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**Advisory Opinion to the Attorney General: Apportionment & Redistricting Docket Number:
SC05-1754 | SC05-1895 | SC05-1755 | SC05-1894**

MARSHAL: ALL RISE. HEAR YE. HEAR YE. HEAR YE. THE SUPREME COURT OF FLORIDA IS NOW IN SESSION. ALL WHO HAVE CAUSE TO PLEA, DRAW NEAR, GIVE ATTENTION AND YOU SHALL BE HEARD. GOD SAVE THESE UNITED STATES, THE GREAT STATE OF FLORIDA AND THIS HONORABLE COURT. LADIES AND GENTLEMEN, THE FLORIDA SUPREME COURT. PLEASE BE SEATED.

CHIEF JUSTICE: GOOD MORNING, LADIES AND GENTLEMEN, AND WELCOME TO THE FLORIDA SUPREME COURT. THE FIRST CASE ON THIS DOCKET, I AM NOT GOING TO SAY THE WHOLE TITLE, BUT IT IS THE ADVISORY OPINION AND IN REFERENCE TO INDEPENDENT PARTISAN COMMISSION TO AORTION. THAT WILL BE ENOUGH. PARTIES ARE READY, AND MR. HUBENER, YOU WANT TO ANNOUNCE?

GOOD MORNING. LOUIS HUBENER WITH THE ATTORNEY GENERALS OFFICE. THIS MATTER IS HERE ON THE REQUEST OF THE ATTORNEY GENERAL, FOR AN ADVISORY OPINION ON THIS REAORTIONMENT PROPOSAL. MARK HERRON WILL ARGUE IN FAVOR OF THE AMENDMENT, AND BARE RICHARD AND DUDLEY GOODLETTE, WILL ARGUE IN OOSITION. THANK YOU.

CHIEF JUSTICE: THANK YOU. MR. HERONE, AND AS -- MR. HERON, MAKE YOUR AEARANCE.

MAY IT PLEASE THE COURT, MY NAME IS MARK HERRON AND TO MY LEFT IS MARK HELFERT, AND WE HAVE ASKED FOR 5 MINUTES REBU TTAL TIME.

CHIEF JUSTICE: IN THIS CASE WITH THE TIME, THERE MAY BE THREE DIFFERENT AREAS TO ADDRESS, NOT ONLY THE SINGLE SUBJECT AND THE BALLOT AND TITLE, BUT THE FORM THAT HAS BEEN POINTED OUT, SO IF YOU COULD FIRST START WITH SINGLE SUBJECT.

MAY IT PLEASE THE COURT. THE PURPOSE, OVERRIDING AND CONTROLLING PURPOSE OF IN INITIATIVE PROPOSAL IS TO ESTABLISH A NONPARTISAN PROCESS FOR STATE LEGISLATIVE REDISTRICTING AND CONGRESSIONAL DISTRICTS THAT ARE ALLOCATED TO THE STATE OF FLORIDA BY CONGRESS. ALL PROVISIONS OF THE AMENDMENT ARE NATURALLY AND LOGICALLY CONNECTED TO THAT ONE SINGLE PURPOSE.

CHIEF JUSTICE: WHY DON'T YOU ADDRESS, SINCE YOU KNOW WHAT THE ISSUES ARE THAT HAVE BEEN RAISED, THEIR CONCERNS ON SINGLE SUBJECT.

THE OONENTS INITIALLY RAISED THE PROPOSED, THE ISSUE THAT THEY BELIEVE THAT THE PROPOSAL LOG ROLLS IN THE SENSE THAT IT CONNECTS STATE LEGISLATIVE AND CONGRESSIONAL REDISTRICTING IN ONE PROPOSAL, AND THEY WOULD SAY THAT THAT IS LOG ROLLING. THE TEST IN ORDER TO DETERMINE WHETHER THERE IS IMPERMISSIBLE LOG ROLLING, THIS COURT HAS ANNOUNCED IN SEVERAL CASES, IS THAT THIS COURT MUST EXAMINE THE AMENDMENT AND DETERMINE WHETHER IT MAY BE VIEWED LOGICALLY AS HAVING ONE NATURAL RELATION AND CONNECTION AS COMPONENT PARTS OR ASPECTS OF A SINGLE DOMINANT PLAN OR SCHEME.

CHIEF JUSTICE: THE FACT THAT IT IS A DIFFERENCE IN THE WAY THAT THE LEGISLATIVE REAORTIONMENT OCCURS IN THE CONGRESSIONAL REAORTIONMENT, DOESN'T THAT IN ITSELF, CREATE TWO DISPARATE SITUATIONS?

NO , YOUR HO NOR , IT DOES NOT , AND THE REASON WHY , ISTHAT THE NATURAL PURPOSE IS TO ELIMINATE THE POLITICAL PARTISANSHIP OUT OF THE REDISTRICTING PROCESS. THE FACT THAT THERE ARE TWO SEPARATE PROCEDURES THAT CURRENTLY UNDE RGO TO DAY, DOES NOT MAKE THIS A SINGLE SUBJECT ISSUE.

BUT ISN'T THERE A REAL DIFFERENCE BETWEEN CONGRESSIONAL REDISTRICTING AND LEGISLATIVE REDISTRICTING ? IN ONE, THE PO WER OF THE COURT OR ANYBODY , ANY BRANCH OF GOVERNMENT , TO CH ANGE CONGRESSIONAL DISTRICTING F ROM BEING THE PREROGATIVE OF THE LEGISLATURE , BY REA SON OF THE PROVISION OF THE UNITED STATES CONSTITUTION SAYS IT IS TO BE DONE BY THE LEGISLATURE.

WELL , I BELIEVE THAT THAT IS NOT AN ISSUE FOR SINGLE SUBJECT DETERMINATION BEFORE THIS COURT. IF THERE IS A ISSUE WITH RESPECT TO UN ITED STATES CONSTITUTION, THAT IS A ISSUE TO BE ADDR ESSED OUTSIDE OF THE SCOPE OF THIS COURT'S RE SLEW OF THE SINGLE SUBJECT - - REVIEW OF THESINGLE SUBJECT ARE A, AND YOUHAVE SA ID THAT IN NUME ROUS C ASES.

THAT GO ES TO THE CONSTITUTIONALITY OF THE M ETHOD OF THE REDISTRICTING , BUT HOW CA N IT BE THE SAME SUBJECT?

WELL , A GAIN , IT IS THE SAME SUBJECT, BECAUSE IT IS LOGICALLY AND NAT URALLY COLLECTED THAT THE PEOPLE WHO HAVE SIGNED THESE PETITIONS, WANT TO T AKE PARTISANSHIP OUT OF THE PROCESS. THEY WANT A COMMISSION TO DO IT, AS OOSSED TO THE LEGISLATURE , AND THE GOVERNOR, AND , AGAIN, IF WE WANT TO GET TO THAT ISSUE, TOO , THAT IS IN THIS PROCESS , THE GO VERNOR ACTS AS A PARTISAN ACTOR IN THIS PROCESS AS WELL , AND I BELIEVE THAT IS CONCEDED BY THE OO NENTS , IN THIS INSTANCE SAYING WE ARE INTERFERING .

