

IN THE SUPREME COURT OF FLORIDA
TALLAHASSEE, FLORIDA

GEORGE FIRESTONE, et al.,

Petitioners,

vs.

FLORIDA OPTOMETRIC
ASSOCIATION, et al.,

Respondents.

BOB GRAHAM, et al.,

Petitioners,

vs.

FLORIDA OPTOMETRIC
ASSOCIATION, et al.,

Respondents.

FLORIDA SOCIETY OF
OPHTHALMOLOGY, et al.,

Petitioners,

vs.

FLORIDA OPTOMETRIC
ASSOCIATION, et al.,

Respondents.

FILED

SID J. WHITE

APR 17 1985

CASE NO. 66,774 COURT
CLERK

By _____
Chief Deputy Clerk



CASE NO. 66,768

CASE NO. 66,762

BRIEF OF AMICUS CURIAE

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Former Governor 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, Claude R. Kirk, Jr., Governor of Florida during the 1970 Legislative Session, the first session after adoption of the 1968 Constitution. It was Governor Kirk's practice 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

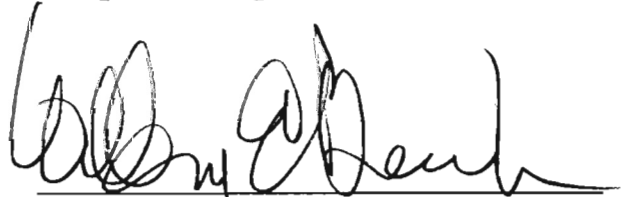
As Governor of Florida during the 1970 Regular Session of the Legislature, Claude R. Kirk, Jr. was the first Governor to act under the provisions of the 1968 Constitution. During the 1970 Session, his interpretation of Article III, Section 8 and the interpretation of those in his Administration with legislative responsibilities allowed a full fifteen days for the Governor to consider bills presented after adjournment sine die. This additional period was required for adequate consideration of the great volume of bills presented during the final days of the Legislature and after adjournment. It was the understanding of Governor Kirk's Administration that this was the intent and purpose of Article III, Section 8(a).

During the 1970 Regular Legislative Session, 223 bills were presented to the Governor during the six days prior to adjournment sine die. 554 bills or 54% of the total were presented after adjournment sine die. During this period, 29 bills which had been presented after adjournment sine die were vetoed more than seven day after presentation. Included within these 29 bills was House Bill 4079 which provided a procedure for the Administration Commission to take affirmative action in the absence of the Governor.

CONCLUSION

Article III, Section 8 of the Florida Constitution of 1968 was interpreted by Governor Kirk during the 1970 Legislature as allowing fifteen days to consider a bill presented after adjournment sine die. It was Governor Kirk's understanding that the Constitution allowed additional time for the Governor to consider the great volume of bills presented during the final days of the Legislature and after adjournment. Any contrary reading of the Constitution would place an unacceptable limitation upon a Governor. Governor Kirk, through his undersigned counsel, would urge this Court to adopt the interpretation first given by the Executive Branch after adoption of the 1968 Constitution which would allow the full fifteen days.

Respectfully submitted,




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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 Wilbur E. Brewton