharpener could be used only from 8 to 8:15 a.m. daily. And only three pencils could be sharpened by one student during a single visit. By constitutional law, violators were required to use a red crayon instead of a pencil.

"The problem is gone," Stein said. "(An interruption) has not happened since they wrote the law."

Stein has been a teacher for 14 years, including the past two as a curriculum specialist. The curriculum she established for the fifth-grade history class was



Judy Byrne Riley (back center) was a guest of the fifth-grade class.



Janet Stein's history class viewed the CRC from the Senate balcony.



Students served as pages in the Senate chamber.

the study of the Revolutionary War and of the United States Constitution.

Stein said the students determined that if they established a constitution for their class, they would then have to assume the responsibility of governing the class.

"Now they are realizing that we need some amendments to some of the articles," Stein said.

To help her class in the revision process, Stein has taken Constitution Revision Commission plans off the Internet. She also is leading the class in the study of Florida's Constitution and the different methods of revising it. Eventually, the class will study possible issues that could be amendments to the constitution, and will conduct classroom debates on those issues.

Until then, Stein said the class will continue to operate under its own constitution.

"Since the children have a sense of ownership and a sense of control over their own environment, their behavior has improved and the classroom organization has improved," she said. "They feel empowered. In that sense, they have changed. It hasn't just helped them academically, but it has helped the class socially and behaviorally as well.

"I know when they grow up they will act as citizens, knowing how this process worked in the classroom."

would implement this idea. Nevertheless, its proponents sold the lottery as a great opportunity to improve education in Florida, and when these improvements did not come, there was a great sense of betrayal.

I voted against the lottery provision. I would like the Commission to offer it for repeal, although I believe that if it does, the measure will likely fail. Another principled approach would be to take out the misleading language on education. Once again, though, this will be difficult to explain to the voters and is likely to fail. Perhaps we are now the prisoners of history, and if we are to designate the lottery proceeds, we should make it an effective designation. Even though I am the president of a major state university, I do not suggest that the proceeds go to higher education. Indeed, if I were in the shoes of Commission members and felt myself in a quandary over designation, I would suggest a sadly neglected area in Florida, the education and health care of pre-school children, as this is the area where our need is so great and our crabbed tax system has prevented investment.

The other amendment with which I was involved, ethics in government, was also a response to a contemporary situation — a crisis in public confidence arising from a series of indictments, press exposes, and resignations in our executive and judicial branches. Despite widespread criticism, the Legislature was reluctant to act. In hindsight, the legislative leaders were not entirely wrong, but, again, political forces led to the drafting and passage of a provision that close examination shows is mostly legislative in content. I encourage the Commission to use this opportunity to clean up or repeal this provision.

I have raised several areas where I have contributed to constitutional revision in ways that, on reflection, I believe were not wise, and I hope that the Constitution revision process will be able to correct some of my mistakes.

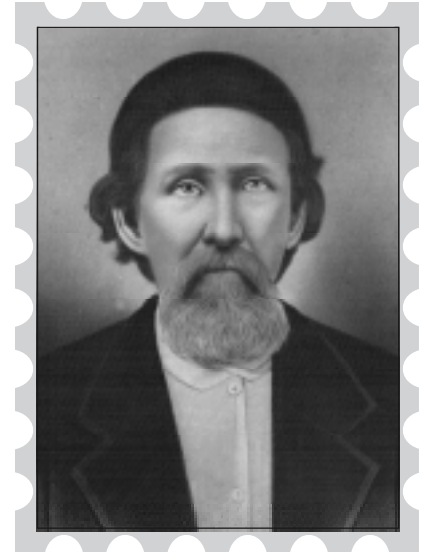
There are other areas where I am very proud of my efforts to help improve our Constitution. I am particularly proud of the judicial article even though there is one major issue that I hope the Commission will consider — the provision for merit selection and retention of trial judges. This proposal came very close to passing in 1978, and I hope that the Commission will examine this issue and consider placing it on the ballot.

The Constitution Revision Commission will receive hundreds of proposals for constitutional amendments, and its success will depend, in large part, on its ability to weed through these proposals to find the issues that most demand the attention of the voters. To meet this task, Commissioners will travel vast distances and wade through a maze of information. Scholarly commentary, discussion, and debate, such as will be found within these pages, should be one of the most important avenues that Commissioners will follow in their quest for a brighter tomorrow. I invite the Commission, the voters, and anyone interested in the revision process to make use of this commentary as the Commission forges a new plan for Florida's future and presents that plan to the voters.

*This article is reprinted from the Fall 1997 issue of the Florida State University Law Review with permission from the FSU College of Law.*



## REVISION SNAPSHOT



**James B. Stone**

**Represented Calhoun County at the 1885 Constitutional Convention in Tallahassee. He was Calhoun County's first elected member to the state House of Representative following the Civil War.**

continued from page 7

## PUBLIC HEARING SUMMARY

amendment or several amendments, it is imperative that we not lose sight of the initial step of including the citizens. It is the Constitution of the citizens of Florida, and the public should have a voice throughout the process.

I have encouraged all commissioners to remember the faces and the voices of those who spoke at the public hearings. As we study the issues, it is our duty to make certain that we refresh our memory by reading again the testimony of our citizens. If necessary, we should call to Tallahassee those citizens who were most knowledgeable and most passionate about amendments to the Constitution, and allow them to provide more depth to their proposals.

After all, the state Constitution belongs to those citizens.

