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AGAINST CORRUPTION: FRED KARL AND THE SENATE SELECT COMMITTEE ON SUSPENSIONS AND REMOVALS, 1968-1974

by PETER D. KLINGMAN

SUSPENDING or removing public officials from office at any level of government and at any point in time always has provided cause for serious concern. Impeachments, suspensions, and removals of municipal, county, or federal officers cause two major constitutional issues to surface which must be resolved to the populace's satisfaction. The first is the right of citizens, through the electoral process, to be guaranteed their legitimate representation and to remain the ultimate judge of all elected officials' tenure in office. Even today, as term limitations are debated, perhaps leading to another constitutional amendment, this republican cornerstone remains fundamental. The basic public right to keep a publicly elected official in office until voted out historically underscored arguments against draconian measures in suspension or removal cases.

The second major issue in these cases is that the power to remove or suspend should not be used without substantive legal cause. No matter whether that power lies in a chief executive, a senate trial, or a legislative vote, the responsibility to use it for legal purposes is paramount. As a consequence, defining legal as opposed to political motivations for any suspension or removal action has always been the most difficult and controversial task in either judicial or quasi-judicial hearings.

No period in Florida history illustrates these quandaries better than the years immediately following the inception of the Florida Constitution as revised in 1968.¹ Nor has any person in

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1. There were a number of political imbroglis and scandals during Florida's Reconstruction era, including two impeachment proceedings against Governor Harrison Reed, charges filed against Judge James T. Magbee of Tampa, and the expulsion of Senator (Bishop) Charles Pearce of Leon

Florida history played a more significant role in ensuring the successful resolution of the inherent conflicts behind the suspension and removal of public officials than Fred B. Karl, first as chair of the Florida Senate's Select Committee on Suspensions and Removals from 1968 to 1972 and then, upon his retirement from the state senate, as special master with identical responsibility.

By focusing on how Fred Karl and the Florida Senate handled several highly publicized and controversial suspension cases, insight into these governmental controversies can be gained. Four particular cases form the core of this analysis. They are appropriate because of their high interest level and because they deal with significant legal and political issues in Florida history. Taken



Fred Karl addresses colleagues in the Florida Senate, c. 1970. *Photograph courtesy Fred Karl.*

County. To review the political history of this period, see William Watson Davis *The Civil War and Reconstruction in Florida* (New York, 1913; reprint ed., Gainesville, 1964); and Jerrell Shofner, *Nor Is It Over Yet: Florida in the Era of Reconstruction, 1863-1877* (Gainesville, 1974). To review the legal and constitutional aspects, see Frederick B. Karl and Marguerite Davis, "Impeachment in Florida," *Florida State University Law Review* 6 (no. 1), 2-61.

together they illustrate the seriousness with which Fred Karl and his Select Committee on Suspensions and Removals took their charge to protect all parties involved via the right to due process and fair play. They also provide the reader with a clear sense of the ethical commitments made by the Florida Senate and Senator Karl's committee which ensured that the governor's power to suspend be restrained wisely and well.

Under the constitution of 1885 the Florida Senate in matters of suspensions and removals was, as Senator Mallory Horne stated, "extraordinarily weak."² The governor's power to suspend officials was embedded in the 1885 constitution as a major executive power, but there were no provisions made for either pre-suspension hearings or judicial or quasi-judicial reviews by the Florida Senate in a prompt and expeditious manner. The 1885 document merely provided that the "cause of suspension shall be communicated to the officer suspended and to the Senate at its next session."³

This constitutionally loose statement meant that the senate could delay or avoid action on alleged or proven corruption by public officials. As a result, reelected suspended officials often returned automatically to office in the event that the senate failed to act in the session following an executive suspension. Other weaknesses in the suspensions and removals process also inhibited effective senatorial review of a governor's power to suspend. The Florida Supreme Court interpreted the 1885 constitution in several cases to allow only the suspension of a public official for misconduct in his/her current term of office. Unless the offending public official continued misbehavior first begun in a prior term, no governor could subsequently enforce, nor could the Florida Senate uphold, discipline for these offenses. Reappointment or reelection to the same office was ruled "a condonation of known prior offenses."⁴

The Florida Supreme Court did decide one case apparently to the contrary. Governor Spessard Holland, on November 6, 1942, suspended Russell F. Hand from his seat on the Dade

2. *The Miami Herald*, November 22, 1972.

3. *Florida Constitution* (1885) Article IV.

4. William M. Barr and Frederick B. Karl, "Executive Suspension and Removal of Public Officers Under the 1968 Florida Constitution," *University of Florida Law Review* 23 (Summer 1971), 641.

