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Advisory Opinion to the Attorney General: Slot Machines

CHIEF JUSTICE: LAST CASE ON THE COURT'S DOCKET THIS MORNING IS ADVISORY OPINION TO THE ATTORNEY GENERAL. GOOD MORNING. YOU ALL HAVE AGREED ON A DIVISION OF TIME. IS THAT CORRECT?

I THINK I HAVE, YES.

CHIEF JUSTICE: YOU MAY PROCEED.

THANK YOU. LOUIS HUBENER WITH THE OFFICE OF THE ATTORNEY GENERAL. THIS MATTER IS BEFORE THE COURT PURSUANT TO THE ATTORNEY GENERAL'S REQUEST FOR AN ADVISORY OPINION ON THE VALIDITY OF AN OPINION PROVIDING OPINION ON THE PETITION THAT SEEKS TO AUTHORIZE SLOT MACHINES AT PARI-MUTUEL FACILITIES IN DADE AND BROWARD COUNTIES. MARK HERRON WILL ARGUE IN OPPOSITION AND STEPHEN GRIMES WILL ARGUE IN SUPPORT OF THE PETITION.

GOOD MORNING. MAY IT PLEASE THE COURT. MY NAME IS STEPHEN GRIMES OF HOLLAND & KNIGHT, ALONG WITH RON BOOK AND BECKER AND POLYCOUGH, WHO REPRESENT THE PROPONENTS OF THIS INITIATIVE. THIS IS ACTUALLY THE SECOND APPEARANCE OF THIS INITIATIVE. AS YOU WILL RECALL, LAST YEAR, THIS COURT, BY A 4-TO-3 DECISION, STRUCK DOWN THE INITIATIVE AS VIOLATING THE SINGLE SUBJECT RULE. THE PROBLEM THAT THE COURT RECOGNIZED AND HELD, WAS THAT THAT INITIATIVE PROVIDED, AS THIS ONE DOES, THAT, AUTHORIZED THE SLOT MACHINES, TO HAVE A VOTE IN BROWARD AND DADE, FOR AUTHORIZING SLOT MACHINES IN THE PARI-MUTUEL FACILITIES, BUT IT ALSO HAD A PROVISION IN THERE, THAT EXCUSED THE TWO-THIRDS OF TAX REQUIREMENT IN THE CONSTITUTION.

THIS ONE CONTINUES TO HAVE TWO PROVISIONS, DOES IT NOT? ONE THAT ALLOWS FOR A LOCAL REFERENDUM ON THE SLOT MACHINES, AND THE SECOND THAT PROVIDES THAT THE LEGISLATURE MAY TAX THEM. THIS PROVIDES FOR THOSE TWO ITEMS.

NO. IT PROVIDES THE LEGISLATURE MAY TAX THEM. THE DIFFERENCE IS THAT THE OTHER ONE REQUIRES THE LEGISLATURE TO TAX THEM.

LET ME ASK YOU ABOUT THE TAX. DOES THIS AUTHORIZE AN INCOME TAX?

NO.

WELL, WHAT IS THE, THE LEGISLATURE MAY TAX SLOT MACHINE REVENUES. ISN'T THAT A TAX ON THE INCOME OF SLOT MACHINES? IF IT IS A TAX ON SLOT MACHINE REVENUES, WHAT ELSE IS IT, OTHER THAN AN INCOME TAX?

I RESPECTFULLY, I DON'T BELIEVE THAT IS AN INCOME TAX.

WHAT KIND OF TAX IS IT?

REVENUES ARE, OF OTHER, I BELIEVE OTHER, LIKE, BINGO REVENUES AND SUCH AS THAT, I THINK THOSE ARE TAXED. YOU KNOW, I DO NOT, I SUBMIT IT IS NOT AN INCOME TAX. WE COULD RESEARCH THAT QUESTION, BUT --

MY CONCERN IS THAT, IF THIS WENT INTO EFFECT AND AN INDIVIDUAL OWNED ONE OF THESE SLOT MACHINES, AND THIS ALLOWS THE LEGISLATURE TO TAX THE REVENUES OF IT, THAT THAT IN FACT, WOULD AND AMENDMENT TO ARTICLE VII SECTION 5, AS TO A PERSONAL INCOME TAX, AND YOU DON'T SEE THAT AS BEING --

I REALLY DON'T. THE, OF COURSE, YOU UNDERSTAND IT SAYS THEY MAY. THEY DON'T HAVE TO TAX THEM. THE FALLACY ON THAT LAST ONE WAS THAT IT REQUIRED A TAXING. THIS SIMPLY SAYS THEY MAY, AND BECAUSE IT REQUIRED A TAXING, THEY RAN INTO THE TWO-THIRDS REQUIREMENT THAT ANY TIME YOU IMPOSE A TAX IN A CONSTITUTIONAL AMENDMENT, YOU HAVE TO GET A TWO-THIRDS VOTE, AND THE EFFORT LAST TIME WAS TO EXCUSE THAT. AND THAT WAS THE PROBLEM WITH HAVING TWO SUBJECTS. NOW, THAT HAS BEEN CORRECTED. THE ATTORNEY GENERAL RECOGNIZES IT HAS BEEN CORRECTED. THE OPPONENTS DON'T CHALLENGE THAT. THE OPPONENTS ARE CHALLENGING, THEY ARE SAYING THAT, BECAUSE IT PROVIDES THAT IF THERE IS A TAX, IT MUST GO TO EDUCATION STATEWIDE, THAT THAT CONSTITUTES A SECOND SUBJECT TO THE AUTHORIZATION OF THE CASINO. THE PROBLEM WITH THAT ARGUMENT IS THAT THIS COURT, IN THREE DIFFERENT INSTANCES, HAS REJECTED THAT ARGUMENT. THEY DID THAT IN THE LOTTERY, WHERE THE SAME ARGUMENT WAS MADE, THE LOTTERY REQUIRED TO HAVE, AUTHORIZED A LOTTERY AND ALSO SAID THAT THE REVENUE WOULD GO TO EDUCATION. THERE WAS AN ANOTHER CASINO AMENDMENT, AND EVEN IN THIS CASE, LAST TIME IT WAS UP HERE, THE COURT REJECTED THAT, I MEAN SAID THAT WAS NOT A PROBLEM. YEAH. THAT'S RIGHT. THEY DID.