# NATURE AND PURPOSE OF THE CONSTITUTION REVISION

Once every 20 years Florida's Constitution provides for the creation of a 37-member revision commission for the purpose of reviewing Florida's Constitution and proposing changes for voter consideration. The Commission will meet for approximately one year, travel the State of Florida, identify issues, perform research, and possibly recommend changes to the Constitution.

This sweeping review of Florida's Constitution last occurred approximately 20 years ago (1977-78). Since 1978, Florida's population has grown by 63 percent. Equally significant is the projection that Florida's population will exceed 17 million by the year 2010. This astronomical population growth will have an impact on the state in areas such as transportation, education, health care, natural resources, recreation, pollution, and crime.

The state's treatment of such important issues rests primarily in the Constitution, and the Revision Commission will be looking to the citizens of this state for direction and suggestions.

## Commission Members

The Constitution provides for four persons to appoint 37 members. The Governor appointed 15 members, the Speaker of the House of Representatives and the President of the Senate each appointed nine, the Chief Justice of the Supreme Court appointed three, and the Attorney General automatically serves.

## Unique Process

No other state in the union has empowered a Commission to propose changes to its Constitution and to place them directly on the ballot for voter consideration.

## Potential Issues for 1998

Over the past few months, the following issues have surfaced as potential matters for consideration by the Commission:

- *Appointment or election of trial judges.* Currently, justices of the Supreme Court and judges of the District Courts of Appeal are appointed by the

Governor from a slate of candidates. In contrast, county and circuit judges are elected. Critics of the current system assert that the appointment process results in the strongest candidate being presented to the Governor, while opponents assert that it removes the opportunity for citizens to vote for and select their judges. Should Florida's system for trial judges be modified? Should such modification be uniform throughout Florida?

- *Cabinet reform.* Florida is considered to have a "weak" executive branch because the Governor must share his power with an elected Cabinet with each member given an equal vote. Proponents of an elected Cabinet claim that the system works and that it allows the sharing of executive power. Opponents of the system claim that it reduces accountability because the entire Cabinet has an equal vote on issues. Should the state Cabinet be reduced in size or abolished?
- *Citizen ballot initiatives.* In recent years, Floridians have considered constitutional initiatives on sugar, marine fishing nets, English only, and others. Some have suggested that the process has circumvented the authority of the Legislature by placing general law directly into the Constitution and by allowing special interest groups the ability to easily meet the petition signature requirement. Others claim that the Constitution is the "people's" document and as such should be liberally amended. Should the Commission propose to change or eliminate the ballot initiative process for amending the Constitution?
- *Legislative reapportionment.* Every 10 years, Florida is reapportioned for the purpose of state and federal elections. The Florida Legislature, pursuant to the Constitution, is charged with dividing the state into districts. Some have suggested that this task should be given to an independent entity rather than to the Legislature. Others assert that reapportionment, by its

very nature, is political and therefore belongs in the Legislature. Should the system of reapportionment remain with the Legislature or be transferred to an independent group?

- *Privacy rights.* Article I, Section 23, of Florida's Constitution provides that "every natural person has the right to be let alone and free from government intrusion into his private life." The section has been construed to address, among other things, issues relating to abortion, assisted suicide, and equal treatment of persons. Should Florida residents have the right to an assisted suicide? Should our Constitution address a woman's right to an abortion?
- *Taxes.* Are there better and more equitable ways that citizens could be taxed and government services provided?
- *Crime and punishment.* Should Florida change the way that it punishes criminals? Should Florida keep the death penalty in its present form?
- *Education.* Should a specific portion of the state budget be dedicated to education? Should the public school system be put under a Board of Education that is appointed, thereby eliminating the elected Commissioner of Education?
- *Medical Care.* Should poor children have the right to medical care paid for by the state? Should residents have the right to choose their own doctor and hospital?

## Public Participation

While many experts are satisfied that our Constitution does not warrant wholesale change, Florida's mandated Revision Commission provides a unique opportunity to review the framework that is the foundation for Florida government. Each citizen has the opportunity to influence the shape and future of our state by getting involved in the process, participating in the public hearings, and monitoring the work of the Commission.

# Constitution Revision Commission

B-11, The Historic Capitol  
Tallahassee, Florida 32399-1300

## IMPORTANT DATES RELATING TO THE REVISION PROCESS

YEAR	EVENT	AUTHORITY
<b>1997</b>		
June 16-17	Organization session	Article XI, section 2 (a), Florida Constitution Commission meeting
July 21		
July 22-Sept. 24	Public Hearings	
September 25	Commission meeting	
October 13	Public proposal deadline	
October 20-24	Committee meetings	
November 12-14	Committee meetings	
November 25	Commission member proposal deadline	
December 9-12	Committee meetings	
<b>1998</b>		
January 12-16	Committee meetings	Article XI, section 2 (c), Florida recommendations
January 26-28	Committee meetings	
February 9-12	Committee meetings	
February 23-27	Committee meetings	
March 6-7	Possible committee meetings	
March 13	Public hearing	
March 20	Public hearing	
March 26	Public hearing	
March 27-29	Committee meetings	
April 3	Public hearing	
April 4	Committee meeting	
April 18-19	Committee meetings, if necessary	
April 25-26	Committee meetings, if necessary	
May 2-3	Committee meetings	
May 4	Final session/adjournment	
May 5	Revision Commission submits to Secretary of State Constitution	
November 3	General election	