County Board of Public Instruction, appointing another man to his place. Hand was first suspended by Governor Holland in September 1942, and the senate upheld his executive action in May 1943. In the meantime, Hand won reelection for another term in the November 1942 campaign. Holland refused to confer his commission, writing to Hand, "It is my distinct feeling that your gross misconduct while serving as a member of that Board *during your previous term* and for which I suspended you from office on September 21, 1942, has destroyed the confidence of a majority of people of Dade County in your integrity and moral character."⁵

The Florida Supreme Court upheld Holland's action in 1944, partially revising long-standing tradition against suspensions for prior-term offenses. Thereafter, Florida law recognized suspensions not only for a sitting official's present term but also for the preceding term.⁶

The 1968 constitution not only triggered action on these issues of delay and prior-term offenses, but, more importantly, it required the practice of due process hearings for suspended officials. By directing the senate to act "in proceedings prescribed by law," the 1968 constitution broadly defined Senator Karl's major tasks: to create new procedures where none before existed; to apply new interpretations and applications protecting Florida citizens in their right to legitimate representation; to protect public officials in their right to maintain a vested interest in their office; to conduct investigations openly and fairly instead of behind closed doors in executive sessions; in short, to ensure that the governor's almost unlimited power to suspend any official was used for its constitutionally intended purposes.⁷

There was much reason in 1968 to be concerned. Claude R. Kirk, Jr., sat in the governor's chair. A larger-than-life mix of ego, flamboyance, eccentricity, and political persona, Governor Kirk used his power of suspension and removal for political purposes, ousting Democratic officeholders without adequate

5. "Authority to Suspend Public Officials For Offenses Occurring During a Prior Term of Office," Administrative Files, box A-L, Frederick B. Karl Executive Suspensions Papers (hereinafter, Karl Papers). These papers are the personal possession of Senator Karl and are on loan to the author.

6. Ibid. See also *Florida Statutes*, Sec. 932.06.

7. *Florida Constitution* (1968), Article IV.

evidence or just cause. In the wake of his two-year attempt to become the Republican vice-presidential candidate, which he began almost immediately after his inauguration, Kirk believed his chances for a second gubernatorial term in serious jeopardy. He had become the target of a Democratic-controlled state legislature and cabinet. Even Kirk's Republican supporters had grown tired of his spending habits, political theatrics, and high-profile lifestyle.⁸

The power to suspend and remove officials became one method by which Governor Kirk tried to cement his incumbency. Having wasted nearly all his political capital on the ill-fated vice-presidential effort, Kirk focused his mid-term political goals on Florida. With his love of a good political fight, he clashed with the Florida Legislature on the matter of suspensions and removals of Democratic officeholders. Quickly, the governor ran headlong into Fred Karl and his select committee of the senate.

Fred Karl was the antithesis of Claude Kirk. By 1968 he already had become a powerful political force in Florida, having served four terms in the house and run as a gubernatorial candidate himself in 1964. Karl's reputation for personal integrity, faith in good government, and political skill was firmly established, and it moved him into the Florida Senate in November 1968. Interestingly, his opponent in the fourteenth district was incumbent senator Ralph Clayton, who had handled all previous suspensions and removals, dispatching them as Governor Kirk wished. Karl defeated Clayton handily, with Kirk staying out of their race.⁹

Between July 1968 and February 1969, Governor Kirk issued a total of twenty-two executive suspension orders. All were aimed at Democratic officeholders. It fell to Fred Karl and his committee to review each one and reject or uphold the governor's actions. Because of the extraordinary number, the senate met in

8. Peter D. Klingman, *Neither Dies Nor Surrenders: A History of the Republican Party in Florida, 1867-1970* (Gainesville, 1984), 169-89.

9. Before his campaign against Clayton, Karl had managed to extract a commitment from Governor Kirk to stay out of this particular campaign. The Volusia County Democratic Executive Committee, however, refused to support Karl against Clayton because Clayton controlled the "old boy" process of removing officials for Kirk. Conversation with Fred Karl, Tampa, Florida, June 10, 1991.

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a historic special session, beginning on February 17, 1969, to deal with them. It was the first occasion on which one body of the Florida Legislature met in special session without the other.¹⁰

Senate president John Mathews had appointed Karl to chair the Select Committee on Suspensions and Removals on January 18, 1969, within hours of his own election as leader of the senate. The appointment was, Senator Mathews felt, "an opportunity to show the wisdom of the framers of the new Constitution in allowing the Senate to consider these quasi-legislative matters at a time other than during a regular session."¹¹ It also provided Fred Karl an opportunity to show Governor Kirk that the power to suspend and remove officials was to be monitored closely.

