

IN THE SUPREME COURT OF FLORIDA
TALLAHASSEE, FLORIDA

FILED

SID J. WHITE

APR 16 1985

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk



GEORGE FIRESTONE, et al.,

Petitioners,

vs.

CASE NO. 66,774

FLORIDA OPTOMETRIC
ASSOCIATION, et al.,

Respondents.
_____ /

BOB GRAHAM, et al.,

Petitioners,

vs.

CASE NO. 66,768

FLORIDA OPTOMETRIC
ASSOCIATION, et al.,

Respondents.
_____ /

FLORIDA SOCIETY OF
OPHTHALMOLOGY, et al.,

Petitioners,

vs.

CASE NO. 66,762

FLORIDA OPTOMETRIC
ASSOCIATION, et al.,

Respondents.
_____ /

BRIEF OF AMICUS CURIAE

Reubin O'D. Askew

Former Governor of the
State of Florida

STATEMENT OF THE CASE AND OF THE FACTS

Amicus Curiae accepts and adopts the statement of the case and of the facts as they appear in the initial brief of the Petitioners, Governor Bob Graham and Secretary of State George Firestone.

SUMMARY OF ARGUMENT

Amicus, Reubin O'D. Askew, was a member of the Florida Constitutional Revision Commission which was convened to propose revisions to the 1885 Constitution of Florida and was a member of the Legislature which adopted these revisions and submitted them to the people of Florida. As Governor between 1971 and 1979, it was the practice of the undersigned to take the full fifteen days to consider legislation presented after adjournment sine die. Due to the great volume of legislation presented to the Governor during the closing days of the Legislature and after adjournment, this full fifteen days is necessary for adequate review of legislation by the Governor.

ARGUMENT

I was a member of the Florida Constitution Revision Commission which was convened to propose revisions to the 1885 Constitution of Florida and I was a member of the Legislature to which that proposal was submitted and which, in turn, submitted a proposed revision to the people of Florida. I served as a member of the Legislature which first operated after the 1968 revision was adopted.

As Governor of Florida between 1971 and 1979, I had the duty and responsibility under Article III, Section 8 of the Florida Constitution to review legislation and to exercise veto authority over such legislation.

During my administration as Governor of the State of Florida, Article III, Section 8(a) of the Florida Constitution was consistently interpreted to allow the Governor seven days to act on bills presented during a legislative session, except that if the Legislature adjourned sine die, all bills not yet acted upon which were presented during the previous six days were acted upon within fifteen days from the date of presentation to the Governor. Similarly, all bills presented following adjournment sine die of a Legislative Session were acted upon by the Governor within fifteen days of presentation for signature. It was the practice during my term as Governor to take the full fifteen days to consider legislation presented to the Governor's Office after adjournment of the Session as this time was necessary to allow the consideration of

the great volume of legislation presented during the final days of the Session and after adjournment sine die. A survey of the timing of presentation of bills and vetoes during my administration demonstrates the necessity of providing the full fifteen days for consideration. Examples of specific vetoes which may be in question demonstrate the importance of upholding the validity of these vetoes.

During the 1971 Regular Legislative Session, a total of 951 bills was presented. During the last six days prior to adjournment sine die of that Session, 112 bills or 11% of the total were presented. In contrast, 630 bills or 62% of the total were presented after adjournment sine die. Of the eight vetoes of bills from that session, five bills presented after adjournment sine die were vetoed more than seven days after presentation. Included within these five vetoes was SB1343 which provided for distribution of taxes to the Summer Thoroughbred Racing Promotion Trust Fund. Also included within these five bills was HB1140 which incorporated and chartered Raiford as a municipality within Union County.

During the 1972 Legislative Session, 745 bills were presented to the Governor. A total of seven bills was presented during the six days preceding adjournment sine die while 340 bills or 45% of the total were presented after adjournment sine die. As Governor, I vetoed eleven bills from the regular 1972 Session. Six of these vetoes were exercised more than seven days after presentment of bills presented after adjournment

sine die. Included within these six vetoes was HB4438 which provided for a separate Clerk of County Court for Baker County.