NOW, IN THIS CASE, YOU REALLY ARE JUST ASKING FOR AUTHORIZATION, THIS AMENDMENT REALLY IS JUST ASKING FOR AUTHORIZATION TO HAVE A REFERENDUM IN THESE COUNTIES, TO AUTHORIZE SLOT MACHINES IN ALREADY-EXISTING PARI-MUTUEL FACILITIES, CORRECT?

YES. YES.

SO OSTENSIBLY NO INDIVIDUAL WOULD BE ABLE TO JUST GO OUT AND PICK UP A SLOT MACHINE.

NO. NO. THEY HAVE TO, FACILITIES ACTUALLY HAVE TO BE IN EXISTENCE, THERE, I THINK, FOR TWO YEARS, BEFORE --

WOULD THAT MATTER, IN TERMS OF, ION IF THIS IS UNDER THE DESCRIPTION OR -- IN TERMS OF, I DON'T DON'T KNOW IF THIS IS IN TERMS OF A DESCRIPTION OR MAYBE IT IS A SINGLE SUBJECT, I AM HAVING A LITTLE TROUBLE AS TO WHY THESE SLOT MACHINES DON'T CONSTITUTE LOTTERIES, AND YOU MAY SAY IT IS BECAUSE OUR PRECEDENT FROM THE '30s, SAY THERE IS A DIFFERENCE BETWEEN SLOT MACHINES AND LOTTERIES.

THOSE CASES SAY THEY ARE NOT LOTTERIES. I THINK FRANKLY THE PUBLIC KNOWS THE DIFFERENCE BETWEEN A LOTTERY AND A SLOT MACHINE, AND THE LEGISLATURE DOES, TOO!

WHAT THE EVIL THAT IS IN THE CONSTITUTIONAL AMENDMENT THAT HAS BEEN IN THIS CONSTITUTION SINCE THE 1800s, THAT IS ABOUT LOTTERIES? WHY, WHY WERE LOTTERIES PROHIBITED? WEREN'T THEY CONSIDERED JUST CHANCE, THAT MONEY GOES IN AND --

IF, YOU KNOW, THE LEGISLATURE, I MEAN, THE FRAMERS OF THE CONSTITUTION COULD HAVE SAID ALL FORMS OF GAMBLING ARE PROTECTED, AND OF COURSE THAT WOULD BE DIFFERENT, BUT THE LEGISLATURE FOR TIME IMMEMORIAL, NOT THE LEGISLATURE, THE CONSTITUTION, SAID FOR TIME IMMEMORIAL, THATLOTTERIES ARE PROHIBITED -- THAT LOTTERIES ARE PROHIBITED. THE PROPONENTS WHO ARE NOW, SEEM TO BE ASSERTING THAT THIS IS A LOTTERY, THE LAST TIME THIS CASE WAS UP HERE, THEY SAID THAT IT WASN'T A LOTTERY.

WAS THAT, I AGREE WITH YOU THAT WE RULED EXPRESSLY ON THE FACT THAT THERE WAS NO

SINGLE SUBJECT VIOLATION WITH THE FACT THAT THE TAXES WOULD BE USED FOR PUBLIC EDUCATION, BUT WAS THE ISSUE OF WHETHER IT WAS A LOTTERY, WAS THAT RAISED, AND DECIDED IN THE PRIOR CASE?

IN THE COURSE OF THEIR ARGUMENT, THEY SAID THAT THESE ARE NOT, THAT SLOT MACHINES ARE NOT LOTTERIES. IT WAS NOT SPECIFICALLY ARGUED. OBVIOUSLY, AND FRANKLY OBVIOUSLY IT WASN'T DECIDED, BECAUSE IT WASN'T AN ISSUE, IN, AND THEY ARGUED THAT IN THE CONTEXT OF SAYING, WELL, THERE FOR YOU ARE AFFECTING THE LEGISLATURE'S ABILITY TO REGULATE GAMBLING. SOMETHING LIKE THAT.

IS THE FACT THAT THEY ARE ONLY, THAT THE SLOT MACHINES ARE ONLY IN PARI-MUTUEL FACILITIES, SIGNIFICANT, BECAUSE IN LOOKING AT THE LEAD DECISION, IT SEEMS TO SAY THAT THE DIFFERENCE IS THAT DEVISIVE LOTTERIES AFFECT THE WHOLE COMMUNITY BUT THE INSTANCE OF GAMING IS GENERALLY CONFINED TO A FEW PERSONS AND PLACES.

I THINK THAT WAS PART OF THE RATIONALE FOR THE ORIGINAL DECISION, YES, BECAUSE LOTTERIES ARE, THAT YOU BUY TICKETS IN THE STATEWIDE AND ALL OF THAT SORT OF THING, AND YOU HAVE GOT TO GO TO A PARTICULAR PLACE TO PLAY A SLOT MACHINE. THAT SEEMED TO BE THE ANALOGY THERE, THAT THEY WERE BASING IT ON, AND OF COURSE IT WAS REINFORCED SHORTLY THEREAFTER, IN THAT HARDY SON CASE, WHERE THE -- IN THAT HARDISON CASE, WHERE THE GUY WAS OPERATING THE PLACE AND THEY ARRESTED HIM, AND HE SAID, NO, IT IS NOT A LOTTERY. IT IS A SLOT MACHINE.

THE ISSUE HERE IS IF THEY WERE GOING TO PUT A SLOT MACHINE IN EVERY PLACE THAT SOLD LOTTERIES, WOULD THAT BECOME A LOTLYRY AND THAT WOULD BE A PROBLEM? -- A LOTTERY AND THAT WOULD BE A PROBLEM? IS IT RESTRICTED BECAUSE IT IS NOT A LOTTERY?

IT WOULD UNDERCUT THE RATIONALE FOR THE ORIGINAL DECISION, FOR THE ORANGE AT HARDISON DECISION, TO SOME EXTENT, BUT YOU KNOW, THE FACT OF THE MATTER IS WHAT WE ARE DEALING WITH HERE IS WHETHER OR NOT IT IS, THE PUBLIC IS CLEAR, THE PUBLIC KNOWS WHAT A LOTTERY IS. THE PUBLIC UNDERSTANDS THERE IS A LOTTERY. THE PUBLIC UNDERSTANDS, ALSO, THAT SLOT MACHINES ARE ILLEGAL, BECAUSE THE STATUTE PROHIBITS THE USE OF SLOT MACHINES, AND THE PURPOSE OF THE WHOLE PURPOSE OF THIS THING IS THOUGH TO AUTHORIZE, IN A LIMITED -- IS TO AUTHORIZE, IN A LIMITED USE, THE SLOT MACHINES UNDER THESE LIMITED CONDITIONS, IF THE VOTERS DECIDE TO DO IT. THE VOTERS, IF YOU LOOK AT THAT BOOL ON THE SUMMARY -- THAT BALLOT SUMMARY, THERE COULD SIMPLY BE NO CONFUSION.