The select committee was composed during the special session of strong and experienced senators from across Florida: Robert Haverfield of Miami, Warren Henderson of Sarasota, David Lane of Fort Lauderdale, Joseph McClain, Jr., of Tampa, Jerry Thomas of Riviera Beach, and J. H. (Jim) Williams of Ocala. Committee members included a future supreme court justice (Karl), a law school dean (McClain), a future district court of appeals judge (Haverfield), a future senate president (Thomas), and a lieutenant governor (Williams).¹²

The special session devoted much attention to the governor's suspension of the Taylor County Board of County Commissioners. Governor Kirk had twice before suspended the board on the recommendation of a local grand jury. The case before the Karl committee sharply etched the political controversies that always surrounded executive suspensions. The local grand jury had charged the suspended commissioners with misuse of county funds and equipment but chose not to indict the board. The governor cited the grand jury report as the prime cause for the commissioners' removal.¹³ The final decision as to whether they were to be removed rested with the Karl committee and the Florida Senate in that first special session.

10. "Proclamation to Honorable Members of the Florida Senate," Administrative Files, box A-L, Karl Papers.

11. John E. Mathews, Jr., to Karl, January 28, 1969, Administrative Files, box A-L, Karl Papers.

12. Ibid.

13. *Tallahassee Democrat*, January 26, 1969; "Hearing Agenda," Senate Select Committee on Executive Suspensions, February 10, 1969, Taylor County Hearing, Closed Files, box T, Karl Papers.

The turmoil in Taylor County revolved around the proposed construction of a new courthouse. The suspended commissioners wanted the old courthouse in Perry torn down and a new building erected on the downtown site. The Kirk-appointed replacement commissioners wanted to construct the new courthouse near the jail, away from the center of Perry. Legal suits tumbled out of Taylor County over contracts, construction orders, and work stoppages. Circuit court judge Sam Smith of Lake City added considerable fuel to the fire by ruling first that the Kirk-appointed commissioners had a legal right to let a contract for construction to begin on the courthouse, but he later ruled that suspension of the elected commissioners was invalid. After Smith's second ruling, Governor Kirk again suspended the old board, alleging improper use of funds and violation of competitive bidding laws.¹⁴

During the special session Gerald Mager, legal counsel to Governor Kirk, argued the case before the Karl committee. The committee reported its findings to the full senate, and that body voted to overturn the governor's suspension orders.¹⁵ The Karl committee reached two conclusions in their review of the case: (1) the suspensions were politically inspired rather than legally justified, and (2) Mager's argument was unsatisfactory, poorly presented, and of questionable legality.¹⁶

Governor Kirk's reaction was predictable. He was, he said, "baffled" by the senate vote to overturn his suspension orders: "Quite frankly, I don't know how to suspend anybody now." Rather than confront Fred Karl, his select committee, or the senate, or provoke a constitutional crisis by resuspending the original commissioners a third time, Kirk lashed out at senate president John Mathews. The governor believed Mathews was a potential gubernatorial opponent in 1970 and was using the suspensions as a campaign issue.¹⁷

14. Ibid.

15. *Florida Senate Journal*, Special Session, 1969.

16. Ibid; conversation with Fred Karl, June 10, 1991. Karl's private belief, not spelled out in the committee's report and unprovable, is that Kirk intended these to be the first of a wave of anti-Democratic suspensions that would help his 1970 reelection campaign.

17. *Tallahassee Democrat*, February 21, 1969.

In 1972 senate president Mallory Horne appointed Karl as a special hearing master in cases of suspended public officials. Horne explained that he had been unable to form a new senate select committee or find another chairman with Karl's reputation for integrity. "The only alternative," Horne said to his senate colleagues, "is for five or seven of you to commit your entire senatorial service to being a lawyer and a judge. I haven't been able to find any of you who would be willing to do that."¹⁸ Even Dempsey Barron, chairman of the Senate Rules Committee which authorized the rule change to permit Fred Karl to continue as a special master, agreed "this is a far better way to go about the unpleasant business of removing officials who are suspended."¹⁹ Karl received \$500 a month as a retainer, developed a procedures manual for all suspension hearings, and submitted a budget for the committee's work. The total committee budget for 1972 was \$25,000. Karl observed: "Obviously, if there are no suspensions none of the money will be used. Equally obvious is the fact that if there are a large number of suspensions and extensive committee meetings and a special session is necessary, the request will be inadequate and will have to be supplemented."²⁰

With these changes in place, the senate's role in executive suspension cases changed dramatically from closed door silence to open door, fully public activity. However well the new procedures worked, the issues of suspending public officials nonetheless continued to invoke great controversy and interest.

When Sheriff L. O. Davis of St. Johns County was suspended in April 1970 following an indictment by a St. Johns County grand jury for accepting a bribe, the case created immediate controversy. Davis was accused of taking payments from a bolita operator named Floyd Boatwright so that he could continue to operate illegal gambling in the county.²¹ The fact that Boatwright had been murdered added drama to the case.

18. *Palm Beach Post*, November 22, 1972.

19. *Ibid.*

20. Karl to L. K. Ireland, Jr., Budget and Financial Statements, Administrative Files, box A-L, Karl Papers.' Ireland was the chief fiscal analyst for the Florida Senate.

21. *Florida Times Union*, October 16, 1970.