CHIEF JUSTICE: HOW FAR COULD YOU GO? COULD YOU SET UP A NONSPARTSAN COMMISSION AND SAY THAT ALL OF THE OTHER OFFICES THAT ARE GOING TO BE CONTROLLED THROUGH THIS NONPARTISAN COMM ISSION ? IN OTHER WORDS AT WHAT POINT OR BECAUSE YOU SAY IT IS REDISTRICTING THAT THAT MAKES IT NARROWER?

WE ARE TALKING A BOUT THE FUNCTION TO DO LEGISLATIVE AND CONGRESSIONAL REDISTRICTING TO ESTABLISH THE DISTRICTS OF THE PE OPLE , AS WE SAID , AND THAT IS TO ESTABLISH THE SINGLE FUNCTION THAT THIS AMENDMENT DEALS WITH. W E ARE NOT DE ALING WITH DEALING WITH THIS COMMISSION SETTING UP SC HOOOL BOARD DISTRICTS AND COUNT Y COMMISSION DISTRICTS OR CITY DIS TRICTS. WE ARE TALKING AB OUT THEFUNCTION OF THE LEGISLATIVE DISTRICTS THAT THE LEGISLATURE CURRENTLY OPERATES IN THAT REAL M.

CHIEF JUSTICE: NO W, HOW ABOUT THE ISSUE OF THE STANDARDS? THAT IS THAT AL THOUGH IT HAS BEEN THE PRAC TICE TO HAVE SINGLE MEMBER DISTRICTS , IT IS NOT ENSH RINED IN THE CONSTITUTION, AND SO THAT NOW WE HAVE A SITUATION WHERE NOT ONLY THE ME THOD IS BEING CHANGED BUT STANDARDS ARE BEING ENSHRINED INTO THE CONSTITUTION.

WELL , STA NDARDS ARE CURRENTLY ENSH RINED IN THE CONSTITUTIONAL PROV ISION THAT IS THERE NOW. THERE ARE STAN DARDS IN THERE THAT TALK ABOUT THAT WE ARE GOING TO HAVE NO MORE THAN 30 OR NO LESS THAN 30 AND N O MORE THAN 40 STATE SENATE DISTRICTS.

WHY DO YOU NEED THAT IN THE SNAEMENT.

PARDON ME?

WHY DO YOU N EED THAT IN THE AMENDM ENT? IT IS IN THERE NOW?

WE HAVE INCORPORATED THAT AS PART OF THE AMENDMENT WE ARE TALKING ABOUT, T RY IN G

TO DISTINGUISH THAT FROM THE ADDITION OR REFERENCE FROM THE SINGLE MEMBER DISTRICT STANDARD, ALREADY PART OF THIS AMENDMENT AND NOT CHALLENGED BY THE OPONENTS. WHAT THEY ARE CHALLENGING IS I GUESS THE ADDITION OR HIGHLIGHTING OF THE SINGLE-MEMBER DISTRICT PROPOSED.

CHIEF JUSTICE: IS THAT NOT A CHANGE?

IT IS A CHANGE THAT IS HIGHLIGHTED BUT IT IS NOT A SINGLE SUBJECT PROBLEM, BECAUSE I DON'T THINK WE CAN CONCEDE OR EVEN ACKNOWLEDGE, AND I DON'T THINK THE COURT COULD SAY THAT STANDARDS WOULD BE AN INAPPROPRIATE SUBJECT FOR INCLUSION IN THIS AMENDMENT, BECAUSE WE CAN TALK ABOUT THE SCOPE AND THE MEANS OF IMPLEMENTATION OF AN AMENDMENT, IN A PROPOSED INITIATIVE PROPOSAL, AND THIS COURT HAS SAID THAT ON NUMEROUS OCCASIONS.

CHIEF JUSTICE: WELL, EXCEPT THAT ONE IS A MECHANISM, AND THE OTHER IS LIMITING HOW THE PROCEDURE IS BEING CARRIED OUT. AND WE HAVE SO MANY CASES WHERE YOU CAN'T, THE TAX AND THE FEE, YOU KNOW, SO THAT WHEN WE GO TO A CITIZENS PROPOSAL, THE SINGLE SUBJECT IS SOMETHING THAT WE TAKE PRETTY SERIOUSLY ABOUT NOT HAVING, EVEN IF THEY ARE LOGICALLY RELATED, THEY ARE NOT NECESSARILY INCLUDED AS PART OF THE AMENDMENT, SO THAT IT IS AN ADD-ON.

I THINK THAT YOUR HONORABLE FRIENDS THAT IS THE ISSUE, THEN IT WOULD HAVE PROBABLY -- IF THAT IS THE ISSUE, THEN IT WOULD HAVE PROBABLY BEEN INAPPROPRIATE TO INCLUDE THE 30, 40 AND 80-TO-120, BECAUSE THAT IS THE STANDARD THAT LIMITS THE LEGISLATURE AND THE COMMISSION IN THIS CASE, FROM CREATING DISTRICTS OUTSIDE OF THOSE PARAMETERS, BUT THE ONLY ATTACK HERE -- .

I HAD A QUESTION ABOUT THAT, BECAUSE IT SEEMS TO ME THAT SUBSECTION A IS A DIFFERENT SUBJECT FROM THE FOLLOWING PARAGRAPHS ONE AND TWO, WHICH ARE THE COMPOSITION OF THE COMMISSION AND THE MEMBERS OF THE COMMISSION, WHEREAS PARAGRAPH A SEEMS TO BE ABOUT THE COMPOSITION OF THE DISTRICTS. WHY AREN'T THOSE TWO SEPARATE SUBJECTS?

AGAIN, THE TEST THAT THIS COURT HAS PUT FORWARD, THE TEST OF ARE THEY NATURALLY AND LOGICALLY CONNECTED. NOW, IF WE HAVE A PROCESS, I GUESS YOU COULD TALK ABOUT SUBSECTION C IN TERMS OF THE COURT HAVING A ROLE IN THIS AS WELL. THE NOLLE PROSES IS WE WANT TO ADDRESS THE PROCESS -- THE NOLLE PROSES, IS -- THE NATURAL PROCESS WE WANT TO ADDRESS THE PROCESS FROM BEGINNING TO END. WE WANT TO HAVE A PROCESS, PROVISION IN PLACE FOR THEIR ASSIGNMENT, HOW THEY OPERATE AND HOW THEY FAIL TO REACH AN AGREEMENT, JUST LIKE WITH THE CONSTITUTIONAL --

I DEGREE AND I DON'T HAVE A PROBLEM WITH THAT. THE PROBLEM I HAVE IS WITH PARAGRAPH A, WHICH IS TOTALLY DIFFERENT FROM THE OTHER PARAGRAPHS, TALKING ABOUT THE COMMISSION AND WHAT HAPPENS IF YOU DON'T AGREE AND WHO IS ON THE COMMISSION AND ALL OF THAT. PARAGRAPH A HAS NOTHING TO DO WITH THAT.