IF THAT IS THE PURPOSE, WHY ADDRESS TAXATION OR EDUCATIONAL FUNDING, IF THE SOLE PURPOSE, YOU JUST SAID THE SOLE PURPOSE OF THIS IS TO AUTHORIZE SLOT MACHINES, WHY DOES THE AMENDMENT NEED TO ADDRESS TAX AUTHORITY OR FUNDING OF EDUCATION STATEWIDE?

WELL, THE PURPOSE IS TO DO THAT AND PROVIDE EDUCATION, AND THIS COURT HAS SAID ON THREE OCCASIONS, THAT YOU CAN COUPLE THOSE TWO TOGETHER AS PART OF THE CHIEF PURPOSE.

THE FIRST CASE IN THE LOTTERY, THAT IS A STATEWIDE THAT IS AVAILABLE TO EVERY COUNTY, EVERY CITIZEN, EVERYBODY CAN APPLY TO PARTICIPATE IN THAT. WHAT WE ARE DOING HERE ANDION ANYWHERE ELSE IN THE CONSTITUTION -- AND I DON'T KNOW ANYWHERE ELSE IN THE CONSTITUTION YOU ARE GOING TO GRANT GAMBLING TO TWO COUNTIES IN FLORIDA FOR PARI-MUTUEL FACILITIES. THE PROBLEM IS OTHER COUNTIES LICENSED OR OTHER COUNTIES IN THE STATE OF FLORIDA, COMING BACK AND ARGUING EQUAL PROTECTION AND OTHER ARGUMENTS, SO THOSE ARE, I AM BLENDING MY QUESTIONS. BUT THERE IS A LITTLE BIT OF A DIFFERENCE, BECAUSE IT WAS A STATEWIDE LOTTERY, AND THE INCOME FROM THAT WOULD GO STATEWIDE.

HERE WE ARE TALKING TO LIMITED COUNTIES AND LIMITED FACILITIES, AND IT SEEMS MORE CLOSER TO THE LOG ROLLING CONCERN THAN IT MATE MYTH BE IN THE -- THAN IT MIGHT BE IN THE STATEWIDE.

THE FACT THAT THIS COURT ALSO HAD A CASE ON THE, WHAT IS IT, THE "LET'S HELP FLORIDA" CASE THAT WAS CITED EARLIER, IN WHICH IT WAS CITED IN THE BRIEF A POSITION TO AUTHORIZE CASINOS IN DADE AND BROWARD COUNTY, AND IT WAS SPECIFIED THAT IT WOULD BE, IT WOULD GO TO FUNDING FOR LAW ENFORCEMENT AND EDUCATION, AND THIS COURT APPROVED IT AS BEING ENCOMPASSED IN THE SINGLE CHIEF PURPOSE OF THE AMENDMENT.

AND IN THOSE AMENDMENTS, WAS THE VOTE REQUIREMENT 50 PERCENT OR TWO-THIRDS?

IT WAS JUST 50 PERCENT, BECAUSE THE TWO-THIRDS'S REQUIREMENT FOR NEW TAXATION, DIDN'T GO IN, UNTIL MANY YEARS, SEVERAL YEARS THEREAFTER.

SO REALITY BY CHANGING IT FROM "SHALL" TO "MAY" AS YOU HAVE DONE IN THIS CASE, ISN'T THE NET EFFECT, THOUGH, THE SAME, IF THE LEGISLATURE SEEKS TO IMPOSE A NEW TAX?

IF THE LEGISLATURE CHOOSES TO IMPOSE A TAX, THEN THE FUNDS MUST GO TO THOSE PURPOSES.

BUT WHAT ABOUT THE TWO-THIRDS VOTE REQUIREMENT FOR THE NEW TAX?

NO, BECAUSE IT IS NOT IN THE CONSTITUTION. WHAT THE TWO-THIRDS REQUIREMENT IS, THAT YOU CAN'T PUT IN A CONSTITUTIONAL AMENDMENT THAT WOULD RAISE TAXES, AND IF YOU DO, IF YOU PROPOSE A CONSTITUTIONAL AMENDMENT THAT WOULD IMPOSE TAXES, THEN YOU HAVE GOT TO GET A TWO-THIRDS VOTE --

BUT THE REALITY OF IT IS HERE, IF THE PEOPLE THROUGHOUT THE STATE OF FLORIDA ARE ATTRACTED TO THIS AMENDMENT BECAUSE IT WILL INCREASE FUNDING FOR EDUCATION, WHICH IS THE REASON IT IS ATTACHED TO THE AMENDMENT, NEW TAXES ARE GOING TO HAVE TO BE RAISED.

BUT THAT WOULD BE THE LEGISLATURE, AND THEY DON'T HAVE TO DO IT BY A TWO-THIRDS VOTE. IT IS ONLY, THE ONLY REQUIREMENT FOR A TWO-THIRDS VOTE, IS TO PASS A REFERENDUM OR AN INITIATIVE IF YOU WILL, FOR AN AMENDMENT OF THE CONSTITUTION, THAT WOULD REQUIRE THE LEGISLATURE TO IMPOSE TAXES. AND THAT IS WHY THEY TRIED LAST TIME, TO GET AROUND THAT REQUIREMENT, BUT IT WOULD HAVE NOTHING TO DO WITH THE LEGISLATURE COULD DECIDE OR NOT DECIDE WHETHER THEY WANT TO IMPOSE TAXES. THEY WOULDN'T HAVE TO HAVE A TWO-THIRDS VOTE. THEY WOULD JUST DECIDE TO VOTE, ONE WAY OR THE OTHER.

IF THEY, IF, WOULD THE LEGISLATURE HAVE THE AUTHORITY TO TAX THE SLOT MACHINES, ASSUMING THAT THIS REFERENDUM PASSED, WHETHER THAT PROVISION WAS IN THIS, IN THIS AMENDMENT OR NOT? ASSUMING THIS PROVISION WAS NOT IN THAT AMENDMENT ABOUT TAXES, COULD THE LEGISLATURE TAX SLOT MACHINES?