Davis's criminal trial lasted four days in October. After only seven minutes of deliberation the jury returned a verdict of not guilty. The trial hinged on the accusation that Davis accepted \$200 from Warnock Tedder, a Boatwright associate, on the morning of April 15, 1969. Witnesses refuted the claims, placing Sheriff Davis in attendance at a funeral that morning and, therefore, not in his office to receive the alleged bribe. Most of the state's case against the sheriff was circumstantial, and even the state attorney, Stephen Boyles, asked the jury to acquit the sheriff "if there is any doubt about the state suppressing any evidence or a conspiracy to convict him."²²

Although Sheriff Davis likely expected to be reinstated after his acquittal, shortly after the trial's conclusion he was suspended on charges that he had permitted widespread gambling, bolita, and prostitution in St. Johns County. Less than one month later the Karl committee convened in Tallahassee to hear evidence on the expanded charges.²³

The Davis case was, Karl concluded in his report to senate president Jerry Thomas, "an incredible paradox."²⁴ Many county residents testified in person or wrote letters defending Davis and/or attacking the senate select committee for placing the sheriff in double jeopardy. Even the jury members who had heard the evidence in Davis's original trial were opposed to the Karl committee's involvement: "Having heard complete testimony, over 3 1/2 days, it is our feeling that the State presented virtually no evidence worthy of belief. For this reason we reached our verdict in seven minutes. . . . The state appears to us to be placing an accused in double jeopardy and reflecting upon our integrity as jurors."²⁵

To some who testified in person before the Karl committee and to many who took the time to write, Sheriff L. O. Davis was a respected member of his community, responsive to the citizens of St. Johns County, and above reproach. Six-times elected since 1948, his supporters recommended Davis for effective law enforcement, his work with youth, leadership during the St. Augus-

22. Ibid.

23. Karl to Senator Jerry Thomas, November 16, 1970, L. O. Davis Hearings, Closed Files, box D, Karl Papers.

24. Ibid.

25. "Unsigned Motion For Particulars," box D, Karl Papers.

tine riots of the 1960s and for his cooperation with law enforcement agencies. One woman wrote the committee: "L. O. is the sort of man who gives up much of his free time to make other people a little happier. At Christmas time he plays Santa Claus for numerous schools, orphanages, etc."²⁶ Others testified both for and against Sheriff Davis, but the Karl committee felt the preponderance of evidence weighed heavily against the sheriff's case.

Davis did not appear before the Karl committee, although his attorney entered a transcript of his earlier testimony in the initial criminal trial. In that transcript Davis denied all accusations. In a press release, however, he thanked his many friends and supporters for standing with him against "a personal vendetta based on some motive other than a desire for justice under our laws. . . . The matter has now been taken from the hands of the people of St. Johns County and rests with the Florida Senate."²⁷ The entire senate upheld the Karl committee's recommendation to remove him. Davis was permanently removed from office on November 16, 1970.²⁸ The L. O. Davis case illustrates the Karl committee's commitment to operate independently in reviewing and assessing criminal activity, despite the jury's acquittal and a preponderance of heavily weighted public opinion opposing his removal.

On the other hand, the 1970 case against Jim Fair, suspended as Hillsborough County's supervisor of elections, demonstrates the committee's ability to judge competence in performance despite less criminality than the St. Johns County case and, more crucially, despite the appearance that Florida's political establishment was punishing a well known and extremely popular anti-establishment figure.

Jim Fair's biggest "crime" was to be elected to political office, a position for which he was completely unmatched. He was an Annapolis graduate, a war hero, and a member of one of Tampa's most prominent families. Yet, instead of pursuing the opportunities that this background afforded him, Fair changed his name, grew a beard and pigtail, and became a "successful" political hippie in the 1960s. He railed against big government,

26. Virginia Sterchi Prosser to Karl, November 8, 1970, box D, Karl Papers.

27. "L. O. Davis Press Release," box D, Karl Papers.

28. *Florida Senate Journal*, 1970.

utility companies, the law fraternity that profited from them, and all others who could not agree that he was either “sterling” or “fair.”²⁹

The grand jury investigating the case against Fair threatened to indict him on criminal charges unless Governor Kirk suspended him and the Florida Senate removed him. The grand jury demanded that Fair be charged with malfeasance, neglect of duty, and incompetence. On April 16, 1970, the governor suspended him, and the issue was referred to the Committee on Suspensions and Removals.³⁰

Fair's defense was to paint himself as the victim of political circumstance rather than the subject of incompetence. “Just because a man is different in his ways or in his style, is not grounds for his removal,” Fair's American Civil Liberties Union lawyer told the Karl committee.³¹ On the other side, state attorney Joe Spicola, Jr., prosecuting for Governor Kirk, summed up Fair's behavior as supervisor of elections thus: “Public officials have gone to prison for less than Mr. Fair has done. Those are clear violations of the law— it's a misdemeanor, not a felony, but it carries a one-year penalty.”³² Fair sat through the hearings before the committee but did not testify in his own defense on the advice of his counsel. He did say to a reporter, however, that he wanted to testify in order “to tell the Senate about those bums in Tampa.”³³ His written statement entered before the Karl committee stated simply, “I have done no wrong.”³⁴