During the 1973 Regular Session, 674 bills were presented. Only one bill was presented during the last six days prior to adjournment sine die while 377 bills or 56% of the total were presented after adjournment sine die. Four bills presented after adjournment were vetoed more than seven days after presentment. Included within these four vetoes was CS/HB2145 which modified certain definitions and procedures within the Administration Procedure Act including the definition of "agency."

During the 1974 Regular Session, 643 bills were presented with 477 bills or 74% of the total presented after adjournment sine die. Seventeen bills were vetoed more than seven days after presentment which had been presented after adjournment sine die. Included within these vetoes was SB945 which established enrollment limitations and degree program limitations for State Universities. Also included within these vetoed bills was HB4131 which authorized Jacksonville Electric Authority to contract for a nuclear power plant.

The 1975-1978 Sessions demonstrate similar statistics. Following the 1975 Regular Session, 64% of the bills presented were presented after adjournment sine die. For the 1976 Session, 61% of the bills were presented after adjournment and 67% were presented after adjournment following the 1977 Session. For 1978, 31% of the bills were presented after

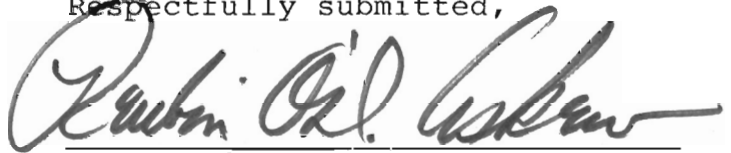
adjournment sine die. Following the 1975-1978 Sessions, 82 bills presented after adjournment sine die were vetoed more than seven days after adjournment. Included within these 82 vetoes was HB102 from 1975 relating to sentencing procedures and providing a separate trial for determination of insanity. Also included within these vetoes was HB400 from 1978 which provided immunity from medical negligence suit for certain health care professionals.

As the above statistics demonstrate, the crush of bills during the closing days of the session and after adjournment is very real and significantly burdensome. A reading of Article III, Section 8 which would allow the Governor only seven days to consider bills presented after adjournment would preclude a deliberate, considered review of bills by the Governor. Such a reading of the Florida Constitution was never envisioned by me or by those in my Administration with legislative duties. Equally important, many vetoes exercised during my Administration under the accepted reading of Article III, Section 8 could be called into question if the First District Court's interpretation of Article III, Section 8 in this case is adopted. Should this Court adopt the First District Court's interpretation, such a decision should have a strictly prospective application.

CONCLUSION

A Governor of Florida between 1971-1979, I consistently took the full fifteen days to consider bills presented during the closing days of the Legislature and after adjournment sine die as provided by Article III, Section 8 of the Florida Constitution. This period of time was necessary to adequately review the great volume of bills presented during this period. Many of the vetoes exercised in accordance with this practice would be called into question should this Court adopt a differing interpretation of Article III, Section 8.

Respectfully submitted,

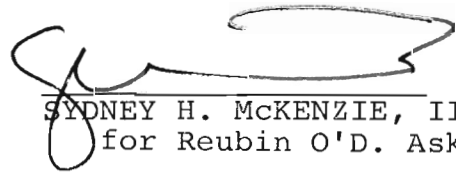
A handwritten signature in black ink, reading "Reubin O'D. Askew". The signature is written in a cursive style with a long horizontal flourish at the end.

REUBIN O'D. ASKEW

FORMER GOVERNOR OF THE
STATE OF FLORIDA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing BRIEF OF AMICUS CURIAE has been furnished by U.S. mail to John D. C. Newton, II, Esquire; Leonard A. Carson, Esquire, Cambridge Centre, 253 East Virginia Street, Tallahassee, Florida 32301; Richard Collins, Esquire, Post Office Box 5286 Tallahassee, Florida 32314-0058; Kenneth G. Oertel, Esquire, Lewis State Bank Building, Suite 646, Tallahassee, Florida 32301 and Susan Tully, Esquire, Office of the Attorney General, Administrative Law Section, Tallahassee, Florida 32301, this 16th day of April 1985.



SYDNEY H. MCKENZIE, III
for Reubin O'D. Askew