I BELIEVE THAT WOULD. I WOULD THINK THEY WOULD, YEAH. YES.

IS IT TRUE THAT, IF THE VOTERS IN DADE OR BROWARD VOTE FOR THIS, THAT THEY, AND THEY SAY THIS MIGHT BE A GOOD IDEA TO DO THIS. WE WILL TRY IT FOR A YEAR OR TWO, THAT IN ORDER FOR THIS TO BE REPEALED, IT HAS TO BE DONE BY ANOTHER CONSTITUTIONAL AMENDMENT?

I WOULD NOT, THERE IS NOTHING IN THERE THAT SUGGESTS THEY WOULD HAVE THAT IT WOULD HAVE TO BE DONE BY A -- TO SUGGEST IT WOULD HAVE TO BE DONE BY A CONSTITUTIONAL

AMENDMENT.

THEY WOULD VOTE?

YEAH, THEY WILL.

MR. GRIMES, WOULD YOU GO INTO THIS AND SHARE WITH US UROLOGIC AND REASONING BEHIND THE APPROVAL OF THIS COURT, OF NO SINGLE SUBJECT VIOLATION, WHERE YOU HAVE A SUBJECT MATTER AND THEN A MENTION OF TAX, BECAUSE THERE IS, LIKE, THREE CASES, AND YOU HAVE MENTIONED THEM, BUT WHAT YOU CONSIDER TO BE THE LOGIC AND REASONING AS TO WHY IT'S NOT A SINGLE SUBJECT VIOLATION.

BECAUSE IT TALKS ABOUT A TAX?

YES. YOU HAVE MENTIONED THE THREE CASES. THOUGH ARE THERE AND -- THOSE ARE THERE AND THOSE CASES HAVE HELD THAT THERE IS NOT A SINGLE SUBJECT VIOLATION BY SIMPLY JOINING THE TAX WITH THE SUBJECT OF AN AMENDMENT, CORRECT SOMEBODY.

YES.

COULD YOU SHARE WITH US WHAT YOU BELIEVE THE LOGIC AND REASONING AS TO WHY IT'S NOT A SINGLE SUBJECT VIOLATION? WHAT PROMPTED THIS COURT TO MAKE THE DECISION? WHAT DO YOU FEEL TO BE THE RATIONALE?

I BELIEVE THAT THE COURT SAID IT WAS ENCOMPASSED IN THE CHIEF PURPOSE. I WOULD HAVE TO GO BACK AND LOOK AT THE RATIONALE AND HOW THEY DESCRIBED IT, BUT THE EFFECT WOULD BE YOU WOULD HAVE TO OVERRULE THOSE TWO PLUS LAST YEAR'S CASE, AND THE PARTIES HAVE GOT TO, ARE, HAVE TO HAVE A BASIS OF STERI DECISUS TO DECIDE SOMETHING. WHETHER IT WAS ENCOMPASSED WITH IT OR WHETHER IT WAS ENTIRELY SEPARATE LIKE THE TWO-THIRDS THING, THE TWO-THIRDS DEAL MR. CHIEF JUSTICE

WE ARE RUNNING INTO YOUR TIME, SO IF YOU WANT TO HOLD A COUPLE OF MINUTES. GOOD MORNING.

MR. CHIEF JUSTICE AND MEMBERS OF THE COURT, MY NAME IS MARK HARONE, AND I AM HIM HERE ON BEHALF OF THE -- MY NAME IS MARK HERRON, AND I AM HERE ON BEHALF THE OPPONENTS TO THE AMENDMENT AND I WOULD LIKE TO ADDRESS THE JUDGE'S QUESTION. BASED ON A RATIONALE TO THIS DECISION, I THINK IT WAS SAID BY THIS COURT IT WAS BASED UPON THE SINGLE SUBJECT REQUIREMENT IN LEGISLATION AND THE SINGLE SUBJECT THAT APPLIED TO INITIATIVES, AND IN THAT CASE THIS COURT HELD THAT IT WAS OKAY FOR THE INITIATIVE AMENDMENT TO ADDRESS TAXING AND SPENDING FOR SPECIFIC PURPOSES.

IS THAT PART OF FLORIDIANS AGAINST CASINO?

THAT IS FLORIDIANS AGAINST CASINO FLORIDA, AND IN FIRESTONE, AGAIN, THIS COURT REVIEWED AND THEN RECEDED FROM THAT DETERMINATION THAT THEY WERE PARALLEL PROVISIONS, AND FOR THREE REASONS, THEY SAY THEY WE ARE GOING TO RECEDE FROM THAT POSITION AND WE ARE GOING TO REQUIRE STRICT COMPLIANCE WITH THE SINGLE SUBJECT REQUIREMENTS OF ARTICLE XI SECTION 3. NOW, NOTWITHSTANDING THAT, THE COURT, IN LAST YEAR'S CASE, AND IN THAT CASE, ARGUABLY,, PERMITTED THE TYING OF THE TAXING AND REVENUE, THE TAXING PROVISIONS WITH THE SPENDING PROVISIONS FOR SPECIFIC PURPOSES. HOWEVER, IN FINE VERSUS FIRESTONE, JUSTICE EHRLICH BASICALLY SAYS THAT, IN THE LOTTERY CASE FOR STATE EDUCATION, THERE WAS NO SPECIFIC TIE IN. IT JUST PUT IT INTO A TRUST FUND CALLED THE STATE EDUCATION TRUST FUND, AND WE HAVE TO KIND OF RELY ON THE GOODNESS OF THE LEGISLATURE TO SPEND THOSE MONIES FOR EDUCATION. WITH RESPECT TO LAST YEAR'S

CASE, WHERE AND ADMITTEDLY IN MY BRIEF THE OPPONENTS ACKNOWLEDGED THAT THIS COURT KIND OF APPROVED THAT TYPE OF TYING, THIS COURT CITED TO FLORIDIANS AGAINST CASINO TAKE OVER AND LET'S HELP FLORIDA, AS THE BASIS TO THAT DECISION. I WOULD SUGGEST TO THIS COURT THAT YOU KIND OF BRUSH THROUGH IT A LITTLE BIT AND DIDN'T KIND OF LOOK AT THE FACT THAT YOU HAD RECEDED FROM THAT POSITION IN THE FINE VERSUS FIRESTONE CASE, AND APPLY THE FINE VERSUS FIRESTONE LOGIC, AS OPPOSED TO THE LOGIC OF FLORIDA CASINOS VERSUS TAKE OVER, SO IN RESPONSE TO YOUR QUESTION, I THINK THAT IS HOW WE GOT TO WHERE WE GOT TODAY.