PARAGRAPH A BASICALLY SAYS WE ARE GOING TO HAVE A COMMISSION TO DO THIS, AND WE ARE GOING TO DO IT WITHIN THESE PARAMETERS.

BUT IT DOES MORE THAN THAT. IT SAYS A COMMISSION SHALL DIVIDE THE STATE INTO NOT LESS OR MORE THAN 40 CONSECUTIVELY NUMBERED SENATORIAL DISTRICTS AND NOT LESS THAN 80 NOR MORE THAN 120 SINGLE MEMBER REPRESENTATIVE DISTRICTS. THAT SEEMS TO SAY NOT ONLY WHAT THE COMPOSITION OF THE COMMISSION IS BUT THE COMPOSITION OF THE STATE DISTRICTS.

AND, AGAIN, I THINK THAT STANDARDS IS NOT A SEPARATE SUBJECT THAT IS SEPARATE AND

APART , BECAUSE EVEN THOUGH THERE WAS A SEPARATE STANDARDS AMENDMENT THAT WAS OUT THERE AS PART OF THIS INITIAL PROPOSAL , THAT PROPOSAL DID SOME VERY , V ERY DIFFERENT THINGS THAN WHAT THIS PARTIC ULAR PROV ISION THAT IS INCLUDED IN HERE.

THE ONE THAT HAS BEEN WITHDRAWN?

THAT IS THE ONE THAT WAS STRICKEN BY THE SECRETARY OF STATE.

CHIEF JUSTICE: IF YOU WANT TO GO ON TO THE BA LLOT ISSUES.

THE SUMMARY.

CHIEF JUSTICE: TO THE SUMMARY .

THE ISSUES WITH RESPECT TO THE SUMMARY ARE AS POSEDBY THE OONENTS, ARE THAT WE WERE INACCURATE AND MISLEADING IN USING THE TERM NONPARTISAN , AND THAT WAS ONE OF THEIR PR IME ATTACKS. WE BELIEV E WE ARE NOT. THE DICTIO NARY DEFINITIONS OF NONPARTISAN SAYS IT IS NOT CONTROLLED BY ANY ONE POLITICAL PART Y. THAT WAS A DIC TIONARY DEFINITION WE HAVE CITED IN OUR BRIEF.

WELL , IN THE LANGUAGE, YOU YOU SPEAK TO NONPARTISAN METHOD OF AOINTMENT.

UM-HUM .

WE CAN AGREE OR DISAGREE WITH THE COMMISSION ITSELF , IT IS NONPARTISAN, BUT WHAT ABOUT THE ME THOD?

WELL , THE METH OD IS IT GOES TO THE ISSUES OR THE PROVISIONS OF THE AMENDMENT THAT SAY WE CANNOT HAVE PARTY OPERATIVES WITHIN A PARTY OF TIME WHO SERVE AS ELIGIBLE MEMBERS OF THE COMMISSION, AS WELL AS THE FACT THAT THE CHIEF JUSTICE OF THIS COURT HAS BEEN GIVEN THE POWER IN THE AMENDMENT, TO AOINT THE THREE MEMBERS OF THE COMMISSION WHO ARE NOT MEMBERS OF E ITH ER POLITICAL PARTY.

BUT AREN'T 80 PERCENT OF THE MEMBERS AO INTED THROUGH A PARTISAN METH OD?

THEY ARE AOINTED BIPARTISAN OFFICERS OF THE LEGISLATURE, YES. B UT, AGA IN, IT COULD BE , I WILL CONCEDE THAT IS THE CASE, THAT THEY ARE AOINTED, BUT THE WHOLE PROCESS THAT WE ARE TALKING ABOUT IS TO TRY TO , BECAUSE OF THE QUALIFICATIONS OF THE INDIVIDUALS , THAT THEY ARE NOT GOING TO BE PARTISAN OPERATIVES, BECAUSE THEY HAVE THIS PER IOD OF TIME THAT THEY CANNOT BE IN THOSE POSITIONS , PRIOR TO THEIR AOINTMENT.

SO MORE ACCURATELY , IT WOULD SAY ESTABLISHES A NONPARTISAN COMMISSION .

WELL , I THINK WE CAN QUIBBLE O VER MORE ACCURATE OR NOT , YOUR HONOR, BUT THE F ACT IS WE BELI EVE THAT THE LIMITATION OR THE PROCESS WE ARE DESCRIBING IS A NONPARTISAN PROCESS, AS OOS ED TO DI RECT AOINTMENT OF ALL OF THE MEMBERS OF SPECIFIC PARTISAN IS OPERATIVES. -- PARTISAN SPRAFS . -- OPERATIVES .

CHIEF JUSTICE: I THINK THE OTHER QUESTION IS THE QUESTION OF THE OATHS AND WHETHER THAT IS LIMITATION, ESPECIALLY AS TO ON THE CONGRESSIONAL SIDE WHETHER IT IS ENFORCEABLE OR NOT.

WELL , EVEN AT THE STATE LEGISLATIVE SIDE , THE O A THS ARE LI MITATIONS ON WHO CAN AOINT OR WHO CAN SERVE. I F A PERSO N IS UNWILLING TO TAKE THE OATH, THEY CANNOT SERVE . WE DRAFTED IT THE WAY IT IS DRAFTED FOR THE EXPRESS PURPOSE OF AVOI DING

THE QUALIFICATION ISSUE, BECAUSE WE KNOW THAT WE CAN'T EFFECT THE QUALIFICATIONS OF MEMBERS OF CONGRESS.

WELL, IF THAT IS THE CASE, AND I THINK YOU ARE RIGHT, THEN HOW CAN YOU SAY IN THE SUMMARY THAT IT LIMITS?

IF SOMEONE IS UNWILLING TO TAKE THE OATH, THEY ARE NOT GOING TO BE ABLE TO SERVE.

WHAT IF SOMEBODY TAKES THE OATH AND VIOLATES IT?

WELL, I THINK THAT THAT, THE ULTIMATE QUESTION IS WILL THAT PERSON BE ABLE TO GET ON THE BALLOT IF THEY QUALIFY. THIS WILL NOT PROHIBIT THEM FROM DOING THAT, BUT WE THINK IT IS A LIMITATION AS OPPOSED TO A PROHIBITION, BECAUSE ASSUME THAT PEOPLE ARE GOING TO LIVE UP TO THE OATHS THEY HAVE TAKEN.

SO THE LIMITATION IS REALLY NOT ON SEEKING THE OFFICE. IT IS LIMITING WHO CAN SERVE SOUGHT COMMISSION.

AND, AGAIN, WE ASSUME THAT -- SERVE ON THE COMMISSION.

AGAIN, WE ASSUME WHEN PEOPLE RAISE THEIR HAND TO TAKE AN OATH, WE ASSUME THAT THEY WILL UPHOLD THAT OATH AND WILL BE PERMITTED IN THE OFFICE. WE DON'T INTEND TO RESTRICT.