Evidence before the committee suggested that Jim Fair was guilty of more than vocal opposition to the political establishment. First, Fair was charged with failing to maintain proper voter registration rolls. Mrs. Bessie LoScalzo, a twenty-year employee of the office testified before the Karl committee that the process of maintaining voter registration rolls was mishandled

29. *Tampa Tribune*, June 14, 1991; conversation with attorney John Lawson, Tampa, Florida, April 15, 1992. Mr. Lawson married into the Farrior family.

30. “Order of Suspension,” April 16, 1970, Jim Fair Hearings, Closed Files, box F, Karl Papers.

31. Summation of Norman Siegal, Jim Fair Hearing Transcript, 802, Closed Files, box F, Karl Papers.

32. Summation of Joseph Spicola, Jim Fair Hearing Transcript, 793.

33. *St. Petersburg Times*, July 2, 1970.

34. Untitled Statement of Jim Fair, July 8, 1970, Jim Fair Hearings.

by Fair.³⁵ In January 1970 she indicated that Fair sent out twenty-five purge cards, the method by which his office kept voter registration records current and accurate, "in an attempt to comply with the law to have some mailed out."³⁶ Fair brought in part-time help to sort out the mess, but, according to LoScalzo, "there was just confusion, nobody knew what they were doing, who was coming, who was going."³⁷ Mrs. LoScalzo also testified that Fair was personally abusive and that he kept a special file marked "S" in which he placed pictures of nude men and women. All of the employees had access to the cabinet in which that file was kept.³⁸

Several people who testified before the Karl committee witnessed Jim Fair fire the five permanent employees. Johnny King and David Bolton, students at the University of South Florida while employed part time by Fair, testified that Fair called a press conference, and all employees attended. Fair berated the women for disloyalty to their country, and he fired them. Both men testified that, in their opinion, the fired employees were competent and that the firing was unjustified.³⁹ The civil service commission later agreed, and the five were reinstated.

Thomas McBride and others testified to extensive typing and copying of law suits filed by Fair that had nothing to do with his duties as supervisor of elections, including a case against a man who had been bitten by Jim Fair's dog. Others told of an attorney who worked frequently in Fair's office on these law suits. The attorney, several witnesses indicated, was not on the payroll, frequently was intoxicated, and drank alcohol in Fair's private office.⁴⁰

Fair had his defenders who refuted much of the evidence. Margot Holmburg, for example, testified that she never saw

35. Testimony of Bessie LoScalzo, Jim Fair Hearing Transcript, Direct Examination, 778-79.

36. Ibid., 779.

37. Ibid., 782.

38. Ibid.

39. Testimony of Johnny King, Jim Fair Hearing Transcript, Direct Examination, 105-13; testimony of David Bolton, Jim Fair Hearing Transcript, 122-27.

40. Testimony of Thomas McBride, Jim Fair Hearing Transcript, 156. See also testimonies of Richard Walker, Benjamin Rosenberg, Frances Crawford, 202-53.

alcohol, lewd pictures, and that morale in the supervisor's office was high. "I have never worked in a place that had more spirit in getting the job done."⁴¹ Robert Betancourt testified that the five women Fair fired were guilty of "constant backbiting." "They would call him queer, you know, because of his long hair . . . and it just seemed to me that they were constantly trying to get in the way of Mr. Fair."⁴²

There were other issues, many of them dealing with purchasing violations, unrelated travel, and conflict of interest. This last charge was based on the fact that the supervisor's office had purchased a few items from the Sterling Exchange, a private company owned and operated by Jim Fair. The items included several dictionaries and an encyclopedia.⁴³

The Karl committee delivered its report to the Florida Senate on July 8, 1970. Senator Karl recognized the very real dilemmas the case against Jim Fair had created: "I think it is appropriate to say that the committee did not make its decision and does not make its recommendation to you on the basis that Mr. Fair hired young people inexperienced to work in his office. Certainly, our recommendation is not made on what anybody wore or how they acted in the office or their attitude or anything like that. . . . It is important to make clear that while his goals may have been commendable . . . those motives and those actions on his part do not constitute a license to do business on his terms and in violations of the laws and the rules and the procedures."⁴⁴

Jim Fair's case put the Karl committee squarely in the middle of the establishment/anti-establishment debate of the 1960s and early 1970s. The entire testimony revealed an office in chaos, poorly managed, and incapable of performing its constitutional function. And, despite public perception that Jim Fair's well-documented, "anti-establishment" positions were the reason behind his dismissal, the bottom line was that he did not measure up to the needs of the people he was elected to serve. Certainly, Jim Fair was no criminal; however, neither was he capable of

41. Testimony of Margot Holmburg, Jim Fair Hearing Transcript, Direct Examination, 615.

42. Testimony of Robert Mathew Betancourt, Jr., Redirect Examination, Jim Fair Hearing Transcript, 637.

43. "Order of Suspension," Report of the Grand Jury, II, A., April 16, 1970, Jim Fair Hearings.