BUT WASN'T, BUT CAROL VERSUS FIRESTONE, WHICH DEALT WITH THE AUTHORITY TO OPERATE LOTTERIES, SPECIFICALLY, OF COURSE, PROVIDED THAT THE PROCEEDS WOULD GO TO EDUCATION, SO WHY ISN'T, I MEAN, WE REAFFIRMED IT IN THAT CASE, DIDN'T WE?

YES, MA'AM. AND I CAN'T SPEAK FOR THE COURT OF HOW YOU GOT THERE, BUT IT SEEMS LIKE YOU ARE NOT FOLLOWING THE STRICT LOGIC OF RECEDING FROM THE POSITION THAT YOU ADOPTED IN, I DON'T THINK YOU ARE FOLLOWING FINE VERSUS FIRESTONE ENTIRELY. I MEAN THAT IS ALL I CAN SAY TO YOU.

REGARDLESS OF FINE VERSUS FIRESTONE, THE CONSTITUTIONAL PROVISION SAYS THAT THE AMENDMENT CANNOT ENCOMPASS BUT ONE SUBJECT ANIMATER DIRECTLY CONNECTED THERE WITH, SO WE HAVEN'T DELETED THAT LAST PHRASE "ANIMATER CONNECTED DRECKEDLY THERE WITH".

-- CONNECTED DIRECTLY THERE WITH".

THAT'S CORRECT.

IF NEXT YEAR, WOULDN'T WE HAVE THE SAME MATTER IF YOU CAME TO US AND SAID, LOOK, THIS IS THE OUTLINE, THIS IS WHAT YOU HAVE TO DO, THIS IS WHAT WOULD BE A CONSTITUTIONALLY PERMISSIBLE AMENDMENT THIS. IS WHAT MAKES IT CONSTITUTIONALLY NOT PERMISSIBLE. THEY BASE THAT ON THIS COURT'S CASE AND COME BACK AND SAID WE DIDN'T MEAN IT AND EVEN THOUGH WE SAID YOU COULD DO IT, WE CHANGED OUR MIND AND NOW SAID GO BACK AND DO A THIRD AMENDMENT.

FUND AMENDMENTALLY UNFAIR. -- FUNDAMENTALLY UNFAIR, I DON'T THINK I WOULD CONCEDE THAT POINT. THAT IS WHY IN OUR BRIEF, WE ASKED THIS COURT TO RECONSIDER THAT POSITION, RECEDE FROM THAT POSITION. WE RECOGNIZE THAT, FROM THE POINT OF SISTER I DISEASES US, THAT IS -- OF STERI DECISUS, THAT IS WHAT YOU SAID IN THE PREVIOUS CASE. WE JUST THINK THAT PRIOR TO THAT, A MORE REGULAR RUS -- A MORE RIGOROUS ISSUE OF THE COURT OUGHT TO BE DECIDED.

WHERE ARE THESE REVENUES GOING TO GO? WHY ISN'T THAT, ANYWAY, ISN'T THAT THE RATIONALE, A MATTER DIRECTLY CONNECTED WITH THE STREAM CREATED BY THIS NEW ENTERPRISE IS GOING TO GO SOMEPLACE? NOW, IS IT THE TAXES OR IS IT SAYING THAT IT IS GOING TO EDUCATION THAT IS A SEPARATE, THAT YOU WOULD BE ALLEGING AS A SEPARATE SUBJECT?

I THINK THE PROBLEM WITH THAT IS THAT THE REASON THAT THE SUBJECT OF EDUCATION IS CHOSEN IN THIS PARTICULAR AMENDMENT, IS BECAUSE FOR LOG ROLLING PURPOSES. IT IS TO ENCOURAGE THOSE WHO WOULD BE OTHERWISE OPPOSED TO THE EXTENSION OF GAMBLING, TO VOTE FOR THIS.

DON'T THE VOTERS DESERVE TO KNOW WHY, WHETHER, IF YOU ARE, EVERYONE WOULD THINK THIS IS A EVIL GAMBLING CASINOS OR THAT IS SOMETHING THAT, EXCEPT IF YOU ARE IN THAT INDUSTRY OR A GAMBLER THAT YOU THINK IS A GREAT IDEA, SO YOU WANT TO KNOW, WHERE IS

THE MONEY GOING TO GO? I DON'T SEE WHY, MAYBE I AM JUST REITERATING THE SAME POINT, BUT IT SEEMS TO ME THAT IT IS PART AND PARCEL OF THE SUBJECT THAT IS BEING POSED TO THE VOTERS, WHICH IS THAT WE ARE ESTABLISHING GAMBLING, AND WE ARE GOING TO SAY WHERE THE REVENUE IS GOING TO GO.

WELL, THAT IS WHAT THE AMENDMENT DOES, YOUR HONOR, BUT, AGAIN, I THINK THE PURPOSE OF HAVING THAT PARTICULAR PROVISION IN THERE IS TO ENTICE VOTERS WHO WOULD OTHERWISE BE OPPOSED TO GAMBLING TO VOTE FOR IT, BECAUSE IT IS GOING TO GO TO A GOOD CAUSE.

IF THEY WOULD PUT IN THERE THAT IT WOULD GO TO A BAD CAUSE, IT WOULD BE OKAY?

NO. I THINK IT IS SPECIFICALLY THERE TO ENTICE THEM, BECAUSE WITHOUT HAVING THAT PROVISION IN THERE, THE LEGISLATURE, BY ITS OWN DEVICES, COULD DECIDE THAT TO TAX SLOT MACHINE OPERATIONS, TO LICENSE SLOT MACHINE OPERATIONS AND TO PUT THOSE KINDS OF REVENUES INTO EDUCATION, BUT OTHERWISE THIS AMENDMENT, ALSO, LIMITS THE POWER OF THE LEGISLATURE TO DO THAT. THEY ARE, THEY CANNOT GO BEYOND EDUCATION. THEY CAN'T GO TO HEALTH CARE. THEY CAN'T GO TO ANY OTHER THING.