BECAUSE OF THE JLC IN THE CONSTITUTION, YOU ARE INELIGIBLE TO SERVE FOR A TWO-YEAR PERIOD. YOU ARE TALKING ABOUT INELIGIBILITY. THIS REALLY SPEAKS ABOUT LIMITING SEEKING OFFICE BUT THERE IS REALLY NO BINDING LIMITATION. THERE IS A MORAL LIMITATION BUT NOT --

WE HAVE RUN INTO THE PROBLEM OF ADDING ADDITIONAL QUALIFICATIONS FOR CONGRESS THAT WE DIDN'T WANT TO DO.

CAN WE, JUST I SAY YOUR TIME IS GETTING CLOSE HERE. CAN WE ADDRESS THE ISSUE OF THE PETITION THAT WAS ACTUALLY SIGNED BY THE VOTERS, THE 600,000 SOME-ODD SIGNATURES THAT YOU GO TO. THE ARGUMENT IS BEING MADE HERE, THAT THE PEOPLE WHO SIGNED THIS MAY HAVE BEEN DECEIVED IN BELIEVING THEY WERE JUST SIGNING MULTIPLE COPIES OF ONE PETITION, AS OPPOSED TO THREE SEPARATE PETITIONS. AND IS THIS THE SAME PETITION THAT WAS GIVEN TO THE SECRETARY OF STATE? THOSE TWO ISSUES.

THE TEXT OF THE PETITIONS, EACH OF THEM IS IDENTICAL TO THE TEXT THAT WAS APPROVED BY THE SECRETARY OF STATE. THERE IS NO CHANGE TO ANY WORD IN THE TEXT OF THE PETITION. THE IN --

WERE THEY PUT TOGETHER THE SAME WAY?

THEY WERE PUT TOGETHER AND THEY HAD SOME INSTRUCTIONS ON THE FRONT. NOW, THAT ONLY AFFECTS SOME OF THE PETITIONS. ALL THE PETITIONS THAT WERE APPROVED, DIDN'T BASICALLY, WEREN'T THIS THREE-PACK THAT YOU HAVE IN FRONT OF YOU. THEY WERE DOWNLOADABLE FROM A COMPUTER. WE HAD SINGLE PETITIONS THAT WERE OUT THERE AS WELL. BUT, AGAIN --

CHIEF JUSTICE: ARE YOU SUGGESTING THAT THAT SHOULD BE SOMETHING THAT HAS TO BE CHALLENGED IN A CIRCUIT COURT DECLARATORY JUDGMENT ACTION? IN THAT I DO HAVE, I MEAN THE ONES THAT SAY "SIGN ALL THREE PETITIONS AND MAIL THEM", AS OPPOSED TO THE ONE THAT WAS IN THE EVERGLADES CASE, WHICH SAYS "SIGN ANY AND ALL", SEEM TO BE PROBLEMS.

IT IS OUR POSITION THAT THAT ISSUE OF WHETHER THERE WAS SOME KIND OF FRAUD COMMITTED UPON --

CHIEF JUSTICE: NOT FRAUD BUT WHETHER SOMEONE WAS LED TO THINK THAT THESE ARE ALL--

IT IS NOT AN ISSUE BEFORE THIS COURT IN THIS PROCEEDING, IN TERMS OF SINGLE SUBJECT AND BALLOT TITLE AND SUMMARY.

HOW DID WE ADDRESS IT IN THE EVERGLADES CASE? IT SEEMS TO ME THAT WE DID IN FACT, HAVE AN ISSUE IN THE EVERGLADES CASE AS TO WHETHER OR NOT THE PETITIONS THAT WERE SIGNED HAD ACTUALLY BEEN CHANGED FROM THOSE THAT WERE APPROVED BY THE SECRETARY OF STATE, SO THIS COURT DID ADDRESS THAT ISSUE.

THAT WAS ONE OF THE ISSUES. THE WORDING OF THE AMENDMENT, ITSELF, WAS CHANGED IN THE EVERGLADES CASE, BUT WHAT THEY SAID, WHAT YOU SAID IN YOUR DECISION, WAS EACH PROPOSAL ADDRESSES A SINGLE SUBJECT. EACH IS CLEARLY FREE STANDING, AND THE SIGNERS COULD SORT OR REJECT EACH ONE OF THEM, AND THAT IS WHAT THEY COULD HAVE DONE HERE, TO O.

IF A VOTER ACTUALLY HAD THE PACKAGE WHERE THE THREE OF THEM ARE TOGETHER, AND ALL YOU SEE, REALLY, IS THE TOP ONE, AND THEN YOU SEE A SIGNATURE LINE FOR THE SECOND ONE, AND THEN YOU SEE A SIGNATURE LINE FOR THE THIRD ONE, IT -- IS A VOTER REALLY ON NOTES IE SIGNING THREE COPIES OF THE SAME PETITION?

THERE ARE A LOT OF EVIDENTIARY QUESTIONS IN YOUR ISSUE, YOUR HONOR, AND OUR ANSWER IS YES, IT IS, BECAUSE THERE ARE THREE SEPARATE PETITIONS AND THEY HAD TO SIGN IT THREE TIMES.

CHIEF JUSTICE: YOU ARE IN YOUR REBUTTAL -- REBUTTAL, IF YOU WANT TO SAVE YOUR TIME.

THANK YOU.

MAY IT PLEASE THE COURT. MY NAME IS ADUDLY GOODLETTE, AND I AM WITH THE FIRM OF GOODLETTE, COLEMAN AND JOHNSON, TOGETHER WITH GEORGE MORRIS AND THE FIRM OF ALAN GROBINSON, AND THE HONORABLE SPEAKER OF THE HOUSE ALLAN BENSON.

YOU ARE GOING TO DIVIDE USUAL TIME?

YES, WE ARE, CHIEF JUSTICE. I AM GOING TO SPEND TEN MINUTES TALKING ABOUT SINGLE SUBJECT ISSUES AND THEN MR. GEORGE IS GOING TO SPEND TIME TALKING ABOUT THE REMAINING AND MR. MIGUEL DE GRANDY IS GOING TO BE HERE ON BEHALF OF THREE CONGRESSMEN AND CONGRESSWOMAN AND HE IS YIELDING HIS TIME TO ME, AND I WILL MAKE ARGUMENTS ON HIS PETITION AS WELL AS MY OWN -- ON HIS PETITION, AS WELL AS MY OWN. THIS COURT HAS REPEATEDLY RECOGNIZED THAT ANY ANALYSIS WITH REFERENCE TO A SINGLE SUBJECT MUST BE BEGIN WITH THE QUESTION WHY WAS THE SINGLE SUBJECT CLAUSE PUT INTO THE CONSTITUTION IN THE FIRST PLACE. AND THE ONLY PROPER WAY TO RESOLVE THAT ISSUE, IS BY LOOKING TO THE FUNDAMENTAL POLICIES THAT UNDERLIE THE ARTICLE XI SECTION 3. THAT IS, OF COURSE, AS THE COURT HAS ALREADY RECOGNIZED, TO PROTECT AGAINST LOGROLLING, TO PROTECT AGAINST THE SUBSTANTIAL IMPACTS TO MORE THAN ONE BRANCH OF GOVERNMENT, AND, OF COURSE, TO PROTECT AGAINST THE PRECIPITOUS AND CATAclysmic CHANGES IN THE FUNDAMENTAL OR ORGANIC LAW. I WANT TO START WITH THE PROTECTION AGAINST PRECIPITOUS AND THE CHANGES IN THE FUNDAMENTAL OR ORGANIC LAW AS, OF COURSE, RECOGNIZED IN THE SAVE OUR EVERGLADES CASE. NOTHING IS MORE FUNDAMENTAL

