

# SOUTHEAST LAW INSTITUTE™

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May, 2001

Dear SLI Supporter:

Our information to you during the legislative session each year usually identifies important legislative issues affecting the State of Alabama. Last month we talked about some important legislation pending in the legislature. When the 2001 Alabama legislative session draws to a close in May, we will send you a final update on what happened this year. To date, things have not looked good on moral legislation. The bills we drafted ran into the typical opposition from unprincipled persons and the usual burdensome and difficult legislative procedures. That process was troubling enough, however, this year the most significant and daunting problem has been the recent movement to “rewrite or reform the Alabama Constitution.”

For over twenty years proposals to rewrite the Alabama Constitution have been discussed by various people and groups around the state. In the months leading up to this year’s session, several major newspapers ran editorials and articles advocating it. As our enclosed educational memo explains, only a few people actually knew of any need to rewrite or reform the Alabama Constitution, but it appears there was certainly “a game afoot.”

The “game” includes new threats to the moral and public policy issues with which Christians, conservatives and other traditionally-minded people are concerned. For example, one of the most important issues SLI has been involved with was the legal assistance we provided on the passage of the Alabama Religious Freedom Amendment. It was approved in 1998 by Alabama voters and serves to protect religious freedom. Some proposed rewrites of the Constitution may omit that protection.

Other questions arise regarding the right to privacy being written into a new Alabama Constitution. This, of course, would include the right to abortion. SLI has worked very hard to provide good legal guidance on these and other issues, but they can all be swept aside by one enactment of the Alabama Legislature or Constitutional Convention.

While there have been many important issues in recent years, this one by its enormous potential effect overshadows them all. A “sweep of the pen” could potentially undo years of hard won progress. Please pray that those involved will have unique and Godly wisdom.

Here at SLI, we hope to be involved with the new constitutional reform issue. At the outset we are aware that our commitment to help will involve a great deal of time and effort on our part. Other than your support there are little or no resources to fund those efforts. Now, more than ever, we need your prayers and financial assistance.

Please join us. If you would like to participate, if you have information, if you need information, and certainly if you can offer financial assistance, we would like to hear from you.

With personal regards, I am,

Yours Very Truly,

A. Eric Johnston

**EDUCATIONAL MEMO FROM  
THE SOUTHEAST LAW INSTITUTE**

**To: Southeast Law Institute Supporters**  
**From: A. Eric Johnston**  
**Date: May, 2001**  
**Re: A Constitution Crisis in Alabama?**

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**INTRODUCTION**

You have probably seen a lot of publicity about the necessity to rewrite or reform the Alabama Constitution of 1901. There is a great deal of confusion and we want to provide you with some information on this at an early stage. There is great falsity and potential for harm.

When the legislative session began in February, there was no concern among lawmakers that Alabama had reached a crisis stage and needed to rewrite or reform its constitution. However, it appears a well orchestrated and funded effort to rewrite the Alabama Constitution was then underway which has now materialized in a significant effort which has virtually overshadowed the legislative session. While there is no doubt some are well intended about this effort, our concern is there is a subtle but very real and strong special interest effort motivating all of this activity.

**WHAT IS THE ISSUE**

There is no need to rewrite the Alabama Constitution of 1901. It is a very good, strong and comprehensive document which protects our individual rights and liberties as individuals and the governance of Alabama. There were provisions which were racist and there may be vestiges of that remaining. Most, if not all, of those provisions have been repealed or specifically neutralized by court action. That is not the issue.

There are also claims for the necessity of "home rule", *viz.*, more authority at the local level. There are pros and cons on this issue. If that is an issue which causes concern, it should be debated singularly as such an issue. It is not necessary to throw out the entire Constitution. Similarly, if there needs to be tax reform in the state, it does not need to be done through the rewriting of the entire constitution, but through addressing that issue specifically. The people of Alabama do not need to lose sight of important specific issues which would be buried deep in the bowels of a rewritten constitution and obscured by high toned rhetoric.

Perhaps, the real issue with which we must be concerned is what special interests may achieve through rewriting the constitution. A primary concern is the unique and powerful concentrated gambling interests. These have wasted valuable time in the Alabama legislature year after year in their efforts to get around constitutional prohibitions of gambling. They have tried over and over again to pass laws which would permit gambling of every sort. With a rewritten constitution, like the tax issue, there is every opportunity to have the hidden agenda of gambling interests expanded which is the legalization of gambling in Alabama and the resulting casinos, and the heartbreak that travels along with them.

On the other hand, there is the confusing nature of the constitution. It does have a number of amendments which affect a large number of things and they are placed in chronological order rather than by subject. This is not unusual, since it is the nature of the state constitution to address the multitude of state issues. Unlike the federal constitution which is seldom amended, state constitutions are frequently amended and updated to meet the continuing needs of citizens. Keep in mind that our basic form of government is to permit states to be primarily responsible for the needs of its citizens.

There is really not a crisis concerning the Alabama Constitution. The major media resources at the *Birmingham News* and the *Mobile Register* have taken up the rewrite as a *cause celebre*. They have created an issue which has a snowballing effect and now something must be done.

**THE ANSWER**

The answer is to *recompile* the Alabama Constitution. Following carefully written instructions, the publishing company which provides Alabama's law books or the Legal Reference Service, the lawyers responsible for assisting the legislature in drafting laws, can put the present constitution into an easy to read well indexed document (LRS has in fact already prepared an extremely good index), omitting provisions which have been repealed or stricken down by court law. The "recompiled constitution" would embody Alabama constitutional law, without omitting important principles or being subject to special interests group efforts. Then, for those provisions which must be addressed on a case by case basis, they can be visited and modified, removed or left as they are depending on the will of the people by their vote. This would be proper reform.

The two alternatives suggested for rewriting the constitution are much contrary to our far less expensive and much better alternative. One is to permit the legislature to rewrite the constitution. There is significant concern since the legislature has a difficult time passing ordinary laws and is heavily influenced by special interest groups. The second is through a "Constitutional Convention". This is perhaps the most dangerous of all because there are little or no guidelines on how such a convention would operate. It would easily be dominated by special interest groups and everything from allowing state deficit spending to permitting abortion on demand could be included. Wisdom has always dictated against constitutional conventions. Neither of these two alternatives is acceptable.

### **CONCLUSION**

Over the next months, and maybe years, there will be a battle for the government and heart of Alabama. There will be a great deal of effort expended by all sides. There will be constitutional reform. In the end, great wisdom will be needed to conclude this issue in a way that will benefit all of the state's citizens. In the meantime, high-toned, political rhetoric cannot be used to obscure the need to protect the tried and true form of government which has made Alabama a great place in which to live. Keep tuned in on these issues and do not be misled by either misguided or deceitful efforts.