44. *Florida Senate Journal*, 1970.

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running an elections office, an integral part of a democratic society. Jim Fair was unceremoniously removed by the Florida Senate on grounds of general incompetence.

If the Jim Fair hearing proved that the Karl committee could remain aloof from charges of bias against a suspended official's character traits or beliefs, the suspension of three Holmes County commissioners in 1973 illustrated another concern equally difficult to gauge. In this case the select committee had to guard against public perceptions that it had become an alternative to the recall process when elected officials failed to measure up to an electorate's subjective performance standards. Additionally in this case, acting stupidly was, in and of itself, also ruled out by the Karl committee as sufficient grounds for removal.

Recalling local officials under the Florida constitution is a matter reserved to local electorates. The procedures typically are strict and deliberately difficult to set successfully in motion. Drafters of the state constitution reasoned that it must be so if voters are to maintain the right to keep officials in office between elections and if officials are to remain protected from arbitrary removal. Fred Karl's concern that this process not become a political weapon surfaced originally when Governor Kirk used his executive power to suspend more liberally than his predecessors.⁴⁵ The Holmes County case illustrated how Fred Karl approached the recall issue.

In the spring of 1973 Governor Reubin Askew suspended three members of the five-member Holmes County commission following two presentments by the county grand jury.⁴⁶ Two commissioners, Tamphus Messer and Jimmy Josey, had been elected in November 1972, while the third suspended official, James King, had served one two-year term and had been reelected. The specific charges against the three were numerous and serious, but it was the grand jury's conclusion, cited in the governor's suspension order, that was far more shocking: "For all practical purposes, effective, productive government in Holmes County has ceased."⁴⁷ The suspension order charged

45. Conversation with Fred Karl, June 10, 1991.

46. "Executive Order of Suspension," nos. 73-32, 73-33, 73-34, Holmes County Commissioners Hearing, Closed Files, box J-L, Karl Papers.

47. *Ibid.*

Messer, Josey, and King with numerous misfeasance and neglect of duty violations, including noncooperation with other county and regional agencies, violations of the Sunshine Law (conducting public business without proper public notice), failure to comply with judicial mandates, and illegally firing the Holmes County attorney who himself was an elected official.⁴⁸

The issues in this suspension case were far more complex than either the governor's suspension order or the grand jury's presentments indicated. In 1973 Holmes County was, and remains today, one of the smallest rural counties in Florida's panhandle. Influential local citizens, who were always white and from agricultural backgrounds, controlled county government.

With King's election to the Holmes County commission in 1970, however— followed by those of Josey and Messer in 1972— “business as usual” became highly unusual overnight. The three commissioners campaigned and were elected on promises to “reform” county government's traditional ways of doing things. Fred Karl and the select committee discovered that an intense confrontation between old and new political forces brought government in Holmes County to a near standstill from November 1972 to June 1973, when Askew suspended the three commissioners.

A crisis had been created which the Karl committee was asked to solve by “recalling” the three commissioners. The grand jury solely blamed the suspended officials without taking into account the factionalism that their election engendered. What the grand jury failed to perceive is that the clash between reform and traditional forces produced a situation in which fault lay on both sides, much of it the result of political maneuvering. A review of the transcripts in the three-day hearing held by the Karl committee reveals this clearly. One issue raised in the hearings showed the dilemma the Karl committee confronted. The issue concerned road graders. In rural counties in the 1970s paved roads were at a minimum, and torrential rains etched deep ruts and created impassable quagmires. Road graders thus were absolutely necessary to allow residents to use the roads.

On November 20, 1972, the last commission meeting before Messer and Josey joined King, the board signed a contract with

48. Ibid.

the Burford Equipment Company of Bonifay for two new Caterpillar road graders. Two existing road graders were to be traded as a down payment. At the end of three years, and in consideration of a payment of \$1.00, title would be given over to Holmes County.⁴⁹

The day after the contract was signed the new commissioners visited James Rials, salesman for the Burford Equipment Company who had negotiated the arrangement with the old commission. Rials testified that the visitors handed him a letter demanding that he take back the new road graders. The new commissioners, according to Rials, wanted the arrangement rescinded.⁵⁰

Rials and the old commission believed they had signed a lease-purchase agreement. The new commissioners believed they had a rental agreement that could be voided when the equipment was returned.⁵¹ By June 1973, when the three members were suspended by Askew, the dispute had not been resolved, and a legal suit had been filed against the equipment company.