TO FLORIDA'S ORGANIC LAW THAN THE CAREFULLY CRAFTED SYSTEM OF CHECKS AND BALANCES. THIS INITIATIVE THAT IS PROPOSED, DESTROYS IN OUR JUDGMENT, THE SYSTEM OF CHECKS AND BALANCES THAT PROTECTS THE AORTIONMENT PROCESS . AND IMPORTANTLY, AS TO THE CONGRESSIONAL REDISTRICTING PROCESS , THE , AS WAS Aointed out in a QUESTION EARLIER , MADAM CHIEF JUSTICE, B Y YOU AND JUSTICE WELLS , THE PLENARY P OWER OF CONGRESSIONAL REDISTRICTING IS S FOUND IN ARTICLE I SECTION 4 OF THE UNITED STATES CON -- IS FOUND IN ARTICLE I SECT ION 4 OF THEUNITED STATES CONSTITUTION, WHICH DELE GATES THAT T O STATE LEGISLATURES. IT IS ENA CTED BY -- DOES THAT MAKE THAT A VIOLATION OF THE SINGLE SUBJECT RULE, OR IS THAT AN ISSUE THAT, SIMILAR TO WHEN PEOPLE PASS THE AMENDMENT CONCERNING TERM LIMITATIONS , AND EVENTUALLY IT WAS SAID THAT THIS AMENDMENT COULD NOT BE ALICABLE TO CONGRESSIONAL ELECTIONS. IS THIS THE KIND OF YOU SHALL EW THAT IS R AISED - - ISSUE THAT IS RAISED LATER , OR DOES I T REALLY GO TO WHETHER OR NOT THIS IS A SINGLE SUBJEC T?

WE BELI EVE IT GOES TO BOTH. IT GOES CERTAINLY , TO THE SUBJECT OF , TO THE MATTER OFWHETHER THERE IS A SINGLE SUBJECT, BECAUS E WE DO HAVE DIFFERING SU CKS. WE HAVE LEGISLATIVE REDISTRICTING WHICH IS DONE BY J OINT RESOLUTION OF THE LEGISLATURE, AND WE HAVE CONGRESSIONAL REDISTRICTING, WHICH IS DONE B Y GENERALLAW. AND, OF COURSE, IN THE CONGRESSIONAL REDISTRICT , THERE IS THE ADDI TIONAL B RANCH OF GOVERNMENT, W HICH IS THE EXECUTIVE POWER TO V ETO A CONGRESSIONAL P L AN. WHAT IS IMPORTANT ABOUT THIS INITIATIVE, IS THAT IT NOT ONLY DOES IT ELIMINATE AND WE ALL ACKNOWLEDGE THAT THECREATION OF A COMMISSION IS DESIGNED TO ELIMINATE THE LEGISLATURE'S ROLE, BUT IMPORTANTLY , IT , A LS O , ELIMINATES IN CONG RESSIONAL REDISTRICT, THE ROL E OF THE GOVERNOR TO VETO THE EXECUTIVE POWER OF THE GOVERNOR TO VETO.

CHIEF JUSTICE: ON THAT ONE , IT SEEMS THAT ANYTHING THAT BECOMES ENSHRINED IN THE CONS TITUTION, WILL E ITHET LIMIT, SAY , THE COURT'S ROLE IN TERMS OF WHAT THE CONSTITUTIONAL PARAMETERS ARE OF THE CHALLENGE , BUT , ALSO , IT WILL LIMIT THE GOVERNOR'S VETO POWER , AND IS THAT , ITHINK THAT THAT SAME ARGUMENT CAN BE MADE IN ALMOST ANY CASE WHE RE THE GOVERNOR HAD A VETO , WILL LOSE A VETO.IS THAT THE KIND OF PRECIPITOUS , CATAclysmic CHANGE IN GOV ERNMENT THAT , REALLY , IS A SINGLE SUBJECT VIOLATION ?

Y ES. MADAM CHIEF JUSTICE , I BELIEVE IT IS , BECAUSE IT , IT IS FUNDAMENTAL IN THECHECKS AND BALA NCES. IT ELIM INATES THE BALANCE OF A GOVERNOR'S VETO OF A LEGISLATIVE AC TION.

YOU D O W ONDER HOW , I F, I MEAN WE LE ARN , THIS COURT LEARNED IN 2000 , THAT , WHEN THE LEGISLATURE HAS PL ENARY POWER , THAT THE U N ITED STATES SUPREME COURT FEELS THAT THAT ME ANS THAT POWER IS ONLY WITH THE LEGISLATURE ! NOT EVEN IN THE STATE CONSTITUTION. AND SO WHERE DOES THE GOVERNOR COME IN TO CONGRESSIONAL REDISTRICTING, IF IT IS THE PLENARY POWER OF THE LEGISLATURE TO REDISTRICT?

BECAUSE , JUSTICE WELLS, THE LEGISLATURE DOES THAT BY GENERAL LAW. AND THE GOVE RNOR HAS THE VETO POWER UNDER AR TICLE I II SECTION 8 OF THE CONSTITUTION, ALTHOUGH THAT IS A LEGISLATIVE FUNCTION , IT IS AN EX ECUTIVE POWER AND THAT IS THE WAY IT HAS HISTORICALLY BEEN DONE IN FLORIDA.I THINK IT ALSO TOUCHES U PON , IMPORTANTLY , THE SUBJECT OF MULTIPLE BRANCHES OF GOVERNMENT, WHICH IS ANOTHERREASON THAT THIS IS IN VIOLATION OF THE SINGLE SUBJECT LIMITATION.

CHIEF JUSTICE: SO YOU WOULD SAY, THEN , THE LOGICAL RESULT OF YOUR AR GUMENT , WOULD BE NO MATTER HOW NARROW LY CRAFTED THIS CONSTITUTIONAL AMENDMENT WAS, IF THE CITIZENS OF THIS STATE WANTED TO CHANGE THE METHOD OF REDISTRI CTING IN ORDER TO TA KE IT OUT OF THE LEGISLATIVE HA ND S WHEN IT C AME TO THE STATE LEGISLATURE , JUST

LEAVE THE CONGRESSIONAL PART OUT OF IT , THAT THEY WOULD BE PRECLUDED FROM DOING THAT, OR COULD IT BE NARROWLY DRAWN , IF IT WAS JUST A NONPARTISAN STATE LEGISLATIVE REAPPORTIONMENT COMMISSION?

