

IN DEFENSE OF THE FLORIDA SUPREME COURT

In his opening remarks to the legislature, incoming House Speaker Dean Cannon blasted the Florida Supreme Court, claiming that the Court “demolished” the work of the legislature by taking constitutional amendments off the ballot. His claim can’t be farther from the truth. In fact, the Court was doing exactly what the Constitution and the law require it to do. The Florida Constitution vests all judicial power in the Supreme Court and lower courts who are required to resolve controversies presented before them. The amendment of our Constitution is a serious matter and in recognition thereof the Florida legislature, of which Cannon is now a part, passed Florida Statute §101.161, which specifies that the language of proposed constitutional amendments must be clear and unambiguous. Our Supreme Court has a long tradition of removing matters from the ballot when their ballot summaries misrepresent the amendment’s actual effect and an equally long history of allowing amendments to be placed on the ballot when their description accurately reflects their effect. They have done so whether the proposals were popular or unpopular, liberal or conservative, or supported by one political party or another. The sore spot for Speaker Cannon was that as a lawyer, he personally argued one of the proposed amendments before the Court and, after careful examination and consideration, the Court concluded that instead of creating and imposing standards on legislative redistricting as the ballot summary implied, the actual effect of the amendment was to eliminate standards and place even more discretion in the legislature to create districts favoring those in power.

In his comments, Speaker Cannon also took a swipe at the current system for choosing and retaining judges by referring to the Court’s majority as “five unelected justices.” Our founding fathers recognized years ago that an independent judiciary was a key element to maintain the balance of power among the three separate but co-equal branches of government. Florida also recognized the need to have judges who follow and fairly interpret the Constitution and laws uninfluenced by the politics of the moment and created a system for the selection of judges that is the model of the country. Judges are appointed by the governor after being carefully evaluated and recommended by a committee made up of both lawyers and non-lawyers. After selection and appointment, Supreme Court and District Court of Appeal judges are periodically called up for retention or non-retention in a public election. This system insures that judges are impartial and their decisions are not based on the type of political pressure typically generated by special interest groups and contested elections.

Judges, by Judicial Canons, are not permitted to respond to public criticism of their rulings. Speaker Cannon, as a lawyer, knew this when he attacked the Court. The Florida Chapters of the American Board of Trial Advocates, whose goals include the preservation of the Constitution and the independence of the judiciary, write this response in defense of the Court. Our members represent all segments of society, including major corporations, insurers, governmental entities and individual citizens.

THE FLORIDA CHAPTERS OF THE
AMERICAN BOARD OF TRIAL ADVOCATES

Bob Cole, President

Jeff Garvin, Immediate Past President