The new commissioners decided not to use the new graders until the dispute was settled. What made that decision so problematic was that the old graders had already been taken in by the equipment company, and the company was unwilling to return them for the county's use. This outcome left Holmes County unable to grade its dirt roads.

Karl and his committee had to determine who was guilty of misfeasance. They eventually concluded, quite apart from the governor's suspension order or the presentments from the local grand jury, that both sides were equally culpable for different reasons. The old commission signed the agreement on November 20. But the new graders were delivered, the transcripts revealed, the previous week. Not only was this clearly a misfeasance but at the time the new graders were delivered the old graders were taken away. Compounding this situation was the fact that the bidding process on the graders was tainted. Jack Faircloth, clerk

49. Testimony of James E. Rials, Direct Examination, Holmes County Commissioners Hearing Transcript, 23, Closed Files, box J-L, Karl Papers.

50. *Ibid.*, 24-25.

51. Testimony of Jimmy Josey, Direct Examination, 753, Testimony of Tamphus Messer, Direct Examination, 841, Testimony of James Hulen King, Direct Examination, 869, Holmes County Commissioners Hearing Transcript.

of the court, testified before the Karl committee that he accidentally had opened a sealed bid prior to the scheduled time. Rather than halt the process, Faircloth merely resealed the envelope, a violation of standard competitive bidding practices. Finally, the winning Burford bid was not the lowest received. The old commission simply decided they liked Caterpillar equipment and selected it.⁵²

Both attorneys, W. Paul Thompson for the suspendees and Robert Mounts for the governor, endeavored to illustrate that their respective clients were acting in the best interest of Holmes County. Neither side was, as the Karl committee discovered. If the commissioners were acting to reform Holmes County government, they nonetheless contributed to the stalemate. And if the clerk, sheriff, and remaining members of the commission were angry over the tactics of the three officials, they, too, were guilty of creating difficulties. Meanwhile, the dirt roads in Holmes County went ungraded.

Violations of the Sunshine Law charged against the three suspended officials raised a number of questions stretching beyond Holmes County. At the time of the Karl committee hearing, neither the courts nor the attorney general had yet ruled whether a violation of the Sunshine Law was grounds for suspension and removal.

In November 1973, months after the hearings were concluded but before his final recommendations were due, Fred Karl expressed his concern over this issue. In letters addressed to both Mounts and Thompson, Karl conceded that the Sunshine Law violations were going to be a part of his report to the senate. "It may be," he wrote, "that the Senate in making its final decision in this case will wish to establish a precedent, one way or the other, on this question."⁵³ He asked both attorneys for their views.

Each of the three suspended commissioners was charged identically with three violations of the Sunshine Law. The first took place during the first meeting of the newly elected county

52. Testimony of Jack Faircloth, Cross Examination, 891, Direct Examination, 881-84, Holmes County Commissioners Hearing Transcript.

53. Karl to Robert Mounts, November 5, 1973, Karl to W. Paul Thompson, November 5, 1973, Holmes County Commissioners Hearing.

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commission on November 21, 1972. All three had been present the day before when, at the final meeting of the old commission, Burford's bid was accepted even though it was \$20,000 more than the lowest. Josey, Messer, and King announced at that meeting that they would meet the next day to rescind the action, but Mounts pointed out to Karl that no meeting was regularly scheduled. Also no attempt was made to notify the press, and the new commissioners took other official actions during the meeting.⁵⁴ Thompson, on the other hand, agreed in a letter to Karl that "no effort was made by the Board to exclude any member of the public from any of the discussions and deliberations which took place on November 21st."⁵⁵

The second violation allegedly occurred on Saturday, December 12, 1972. Jack Faircloth testified that he was at home working when he was notified of a commission meeting to be held only a half-hour hence.⁵⁶ Addison Drummond, the county attorney, testified that he heard about it as a "street rumor."⁵⁷ The meeting was never properly advertised, nor did the suspended officials claim it was prompted by any emergency. Thompson argued that it was a continuation of the regularly scheduled December 4 commission meeting at which Drummond, an elected official himself, was fired as county attorney.⁵⁸

The last violation occurred on November 29, 1972. The three commissioners assembled at the county's equipment barn and fired James Betherford, the road foreman. Not until January 6, 1973, did the official meeting minutes include a report of this action. To Mounts, this was "irresponsible, improper, and wholly illegal."⁵⁹ Even Thompson agreed that "calling this a meeting would be stretching the imagination, however, even if it was certainly public."⁶⁰