MADAM CHIEF JUSTICE , I CAN I THINK IT COULD BE DONE. -- I THINK IT COULD BE DONE. I THINK IT WOULD HAVE TO BE A NARROWLY REDRAWN. I THINK IT IS DIFFICULT TO DO IT WITH THIS PETITION PROCESS, BECAUSE OF THE SINGLE SUBJECT LIMITATION. I THINK IT CAN BE DONE IN A CONSTITUTION REVISION COMMISSION. I THINK IT COULD BE DONE BY CONSTITUTIONAL CONVENTION. OTHER METHODS OF AMENDING THE CONSTITUTION. HOWEVER , I THINK IT COULD BE DONE BY A PETITION INITIATIVE AND COMPLY WITH THE SINGLE SUBJECT. I THINK IT IS IMPORTANT , HOWEVER , FOR THEM TO STEP , FROM THE STANDPOINT OF SEPARATION OF POWERS, TO NOT HAVE A JUDICIAL ROLE IN APPOINTING THE MEMBERS AS THIS INITIATIVE DOES , AND I THINK IT IS , ALSO , IMPORTANT TO ENSURE THAT THE COMMISSION IS DRAFTED , IN APPOINTED IN SUCH A WAY AS TO ENSURE INTEGRITY AND TO AVOID THE POSSIBILITY OF A CONFLICT WITH THE JUDICIARY, IF THEY ARE TO BE APPOINTED.

CHIEF JUSTICE: DOESN'T THAT GO TO THE MERITS OF THE PROPOSAL AND HOW IT IS DRAFTED AS OPPOSED TO A SINGLE SUBJECT VIOLATION?

I AM SORRY?

CHIEF JUSTICE: DOESN'T IT REALLY GO TO THE MERITS OF WHETHER IT IS A GOOD IDEA OR NOT , AS OPPOSED TO WHETHER IT IS A SINGLE SUBJECT VIOLATION? AND AS YOU KNOW , WE DO NOT GET INTO THE MERITS OF WHETHER THIS IS A GOOD IDEA OR NOT.

I UNDERSTAND THAT , BUT I DO THINK THAT IT IS INCUMBENT UPON THE COURT AT THE REVIEW STAGE OF WHERE WE ARE RIGHT NOW IN THIS PROCESS, TO ENSURE THAT THE SINGLE SUBJECT LIMITATION IS NOT VIOLATED , AND TO ENSURE THAT THE INTEGRITY OF THE COMMISSION IS PRESERVED. I GUESS MY POINT THERE , IS THAT I HAVE RECOGNIZED AND , OF COURSE , IN RECENTLY THE CASE OF THE HOMETOWN DEMOCRACY CASE THAT, THIS COURT INDICATED THAT MERELY EFFECT -- AFFECTING MULTIPLE BRANCHES OF GOVERNMENT IS INSUFFICIENT TO INVALIDATE , AND AS THIS PROPOSAL SUBSTANTIALLY ALTERS OR SUBSTANTIALLY CONFORMS MULTIPLE BRANCHES OF GOVERNMENT, THAT IT DOES STAND THAT TEST.

I WANTED TO ASK BEFORE YOUR TIME IS UP , CONCERNING COUNSEL MR . HERON SAYS THAT THE SINGLE SUBJECT OF THE NUMBER OF DISTRICTS FOR SENATE AND LEGISLATURE IS THE SAME SUBJECT AS THE COMPOSITION OF THE COMMISSION. SO FAR YOU HAVEN'T ADDRESSED THAT.

THANK YOU , JUSTICE CANTERO . I WANTED TO ADDRESS THAT , AND IT IS CLEARLY SEPARATE SUBJECTS. THE COMPOSITION OF THE COMMISSION IS ONE SUBJECT , AND THE ABILITY TO -- OF THE COMMISSION IS ONE SUBJECT AND THE ABILITY TO COMPOSE THOSE COMMISSIONS IS AN ENTIRELY SEPARATE SUBJECT AND IT IS ENFORCEABLE BY LAW , SO IT IS MY INTERPRETATION THAT THOSE ARE INDEED SEPARATE SUBJECTS AND THE STANDARDS ARE SEPARATE SUBJECTS AND THAT IS WHY THEY HAD A SEPARATE PETITION THAT THE SECRETARY OF STATE THREW OUT THAT DID NOT PERMIT TO GO FORWARD , AND I THINK THAT IS EVIDENCE OF THE FACT THAT THERE ARE MULTIPLE SUBJECTS EMBODIED IN THIS INITIATIVE, AND I THINK MY TIME IS UP.

CHIEF JUSTICE: IF YOU ARE USING , YOU HAVE ABOUT ANOTHER MINUTE.

THAT IS FINE. BUT I DO THINK IT IS MULTIPLE. THERE ARE MULTIPLE SUBJECTS IN THAT REGARD. LET ME, ALSO, SAY THAT THE , THESE ARE CHANGES, THE STANDARDS BEING CONTEMPLATED HERE ARE CHANGING , AND I THINK THAT THAT IS NOT ONLY A SINGLE SUBJECT ISSUE, BUT THAT IS , ALSO, A MISLEADING ISSUE THAT RELATES TO WHAT MR. RICHARD IS GOING TO BE DISCUSSING WITH RESPECT TO THE MISLEADING BALLOT TITLE AND SUMMARY.

CHIEF JUSTICE: IS THAT WHERE YOU ARE TALKING ABOUT THE QUESTION OF THE SINGLE MEMBER DISTRICT? WHAT CHANGES FROM WHAT IS THE CURRENT LAW?

WELL, WHAT CHANGES IS CURRENTLY WE COULD HAVE MULTIMEMBER DISTRICTS AND WE HAVE HAD MULTIMEMBER DISTRICTS, AND THE OTHER CONCERN THAT WE HAVE IS THAT THE NOTION OF VENT CONTIGUOUS. WHAT DOES VENT REALLY MEAN -- WHAT DOES CONVENIENT REALLY MEAN, THAT IS A NEWSUBJECT, AND WE BELIEVE THAT THAT IS SOMETHING THAT, WITHOUT HAVING THE EDIFICATION OF WHAT WOULD HAVE BEEN THE FIRST AMENDMENT, CREATES EVEN MORE CONFUSION GOING FORWARD FOR THE VOTERS IN THIS CASE.

CHIEF JUSTICE: NOW YOU ARE INTO HIS TIME.

LET ME YIELD THE BALANCE OF MY TIME. THANK YOU.