WHAT IS YOUR POSITION ON WHETHER THE ARTICLE VII AUTHORIZES A TAX ON THE REVENUES OF SLOT SMNS -- SLOT MACHINES, ASSUMING THAT SLOT MACHINES WERE AUTHORIZED AT THE PRESENT TIME?

I BELIEVE THAT, BECAUSE THE CONSTITUTION IS A, THE STATE CONSTITUTION IS A DOCUMENT THAT LIMITS THE LEGISLATURE AND WHAT THEY CAN OR CAN'T DO, I BELIEVE THAT IRRESPECTIVE OF ANY LANGUAGE THAT WOULD HAVE BEEN INCLUDED IN THAT AMENDMENT, THE LEGISLATURE HAS THE POWER TO TAX SLOT MACHINE OPERATIONS. SO WHATEVER THEY HAVE PUT IN HERE IS OTHERWISE LIMITING THE ABILITY OF THE LEGISLATURE OR RESTRICTING THE ABILITY OF THE LEGISLATURE OR MAYBE EVEN JUST RESTATING THE ABILITY OF THE LEGISLATURE TO TAX THESE OPERATIONS. I THINK THAT IS A ISSUE, PERHAPS, FOR ANOTHER DAY AND ANOTHER CASE.

SO, AGAIN, YOUR CLAIM WHICH WOULD REQUIRE US TO RECEDE FROM CASES, IS THAT IT IS NOT THE PART THAT SAYS IT IS GOING TO BE TAXED, BUT THAT IT IS GOING TO BE USED FOR EDUCATION, IS WHAT YOU ARE CLAIMING IS --

THAT'S CORRECT. THE LOG ROLLING TWO SUBJECTS IN THAT, YES. YES.

WHAT ABOUT THE POSITION AS TO WHETHER THESE ARE LOTTERIES? DOESN'T OUR PRECEDENT REALLY SAY THAT THIS, THERE ARE TWO DISTINCT CONCEPTS, SLOT MACHINES AND LOTTERIES?

THE CASES THAT WE HAVE ARE TWO 1935 CASES UNDER THE CONSTITUTIONAL PROVISIONS IN EFFECT AT THAT TIME, AND FRANKLY, THOSE CASES ARE SOMEWHAT KIND OF BIZARRE IN A SENSE, BECAUSE IN THE LEE VERSUS CITY OF MIAMI CASE, IT APPEARS THAT THIS COURT IS SAYING, WELL, THEY ARE NOT A LOTTERY HERE BUT THEY COULD BE A LOTTERY, YEAH, THEY COULD BE A LOTTERY, DEPENDING ON SOME OTHER FACTORS, IN TERMS OF HOW INGRAINED INTO THE OPERATIONS OF THE COMMUNITY ACTIVITY BECOMES. IN THE HARD A MAN CASE, THEY SAID THAT THAT PARTICULAR MACHINE ISN'T A LOTTERY, BUT BY THE SAME TOKEN, THEY SAY WE ARE GOING TO KIND OF RELY ON THE LEE CASE IN MAKING THAT DETERMINATION. I THINK IT IS SIGNIFICANT, HOWEVER, THAT IN THE CITY OF MIAMI CASE, THE COURT BACK IN 1935, SAID, AND THEY CITE TO CHAPTER 14.832, ACTS OF 1931, LEGALIZING PARI-MUTUEL BETTING ON HORSE RACING, AND THEY KIND OF SAY THAT THAT IS NOT A LOTTERY, EITHER, BUT IF YOU LOOK AT THE CURRENT PROVISION IN THE CONSTITUTION, IT SEEMS TO IMPLY THAT PARI-MUTUEL WAGERING IS A LOTTERY, BECAUSE IT SAYS ALL LOTTERIES ARE PROHIBITED EXCEPT FOR THOSE FORMS OF PARI-MUTUEL WAGERING WHICH WERE AUTHORIZED ON THE EFFECTIVE DATE OF THIS

CONSTITUTION. SO I THINK THAT IS KIND OF PULLING AWAY THE UNDERPINNING OF WHAT IS A LOTTERY OR NOT A LOTTERY. I THINK THIS COURT IS GOING TO HAVE TO DETERMINE, IN THE COURSE OF THIS DECISION ON THIS PARTICULAR CASE, WHAT IS MEANT BY WHAT IS A LOTTERY, IN THAT --

SO YOU SAY THE CONSTITUTION THAT WE WERE INTERPRETING IN 1935 SAID WHAT?

ALL LOTTERIES ARE PROHIBITED.

WHEN WAS THE AMENDMENT THAT SAYS --

THE 1968 CONSTITUTION SAYS ALL LOTTERIES ARE PROHIBITED EX-I WANT, BUT AGAIN THIS -- EXCEPT, BUT, AGAIN, THIS 1935 CASE CITY OF MIAMI, SEEMS TO IMPLY THAT WAGERING ISN'T A LOTTERY.

BUT THERE IS A DIFFERENCE, IS THERE NOT THAT, WHEN YOU AUTHORIZE SOMETHING LIKE THIS SPECIFICALLY IN THE SAME CONSTITUTION, AS OPPOSED TO SAY WAG THE LEGISLATURE CAN DO IN -- SAYING WHAT THE LEGISLATURE CAN DO IN THE FACE OF A PROVISION IN THE STATE CONSTITUTION THAT BARS ALL LOTTERIES?

I THINK THE ANSWER TO THAT QUESTION IS YES, BUT I AM NOT SURE, BECAUSE I AM NOT SURE I UNDERSTAND THE QUESTION.

WHAT I MEAN BY THAT IS THAT IF YOU HAVE A PROVISION IN THE CONSTITUTION THAT SAYS WHATEVER, THAT THERE IS A RIGHT OF PRIVACY, OKAY, BUT LATER YOU PUT A PROVISION IN THE CONSTITUTION THAT SAYS, WELL, ALL RECORDS OF THE DEPARTMENT OF STATE ARE OPEN TO THE PUBLIC OR SOMETHING, THEN ANY ARGUMENT THAT THE RIGHT --

BUT FROM THE INITIATIVE --

-- BUT PUTTING IT IN THE CONSTITUTION, THAT CERTAINLY RAISES THAT PROVISION UP TO THE SAME LEVEL, AT LEAST OF THE OTHER PROVISION, AS OPPOSED TO THE LEGISLATURE ACTING IN THE FACE OF A CONSTITUTIONAL PROHIBITION.

