Commission improperly releasing income tax information and asked whether that would give an aggrieved party a cause of action against the offending person or entity. Mr. Workman responded, "What our goal is, is to insert into the Constitution that which would give an aggrieved individual a cause of action if the authorities get out of hand in invasion of privacy by whatever means." *Id.* at 5. Justice Few claims "[t]his dialogue supports a broader interpretation of the 'unreasonable invasions of privacy' provision than the State proposes." I disagree. The dialogue was a small portion of the October 6 debate, and the minutes of that day reflect the Committee's continued focus upon protecting citizens against unreasonable searches and seizures, primarily in the area of data collection and electronic interceptions by law enforcement agencies. During the same meeting, Mr. Workman stated:

> Let me suggest that we might accomplish what we are trying to do by accepting the first sentence, "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures and" from unreasonable invasions of privacy "shall not be violated[.]" That injects into the Constitution guarantees this element of privacy against unreasonable search.

Id. at 9. Though his last sentence is not entirely clear, it is apparent Mr. Workman was trying to articulate a privacy provision limited to searches and seizures. And the provision he suggested is remarkably similar to the provision ultimately recommended by the Committee to the General Assembly.

Mr. Workman also stated during the October 6 meeting, "[O]ur problem is arriving at a language to protect the rights of law enforcement agents and, at the same time, or as best we can, balance the rights of individuals against unreasonable searches." *Id.* at 8.

The lead opinion, the Chief Justice, and Justice Few (and, as I will discuss below, this Court in *State v. Forrester*[102]) mistakenly claim a statement made by Committee member Huger Sinkler during the October 6, 1967 meeting indicates the Committee contemplated a privacy provision stretching beyond searches and seizures. They seize upon the following statement of Mr. Sinkler: "I think this is an area that, really, should develop and should not be confined to the intent of those who sit around this table." *Id.* at 6. This is the cherry-picking Justice Few duly warned us against. Context matters. The "area" referred to by Mr. Sinkler was the meaning of the word "unreasonable," not the eventual scope of privacy rights. A

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[102] 343 S.C. 637, 541 S.E.2d 837 (2001).

complete reading of the minutes reflects Mr. Sinkler and other Committee members were debating the scope of the term "unreasonable" as it would be used in the privacy provision. Mr. Sinkler first commented, "I think the court can take 'unreasonable' and push it any way they want to do it. I agree with you that [the meaning of the word 'unreasonable'] is something that the courts are going to write and not the people sitting around this table." *Id*. Committee member T. Emmet Walsh responded, "[W]hat might be reasonable today might not be reasonable in the future." *Id.* Mr. Sinkler then repeated his comment that the question of what is "unreasonable" was "an area that, really, should develop and should not be confined to the intent of those who sit around this table." *Id.*

Mr. Sinkler's concern during the October 6 meeting was whether, in drafting a privacy provision, the Committee was "going too far in one direction without giving thought to protecting the populace against criminals. They're going to get into this electronic stuff very quickly[.]" *Id.* at 5. Interestingly, still in the vein of what searches might be unreasonable, Mr. Sinkler stated, "I didn't want to deny perhaps other areas of snooping that might become necessary, really, to preserve law and order." *Id.* at 7.

Other members of the Committee weighed in as well. The full context of the October 6 minutes reflects the Committee continued to debate the privacy provision in the context of searches and seizures involving electronic and other technological intrusions. There was not a hint of discussion regarding broad privacy rights, bodily autonomy, or a woman's right to have an abortion.

3. October 7, 1967

There was limited discussion about the privacy provision during the October 7, 1967 meeting. *See* Minutes of Committee Meeting 154-55 (Oct. 7, 1967), *in* 1 *Proceedings of the Committee to Make a Study of the Constitution of South Carolina (1895)*. Mr. Workman read aloud a privacy provision from another (unknown) source. The provision exclusively dealt with "unreasonable interception of telephone, telegraph, and other electronic communications" and "unreasonable interception of oral or other communication by electric or electronic means." *Id.* at 154. There was no discussion about the privacy provision being extended beyond the context of searches and seizures.

4. January 24, 1968

There was again limited discussion about the privacy provision during the January 24, 1968 meeting. *See* Minutes of Committee Meeting 48-49 (Jan. 24, 1968), *in* 3 *Proceedings of the Committee to Make a Study of the Constitution of South Carolina (1895)*. Mr. Stoudemire proposed language that became the standalone provision the Committee ultimately proposed to the General Assembly: "[T]he right of the people to be secure from unreasonable invasions of privacy shall not be violated . . . ." *Id.* at 49. There was also discussion of a provision concerning warrants that could be issued in the execution of laws related to health and safety. *Id.* Language related to that subject was the subject of a proposed amendment submitted by the Committee to the General Assembly. *See Final Report*, *supra*, at 14. It is irrelevant to the issue before us.

5. November 19, 1968

During this meeting, Chairman West brought up the privacy provision, and Mr. Stoudemire reminded the Committee,

> This is getting down to your mass computer data. It's getting to all electronic stuff . . . . [W]e got into long discussions on this and decided that there was no way we could find language to foresee what was going to be an unreasonable invasion in 1980 and the agreement was that we would strike a general statement . . . rather than trying to itemize.

Minutes of Committee Meeting 7 (Nov. 19, 1968), *in* 3 *Proceedings of the Committee to Make a Study of the Constitution of South Carolina (1895)*.

6. April 1, 1969

The Committee approved its proposed constitutional amendments on April 1, 1969. *Final Report*, *supra*, at 7. The section recommending the privacy provision bears repeating:

> **Section J. Searches and seizures.** The Committee recommends that the historic provision on searches and seizures be retained. In addition, the Committee recommends that the citizen be given constitutional protection from an unreasonable invasion of privacy by the State. This additional statement is designed to protect the citizen from improper use of electronic devices, computer databanks, etc. Since it is almost

396 S.C. 647, 655, 723 S.E.2d 198, 203 (2012) (emphasis added) (cleaned up).[107]

VII. Conclusion

The scope of the privacy right included in article I, section 10 is of doubtful import. Therefore, we must consider the intent of the framers and the voters. It is clear the framers did not intend to create a full panoply of privacy rights, much less the right to bodily autonomy or the right to have an abortion. Our right under article I, section 10 to be free from "unreasonable invasions of privacy" provides citizens with heightened Fourth Amendment protections, especially protection from law enforcement searches and seizures of communications and information through improper use of electronic devices. I respectfully dissent from the lead and concurring opinions. I concur in part with Justice Kittredge's dissent.

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[107] The Chief Justice states, "Under *Singleton* and *Forrester*, our touchstones, the right to privacy extends outside of the search and seizure context and encompasses 'unwarranted medical intrusions.'" I disagree. These two cases are not touchstones. *Forrester* is a search and seizure case and has nothing to do with unwarranted medical intrusions, and as I previously discussed, *Singleton* should be partially overruled.