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State senator says S.C. Constitution 'born in sin'

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CHARLESTON -- South Carolina's constitution was "born in sin" and designed to keep black people down, several political leaders said during a panel discussion at the Charleston School of Law.

The two-day symposium "State Constitutional Reform in the New South" brought more than 1,300 legal minds and representatives of law firms and institutions across the state and nation to downtown Charleston on Thursday and Friday.

Sen. Tom Davis, R-Beaufort, said the state constitution, which was ratified in 1895, was a document based on Jim Crow laws.

"It is a constitution born in sin. It is a constitution born in Reconstruction," Davis said. "You've got to go ahead and make that case to the people."

The 1895 constitution was "done poorly and for the wrong reasons," said former Gov. Dick Riley, who also served as secretary of education under President Bill Clinton. He agreed with a previous comment by Gov. Mark Sanford that the constitution was meant to keep liquor out and black men down.

"You have a weak executive state," Riley said. "I'm in direct agreement with the governor's comment about the 1895 constitution. You have to have a movement going. It doesn't just happen."

Though the 1895 document has been amended several times over the past 100-plus years — changes from superseding federal law regarding poll taxes, literacy tests and reapportionment of political districts, for example — a lot of the remaining articles were designed to keep the governor's office weaker than the Legislature.

Davis, Riley and former Gov. Jim Hodges all said the Legislature has little incentive to increase the governor's power by giving more cabinet posts and appointments than he already has. As it stands, 14 of 82 governing agencies are under the chief executive's cabinet structure. All three panelists also said it will take either a controversy or a public groundswell of support to reform the government.

"The reason to do it, I believe, it makes for a much more effective government," Hodges said. "Legislators are generally well-intentioned, but we think incrementally. It's maddening at times. I'm sure Gov. Sanford finds it that way, just as Gov. Riley and Gov. Hodges found it that way."

Hodges also said that many legislators think shifting the balance of power back to the governor would be a detriment to the state.

"That's what makes it so difficult to make these changes," Hodges said. "It's not the kind of thing people yell at you at parades: Please change the state constitution!"

One of the questions raised by panel moderator Matthew Richardson, an attorney with Wyche Burgess Freeman and Parham, was whether more changes could be made by statute instead of constitutional amendment. The Budget and Control Board, unique to South Carolina, was cited as an example; it was created by statute when Strom Thurmond was governor and could be abolished if the House and Senate agreed.

Riley said change by statute is often difficult as well, but he added, "If the people want it, whether its statute change or constitutional change, it will happen."

Davis, who said South Carolina's system of government makes the state less competitive, said the last time major change came to South Carolina's form of government was in the wake of a scandal.

"The last major restructuring we had was in the wake of Lost Trust," Davis said. "It finally penetrated and got through, and we had some reforms."

Kevin Hall, a moderator and partner with Nelson Mullins Riley & Scarborough said, "Do we have to have another one? Does it have to be born out of controversy?"

Hodges said that is often how major changes are made to state government. "It brings public attention to the issue," he said. "I think without something like that, we're likely to see incremental change."

Balancing the scales of power

Among changes proposed by the panel to reform the state's balance of power:

-Governor and lieutenant governor run on the same ticket.

"I had a Republican lieutenant governor who didn't believe anything I believed. I was afraid to have elective surgery," Hodges said, one of several quips he made during the forum.

-Comptroller general becomes a government employee.



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"We have good judges, it's just an awful system, the time they spend in the Legislature," Hodges said.

-Adjutant general is appointed by the governor.

-Superintendent of education is appointed by the governor.

"I do think, organizationally, it should be an appointed position," Riley said. "It ought to be, from a state standpoint, above everything else."

"I don't think it serves the people at all to have two executive officers with opposing views," Davis said about Sanford and state Education Superintendent Jim Rex.

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