I AGREE WITH YOU, BUT IN THAT RESPECT IN THE INITIATIVE PROCESS, THE CASES OF THIS COURT HAVE SAID THAT, IF WE DO THAT, WE HAVE TO PUT IN THE TITLE THAT WE ARE AFFECTING THOSE OR CONSTITUTIONAL PROVISIONS, AND IN THE TITLE AND SUMMARY OF THIS PROVISION, THE EFFECT ON THE CONSTITUTION IS NOT NOTED.

THAT SORTS SORT OF MUDDLES THE LAW BY HOW MANY PROVISION INS THE CONSTITUTION ARE AFFECTED BY A PARTICULAR PROVISION. YOU ARE NOT MAKING AN ARGUMENT HERE, THAT THERE IS A VIOLATION OF THE TAXING PROVISIONS OF THE PRESENT COBB INSTITUTION REQUIRE -- CONSTITUTION, REQUIRING A TWO-THIRDS VOTE FOR A NEW TAX. I WANT TO BE EXPLICIT ABOUT THAT.

WE DID NOT MAKE THAT ARGUMENT AND I DO NOT MAKE THAT ARGUMENT HERE. I BELIEVE FROM THE POINT OF VIEW, SINCE I WAS INVOLVED IN THE PRECEDING CASE, THAT THEY SOLVED THAT PROBLEM WITH RESPECT TO THEIR AMENDMENT.

OKAY. I TAKE IT YOU WOULD AGREE THAT, JUST AS THE INCOME FROM EXISTING PARI-MUTUELS CAN BE TAXED IN SOME FORM BY THE LEGISLATURE, THAT ANY ADDITIONAL INCOME AT A PARI-MUTUEL OPERATION THAT IS RECEIVED AS A RESULT OF THE USE OF SLOT MACHINES, COULD BE TAXED BY THE LEGISLATURE? IS THAT -- WIDE AM NOT GOING TO CONCEDE --

I AM NOT GOING TO CONCEDE THAT, BECAUSE JUSTICE WELLS, THE INCOME TAX ISSUE WAS

SOMETHING THAT NEVER HIT ME BEFORE, AND I DON'T THINK IT HIT ANY OF US BEFORE.

WHY WOULDN'T, IF WE ARE TALKING ABOUT AN ADDITIONAL WAY THAT A PARI-MUTUEL RECEIVES INCOME, THAT FIRST THEY RECEIVE INCOME BY THE OPERATION OF GAMBLING IN THE FORM OF WHAT PARI-MUTUELS OR HORSE RACES AND DOG RACES AND JAI ALAI AND WHAT FORMS OF GAMBLING HERE, AND NOW YOU ADD THIS ADDITIONAL FORM OF GAMBLING BY SLOT MACHINES.

I AM NOT FAMILIAR AS TO HOW THEY ARE TAXED TODAY, AND I DON'T KNOW IF EXISTING PARI-MUTUEL FACILITIES ARE TAXED ON THEIR INCOME. I DO NOT KNOW THAT AS A FACT, AND SO --

SO YOU ARE JUST NOT --

I WOULD PUNT ON THAT ONE, IF I COULD, YOUR HONOR.

WE DON'T HAVE TO REACH THAT ISSUE IN THIS CASE, DO WE?

YOU DO NOT HAVE TO REACH THAT ISSUE IN THIS CASE, BECAUSE AGAIN, THERE ARE JUST TWO ISSUES BEFORE THE COURT, AND THAT IS THE SINGLE SUBJECT AND THE BALLOT SUMMARY AND TITLE.

YOUR MAIN FOCUS HERE IS ON THE LOG ROLLING OF INCLUDING THIS VERY SPECIFIC PROVISION, AS TO WHERE ANY TAXATION OF THESE PROCEEDS WOULD GO?

IT IS ON THE LOG ROLLING AND THE FACT THAT WE BELIEVE THAT SLOT MACHINES ARE LOTTERIES, AND ALONG THAT LINE, THERE IS THE 1939 CASE THAT KIND OF DEFINES WHAT THE ELEMENTS OF A LOTTERY ARE, AND THAT IS --

IF THAT IS ONE OF YOUR MAIN ARGUMENTS, WHY, IF WE ARE EXPLICITLY PUTTING IN THE CONSTITUTION NOW, AN AUTHORIZATION FOR THIS, WHY WOULD THE ORDINARY RULES OF CONSTRUCTION THAT WE ALWAYS APPLY ABOUT THE LATER PASS PROVISION OF LEGISLATION OR CONSTITUTION, THE MORE SPECIFIC IT IS, THAT THAT WOULD ORDINARILY PREVAIL OVER ANY GENERAL PROVISIONS NOTWITHSTANDING?

I AGREE WITH YOU 100 PERCENT WITH RESPECT TO THAT, BUT THE RULES WITH RESPECT TO INITIATIVE PETITIONS SAY THEY CAN ONLY ADDRESS ONE SUBJECT, AND --

IN MATTER DIRECTLY --

THE SEVERABILITY -- I AM SORRY.

JUSTICE QUINCE.

WHAT ABOUT THE SEVERABILITY CLAUSE THAT IS A PART OF THIS INITIATIVE, IF WE AGREE WITH YOU THAT THE, YOU SHOULD NOT INCLUDE THE PROVISION CONCERNING WHERE ANY REVENUE WOULD GO, COULD THAT BE SEVERED?

MY UNDERSTANDING OF THE JURISPRUDENCE ON THAT FROM THIS COURT IS THAT THOSE SEVERABILITY CLAUSES ARE, REALLY, APPLYING TO POST REVIEW ACTIONS AND NOT THE REVIEW OF THE INITIATIVE, UNDER THE TWO ISSUES THAT ARE PRESENTED TO THE COURT.

CHALLENGING THE CONSTITUTIONALITY DOWN THE ROAD.

DOWN THE ROAD, NOT TO THE ISSUES OF SINGLE SUBJECT AND BALLOT TITLE.

THERE IS A QUESTION.

YES, SIR.

YOU JUST SAID, WHEN YOU WERE ANSWERING A QUESTION, YOU SAID THAT THE CONSTITUTION SAYS IT HAS TO EMBRACE BUT ONE SUBJECT, AND I JUST WANTED TO FINISH THE SENTENCE THAT SAYS, ANIMATER DIRECTLY CONNECTED THERE WITH, WHICH TO ME IS A VERY IMPORTANT PHRASE AND MODIFIES THAT PRIOR PHRASE OF ONE SUBJECT.

