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INTRODUCTION: AN EXAMINATION OF THE WISCONSIN CONSTITUTION

The argument in favor of increased reliance upon state, rather than federal, constitutional provisions for the protection of individual liberty is most appropriately based upon the premise that a state's constitution is a reflection of the values held independently by the people of the state. Certainly, Wisconsin possesses values and traditions which are unique to this state and to this region. Nowhere would those values and traditions be more clearly reflected than in its constitution, the fundamental statement of the principles by which its existence as a state is to be governed.

The Wisconsin Constitution can thus be approached as a fruitful source for an independent definition of fundamental values. The Wisconsin Supreme Court has traditionally adhered to the notion that the state constitution reflects an individual commitment to the value of personal liberty, a commitment not constrained by the vicissitudes of contemporaneous federal doctrine. In State v. Doe, for example, Justice Heffernan stated:

Certainly, it is the prerogative of the State of Wisconsin to afford greater protection to the liberties of persons within its boundaries under the Wisconsin Constitution than is mandated by the United States Supreme Court under the Fourteenth Amendment.

This court has demonstrated that it will not be bound by the minimums which are imposed by the Supreme Court of the United States if it is the judgment of this court that the Constitution of Wisconsin and the laws of this state require that greater protection of citizens' liberties ought to be afforded.¹

¹ 78 Wis. 2d 161, 171-72, 254 N.W.2d 210, 215-16 (1977) (citation omitted).
Assuming that these constitutional values continue to be shared by the people of this state, litigants and their counsel would do well to remind our court of these traditions in the process of constitutional analysis. Only in this way can a body of law be developed which is in accord with the expressed beliefs and values of the people of Wisconsin. If the court is often reminded of the independent commitment to fundamental values on the part of the people of Wisconsin, it will necessarily respond by developing an independent approach to questions which touch upon basic rights.

It is with this view in mind that the Marquette Law Review dedicates this issue in its entirety to articles dealing with the Wisconsin Constitution. These articles are intended to deal with the need for and the prospects of Wisconsin constitutional development. Professor Hachey's article provides a survey of the historical foundation upon which such development may be based. Mr. Sundquist's discussion treats possible methodologies for independent Wisconsin constitutional analysis. The student comments explore a number of areas of doctrinal development. Mr. Kaster's article concerns the specific guarantee of equal educational opportunity as it relates to school finance; Mr. Klumb and Mr. Massie review developments in the field of criminal procedure. While the contents of this issue are by no means exhaustive, these articles should provide Wisconsin practitioners with insight into the type of doctrinal growth to which our constitution is susceptible. Further, it is hoped that they will serve as some measure of impetus toward that growth.