MAY IT PLEASE THE COURT. EXCUSE ME. I AM BARRY RICHARD. I AM COUNSEL FOR SENATORS CLARY, SEBESTA AND LAWSON. THE TERM NONPARTISAN IS DEFINED IN STATUTE. THERE IS NO NEED TO LOOK TO A DICTIONARY DEFINITION, ALTHOUGH THEY ARE CONSISTENT. NOT ONLY IS IT DEFINED IN STATUTE. IT IS USED IN ARTICLE 18 STATUTORY PROVISIONS IN THE FLORIDA CODE, AND IN THOSE PROVISIONS AND IN ITS COMMON USAGE IN ITS HISTORIC AND CONSISTENT USAGE, IT HAS ALWAYS MEANT ONE THING AND ONLY ONE THING, AND THAT IS THAT IN THE SELECTION PROCESS, WHEREVER IT MAY BE, THAT PARTIES AND PARTY AFFILIATION PLAYS NO ROLE.

SO DOES THAT MAKE THIS COURT A PARTISAN BODY WHEN YOU ANSWER THAT QUESTION --

THIS COURT A PARTISAN BODY? WELL, NOT BY FLORIDA DEFINITION, BECAUSE THIS COURT IS SELECTED BY A PROCESS THAT EXPRESSLY AVOIDS PARTIES PARTICIPATING IN THE SELECTION PROCESS.

CHIEF JUSTICE: RIGHT NOW WE HAVE THE GOVERNORS APPOINTED TO THE NOMINATING COMMISSION, AND THAT IS PURELY A PARTISAN PROCESS. YOU ARE ARGUING HERE THAT BECAUSE PARTISANSHIP GOES INTO WHO IS BEING SELECTED, THAT THE PROCESS REMAINS PARTISAN, AND THAT WOULD MAKE OUR JUDICIAL NOMINATING COMMISSION PROCESS PARTISAN.

ACTUALLY, WE ARE NOT TALKING ABOUT WHETHER OR NOT SOMETHING IS PARTISAN. WE ARE TALKING ABOUT WHETHER OR NOT THE SUMMARY IS MISLEADING. EXCUSE ME. THERE IS NO USE OF THE WORD NONPARTISAN WITH REGARD TO THE APPOINTMENT OF JUSTICES TO FILL OPEN POSITIONS. BUT WHEN JUDGES SEEK OFFICE, THEY ARE NONPARTISAN ELECTIONS, AND WHAT MAKES THEM NONPARTISAN IS NO PARTY NOMINATES A CANDIDATE FOR THE OFFICE OF A JUDGE, AND THE JUDGE CANNOT RUN ON A PARTY TICKET. THAT IS WHAT NONPARTISAN MEANS. IT IS WHAT IT ALWAYS MEANT, AND SO WHEN THIS BALLOT SUMMARY SAYS, AS JUSTICE BELL NOTED, THAT THIS IS A NONPARTISAN METHOD OF SELECTION, WHAT IT TELLS THE VOTERS IS PARTIES PLAY NO PART IN THE SELECTION METHODOLOGY. NOTHING CAN BE FURTHER FROM THE TRUTH! THIS AMENDMENT PROVIDES FOR PARTY LEADERSHIP AND PARTY CAUCUSES TO SELECT TWELVE OF THE 15 MEMBERS, AND IT IS MATERIAL. THERE MAY BE MANY VOTERS OUT THERE THAT WOULD PREFER THAT THE ENTIRE LEGISLATURE DRAW THE LINES THAN A COMMISSION, MOST OF WHICH IS SELECTED BY A HANDFUL OF PARTY LEADERS, SO WHAT WE ARE TALKING ABOUT, I DO NOT, THIS, AS FAR AS THE CONSTITUTIONALITY IS CONCERNED, IN MY VIEW, THIS CAN BE TOTALLY PARTISAN, BUT YOU CAN'T TELL THE VOTERS THAT IT IS NONPARTISAN, AND THAT IS THE ISSUE YOU HAVE HERE. THE SECOND ISSUE IS THE QUESTION OF -- THE ISSUE HERE. THE SECOND ISSUE IS THE QUESTION OF THE DISCONNECT.

I AM SORRY, BEFORE YOU GET TO THAT, YOUR ARGUMENT IS IF THE SUMMARY SAID IT ESTABLISHES A NONPARTISAN COMMISSION, THAT WOULD NOT BE MISLEADING.

WELL , I DON'T KNOW. I LEARNED LONG AGO NOT TO ASSUME A BURDEN I DON'T HAVE TO ASSUME , AND WHETHER OR NOT YOU WOULD REFER TO THE COMMISSION AS NOT , I WOULD SAY THE TERM NONPARTISAN IN MY , TO MY KNOWLEDGE, HAS NEVER BEEN USED TO DESCRIBE A BODY IN FLORIDA LAW . NOR IS IT COMMONLY USED TO DESCRIBE A BODY IN ORDINARY LANGUAGE. IT IS USED TO DESCRIBE A SELECTION PROCESS , SO WE DON'T REFER TO THE LEGISLATURE. WE DON'T REFER TO A COURT. WE DON'T REFER TO ANYBODY AS PARTISAN OR NONPARTISAN. WE REFER TO THE SELECTION PROCESS. AND THAT IS WHAT THIS AMENDMENT DOES, AND IT HAS A SPECIFIC MEANING, AND IT IS QUITE THE OPPOSITE OF WHAT ACTUALLY HAPPENS HERE.

ARE YOU GOING TO SPEAK TO THE SIGNATURE ISSUE ? OR IS SOMEONE ELSE?

THE TRIFLE BALLOT? YES , YOUR HONOR.

I HAVE A QUESTION THERE AS TO WHERE THIS COURT'S JURISDICTION COMES FOR US TO CONSIDER THAT ISSUE. THE CONSTITUTION IN ARTICLE V , SAYS THAT WE ARE TO REVIEW THESE PETITIONS THAT ARE SUBMITTED TO US BY THE ATTORNEY GENERAL IN ACCORDANCE WITH GENERAL LAW , AND THE GENERAL LAW , IT APPEARS TO BE FROM 16.061 FLORIDA STATUTES AND THAT , REALLY, LIMITS US TO A REVIEW OF THE , GIVE AN ADVISORY OPINION REGARDING THE COMPLIANCE OF THE TEXT OF THE PROPOSED REVISION AND THE COMPLIANCE OF THE PROPOSED BALLOT TITLE AND SUBSTANCE WITH SECTION 101.161, BUT WHERE DO WE GET OUR JURISDICTION?

YOUR HONOR , I THINK THAT IS PRECISELY WHERE YOU GET IT. NOTHING IN SECTION 101.161 SAYS THAT THE BALLOT , TITLE AND SUMMARY CAN BE MISLEADING AS IT APPEARS ON THE PETITION. IT DOESN'T LIMIT IT --

I AM TALKING ABOUT THE THREE SIGNATURE PROBLEM.