I AGREE AND, AGAIN, I LEFT THAT OUT, BUT THAT IS THE ISSUE THAT THIS COURT DISCUSSED IN FINE VERSUS FIRESTONE, IN THE SENSE OF THE TEST UNDER ARTICLE III SECTION 6, VERSUS IF THIS WERE A TEST --

IF THIS WERE A LOTTERY, FIRST OF ALL, IT SHOULDN'T BE IN A MOUSE PROVISION, AND -- IN A MISCELLANEOUS PROVISION, AND THIS IS BASED ON OUR PRIOR CASE LAW, WOULD HAVE TO REFERENCE WHICH SECTIONS OF THE CONSTITUTION FOR BEING EFFECTIVELY AMENDED BECAUSE OF THIS PROVISION?

YES, MA'AM. THERE IS CASES --

NOT THAT WE CAN'T DO IT.

THERE HAS TO BE TITLE THAT REFERS TO THOSE PROVISIONS. EYE ALWAYS WORRY ABOUT THOSE MISCELLANEOUS PROVISIONS YOU BECAUSE THAT IS WHERE THE PREGNANT -- PROVISIONS, BECAUSE THAT IS WHERE THE PREGNANT PIGS ARE AND ALL SORTS OF COMPUTATIONCATIONS TO THIS PROVISION. IS -- COMPLICATIONS TO THIS PROVISION. IS THAT RIGHT?

YES.

CHIEF JUSTICE: MR. MARSHAL, HOW MUCH TIME IS LEFT? ANY PREGNANT PIGS IN THIS ONE?

NO. YOU KNOW, ALONG THE LINE OF THE DISCUSSION HERE, YOUR QUESTION JUSTICE HARDING, IT SEEMS TO ME THAT IT IS, IF NOTHING ELSE, IT IS LIKE A GROSS RECEIPTS TAX, WHICH IS TAXED ON THE INCOME AND NOT AN INCOME TAX. THE, IT WOULD HAVE BEEN, IT WOULD BE MISLEADING TO SAY, REALLY, THAT THIS AMENDS THE LOTTERY STATUTE, BECAUSE THE COURTS HAVE HELD THAT THIS IS NOT A LOTTERY! BUT IN THE FINAL ANALYSIS, EVEN IF THE THING WERE, IF YOU WERE TO OVERRULE THOSE TWO CASES AND SAY, WELL, IT REALLY OUGHT TO BE CONSIDERED A LOTTERY, YOU STILL, WE ARE HERE TO DECIDE WHETHER THE PEOPLE ARE FAIRLY ADVISED AS TO WHAT THE CHIEF PURPOSE OF THIS AMENDMENT IS ABOUT. AND THE PUBLIC KNOWS WE HAVE A LOTTERY. THE PUBLIC KNOWS THAT, WHAT SLOT MACHINES ARE. THE LEGISLATURE HAS DEFINED SLOT MACHINES SPECIFICALLY. AND THE AMENDMENT TITLE AND BALLOT SUMMARY SAYS, SPECIFICALLY, WHAT IT IS GOING TO BE ALLOWED -- WHAT IS GOING TO BE ALLOWED, IF YOU JUMP THROUGH ALL OF THESE HOOPS AND PASS IT AND SO FORTH UNDER THESE CIRCUMSTANCES, SO NOBODY COULD BE MISLED UNDER THESE CIRCUMSTANCES.

WHAT ABOUT THE OTHER ARGUMENT, THOUGH, THAT YOUR OPPONENT SAYS OUR CASE LAW ISN'T SO CLEAR-CUT ON THE LOG ROLLING ISSUE, AND THAT IS OF DESIGNATING WHERE THE REVENUE WILL GO, AND THAT THERE TRULY IS A SERIOUS DANGER HERE, THAT PEOPLE THAT WANT TO SEE SCHOOLS IMPROVED, WILL VOTE FOR SOMETHING THAT THEY OTHERWISE WOULDN'T HAVE VOTED FOR, i.e. THE EXTENSION OF GAMBLING IN ANOTHER FORM OR CONTEXT HERE, AND THAT THAT IS CLASSIC LOG ROLLING, IN ORBDER TO GET ONE -- IN ORDER TO GET ONE THING DONE, THEN YOU PLEASE SOMEBODY ABOUT SOMETHING ELSE THAT THEY MIGHT SUPPORT AND HOLD THEIR NOSE ON THE OTHER THING, AND IF OUR CASE LAW IS SORT OF SPLIT ON THIS, WHY DOESN'T HE HAVE A BETTER ARGUMENT?

THE CASE LAW IS NOT SPLIT ON THIS. THE CASE LAW IS VERY CLEAR. THREE SPECIFIC CASES THAT

HAVE ADDRESSED THAT VERY ISSUE, AND HE -- YOUR OPPONENT SAYS WE CAME BACK AND RECEDED.

WHAT YOU RECEDED FROM, AFTER THEY HAD THE FIRST CASE, WHAT YOU RECEDED FROM WAS SOME OF THE RATIONALE IN THAT FIRST CASE, THEN YOU HAD THE SECOND CASE THAT HAD THE SQUARELY PRESENTED THE ISSUE AND STILL SAID IT WASN'T LOG ROLLING, AND LAST YEAR, BY VIRTUE OF APPROVING IT ONCE AGAIN, YOU SAID IT WASN'T LOG ROLLING, SO THE CASE LAW IS NOT UNCLEAR. IT IS QUITE CLEAR ON THE SUBJECT, AND SO TO WIND UP, AND I HAVE ONLY GOT 30 SECONDS TO DO IT, YOU NEED, I ASKED THE COURT TO LOOK AND SEE IF YOU THINK THAT THE, THAT IT IS MISLEADING IN ANY WAY, BY LOOKING AT THAT BALLOT SUMMARY, IF THE VOTERS WON'T KNOW EXACTLY WHAT IS HAPPENING, AND THAT IS ALL THAT THIS, THAT IS BEFORE THIS COURT, OTHER THAN THE SINGLE SUBJECT ARGUMENT THAT WE HAVE ALREADY MADE.

CHIEF JUSTICE: THANK YOU VERY MUCH. THANK YOU, BOTH, VERY MUCH. THE COURT WILL NOW STAND IN RECESS UNTIL NINE O'CLOCK TOMORROW MORNING.

MARSHAL: PLEASE RISE.