54. Mounts to Karl, January 8, 1974, Holmes County Commissioners Hearing.

55. W. Paul Thompson to Karl, November 15, 1973, Holmes County Commissioners Hearing.

56. Testimony of Jack Faircloth, Direct Examination, Holmes County Commissioners Hearing Transcript, 19 1.

57. Testimony of Addison Drummond, Direct Examination, 230, Holmes County Commissioners Hearing Transcript.

58. Thompson to Karl, November 15, 1973.

59. Mounts to Karl, January 8, 1974.

60. Thompson to Karl, November 15, 1973.

Robert Mounts summarized to Karl the governor's larger concerns about the Sunshine Law which the Holmes County case raised: "Even though no criminal prosecution has resulted from these facts, it is the Governor's position that the case presents a unique opportunity for at least one House of the Florida Legislature to clearly express its legislative intent as to the enforcement of the *Sunshine Law*. While it is obvious that state attorneys have been reluctant to prosecute violations of the statute where there has been no express physical exclusion of the public by words or other announcement, it is also clear that the suspension power of the Governor is an appropriate remedy for guaranteeing the enforcement of this statute and other statutes which affect the official duties of public officers."⁶¹

On January 27, 1974, Fred Karl reported his committee's findings to the Florida Senate. Despite the grand jury's demand that the three commissioners be removed, the committee determined, and the senate agreed, that they should be reinstated in their offices. His summation letter to senate president Mallory Horne clearly defined the guiding principle that acting ineptly was not in itself grounds for dismissal: "There can be little doubt that Mr. King, Mr. Josey, and Mr. Messer were inexperienced, uninformed, and inept. They obviously attempted to wrest control of the county from those who had held it so long. . . . But they were duly elected by the people of Holmes County and the Senate has traditionally refused to second guess the judgement of the voters. The question is not whether they should have been elected, but rather have they been guilty of one or more of the offenses contained in the Constitution."⁶²

In concluding that these men should not be removed, Karl pointed to the key issues: "They met resistance at every turn. Communications were at an all time low. But the record does not prove any unlawful act nor that the three suspended officials were the sole cause of the emergency that was created."⁶³ The Karl committee determined that they were three men who clashed with Holmes County's traditional political processes. The Florida Senate reinstated the three men.

61. Mounts to Karl, January 8, 1974.

62. Karl to Senator Mallory Horne, January 27, 1974, Holmes County Hearings.

63. Ibid.

The political sovereignty of the State of Florida can be defined in numerous ways. The power of the governor to suspend public officials in the sixty-seven counties and hundreds of cities that comprise the state is a critical component of this sovereignty. Fred Karl clearly believed that, among the threads that bind Floridians to each other, the constitutional authority of Florida governors to oversee the performance and functions of all public officials was, and still is, one of the keys to state government. In 1971, while still chairman of the Senate Select Committee on Suspensions and Removals, Karl wrote, "In a real sense, the structure and operation of state and local government in Florida is largely determined by the way in which the power in the state is distributed among its public officers, the manner in which this power is exercised, and the extent to which such officers are made subject to external authority."⁶⁴ The governor's power to suspend public officials was the "external authority" that helped cohere Florida.

The Karl committee's work and Fred Karl's personal role in establishing the new procedures and processes under the 1968 constitution were a critical part of the political reforms that swept Florida and the nation in the 1970s. The new Florida Sunshine Law came into being and the Judicial Qualifications Commission became strengthened. And, of course, the post-Watergate reforms transformed American politics, including Florida. Fred Karl's contributions to ethical and legal governmental practices need to be measured against this backdrop of change and reform. He accomplished three especially important tasks. First, he fashioned an entirely new process for dealing with corruption in public office. Second, he implemented a new and vital piece of the 1968 constitution. Finally, and of the utmost importance, he created in his senatorial colleagues a much greater sensitivity to the public interest in public corruption and how it was handled, indeed a high-water mark in the Florida legislature's concern for ethical practices.

Each of the cases presented above were selected from the fifty-two over which Fred Karl presided as chairman and special master. Although each is of individual interest, taken collectively

64. Barr and Karl, "Executive Suspension and Removal of Public Officers Under the 1968 Constitution," 635.

they demonstrate how Fred Karl and the senate committee proceeded with their work to protect both officials and voters. Beginning with Governor Askew and with each governor since, the work started by the Karl committee has undergone changes. Governor Askew and his successors were more conservative in their exercise of the power to suspend and remove public officials. Today Florida governors commonly refuse to suspend public officials unless they have already been criminally indicted. The assumption is that Florida's other post-1968 governmental reforms provide reasonable alternatives to suspension hearings in dealing with government corruption.⁶⁵ Whether or not these later safeguards are as effective as the Karl hearings is for the citizens of Florida to decide-and for the public officials who hold elective office.

Fred Karl, himself a Florida legislator, took much of the "back-room" politics out of a controversial legislative process and inserted due process and a judicial quality in its place. Prior to Karl's tenure, the process generally was a private matter in the Florida Senate, sometimes protective of corrupt officials, and, at the very least, loose enough to allow the senate to look the other way when charges of corruption were filed. The Karl hearings firmly and forever influenced all levels of Florida government. Few can argue that this was not a change for the better.

65. These reforms include the Sunshine Law, new state audit practices, and the state ethics commission.