YES, YOUR HONOR. THE ROPE THAT IT IS MISLEADING IS BECAUSE THE ONLY VISIBLE SUMMARY THAT THE VOTERS SAW IN THIS CASE WAS A SUMMARY THAT NOT ONLY IS NOT THE ONE THAT WILL BE ON THE BALLOT. IT IS ONE THAT HAS BEEN WITHDRAWN FROM THE BALLOT , AND THAT IS THE ONLY SUMMARY THAT THEY SAW , UNLESS THEY DUG DOWN TO THE THIRD PAGE , AND WHAT THIS COURT HAS GOT TO DECIDE IS WHETHER OR NOT THAT IS MISLEADING , PARTICULARLY GIVEN THE FACT THAT IN THIS INSTANCE , IT SAID SIGN ALL THREE PETITIONS. IT GAVE THEM NO INDICATION OF THE FACT THAT THE OTHER TWO PAGES WERE CALLING FOR DIFFERENT AMENDMENTS .

I REALIZE THAT THERE IS SOME LANGUAGE IN EVERGLADES THAT THIS COURT GOT INTO THAT , BUT IT SEEMS , MY CONCERN IS THAT SEEMS TO ME ONE STEP REMOVED FROM WHAT WE USUALLY DO IN THESE CASES, WHICH IS TO REVIEW THE LANGUAGE OF THE BALLOT SUMMARY , TO COME TO A CONCLUSION AS TO WHETHER THE LANGUAGE IS MISLEADING NOT THE METHODOLOGY OF GATHERING SIGNATURES.

YES , BUT WE ARE NOT TALKING ABOUT THE METHODOLOGY HERE OF GATHERING SIGNATURES, I THINK. WHAT WE ARE TALKING ABOUT IS THAT THE ONLY SUMMARY PRESENTED TO THE VOTER , IT HAD NOTHING TO DO WITH WHAT THE VOTER IS BEING PRESENTED IN THIS AMENDMENT.

CHIEF JUSTICE: BUT IT SEEMS TO ME AT LEAST FROM WHAT MR. HERRO N IS SAYING IS THAT THERE MAY BE ISSUES OF FACT REGARDING THAT, THAT PETITIONS WERE USED , SIGNATURES WERE OBTAINED THAT WAY , AND SO THAT HOW WOULD WE , WE WOULD BE, REALLY, MAKING , GIVING AN ADVISORY OPINION ON SOMETHING THAT THE ATTORNEY GENERAL HASN'T ASKED US TO GIVE, AND WHERE THERE ARE POTENTIAL FACTUAL DISPUTES , SO IN THIS SITUATION , WHY WOULDN'T THIS BE, IF THERE IS AN ATTACK ON IT , WHY SHOULDN'T IT BE DONE THROUGH

THE DECLARATORY JUDGMENT PROCESS.

WELL, I BELIEVE IT IS UNDISPUTED AND I THINK FROM , AS I HEARD HIM -- AND I THINK MR. , AS I HEARD HIM , MR. HERRON CONCEDED THAT AT LEAST SOME OF THESE BALLOTS WERE AND ENDED TO GETHER IN TRIPPLICATE JUST AS THEY ARE IN OUR AENDEX, WITH THE TOP ONE BEING THE ONE THAT IS WITHDRAWN FROM THE BALLOT , AND THE ISSUE THAT THIS COURT HAS GOT TO DECIDE AT THIS POINT IS WHETHER OR NOT IT IS GOING TO PERMIT THIS TO HAPPEN , WHICH I WOULD SUGGEST THERE IS NO , THERE IS NOTHING IN 101.161. THERE IS NOTHING IN THE CONSTITUTION. THERE IS NO PRINCIPLE OF STATUTORY CONSTRUCTION OF PUBLIC POLICY THAT WOULD SUGGEST THAT THIS COURT OUGHT TO PERMIT VOTERS TO BE MISLED AT THE STAGE AT WHICH THE PETITION IS DISTRIBUTED.

CHIEF JUSTICE: IF IT SAID SIGN ANY OR ALL THREE PETITIONS , WOULD THAT BE SATISFACTORY? IN OTHER WORDS BECAUSE EACH OF THE PETITIONS ARE EXACTLY AS THEY WERE APPROVED BY THE SECRETARY OF STATE. YOU AGREE WITH THAT , INDIVIDUALLY , THE FORM IS CORRECT.

YES. CORRECT.

CHIEF JUSTICE: SO NOW WE ARE GOING TO GET INTO , AND THIS IS WHERE I AM CONCERNED AS WELL , AS TO WHETHER THIS PARTICULAR FORMAT COMPLIES WITH WHAT THE SECRETARY OF STATE REQUESTED , OR APPROVED , AND I AM NOT SURE , AGAIN , JUST WHETHER IT IS NOT SOMETHING THAT IS SORT OF LEADS ITSELF TO SOME FACTUAL QUESTIONS AS TO WHETHER THE SECRETARY OF STATE WOULD HAVE APPROVED IT IN THIS FORMAT OR ALL THE MYRIAD OF QUESTIONS THAT ARISE FROM THAT.

WELL , OF COURSE , BUT WHAT YOU ARE PRESENTED WITH IS A FORM WITH A SUMMARY THAT WE KNOW IS PRESENTED TO THE PUBLIC AND WE KNOW HOW IT WAS PRESENTED TO THE PUBLIC , AND I BELIEVE THAT, IF THE , I AM NOT SAYING YOU CAN NEVER USE A TRIPPLICATE . I THINK IF THE PUBLIC ON THE FORM , BECAUSE THIS COURT HAS SAID THAT IT MUST BE ON THE SUMMARY ITSELF. IT CAN'T BE BY SOME OUTSIDE SOURCE. IF THE TOP PAGE OF THAT PETITION GIVES SUFFICIENTLY BOLD NOTICE THAT YOU ARE --

YOU ARE TALKING ABOUT AN ISSUE , AND WHAT WE ARE CONCERNED ABOUT HERE IS THAT AS YOU WELL KNOW AND LITERALLY PROBABLY NOW AT LEAST DOZENS IF NOT HUNDREDS OF OPENING PARAGRAPHS OF OUR OPINIONS IN THESE INITIATIVES THAT ARE PRESENTED TO US, WE SAY THAT OUR JURISDICTION IS VERY NARROW. WE HAVE TWO ISSUES TO DECIDE IN OUR JURISDICTION. THAT IS THE SINGLE SUBJECT , ALL RIGHT , AND THEN THE ACCURACY OF THE BALLOT SUMMARY. AND WE HAMMER AWAY AT THAT CONSISTENTLY, SO YOU ARE TALKING ABOUT , REALLY , A SEPARATE PROCESS , AS FAR AS HOW THIS GOT TO US AND THE INTEGRITY OF THAT PROCESS . AND IT MAY WELL BE THAT THERE ARE VERY SERIOUS ISSUES AS HAVE BEEN ARGUED IN THE BRIEFS AND POINTED OUT HERE ABOUT THAT , BUT THOSE ARE NOT ISSUES THAT WE HAVE BEFORE US IN TERMS OF THE SINGLE SUBJECT AND -- SINGLE SUBJECT AND THE ACCURACY OF THE BALLOT SUMMARY. THAT IS WHERE WE ARE COMING FROM .

I BELIEVE IN THIS CASE IT IS SUFFICIENTLY BEFORE YOU AND THIS IS A GOOD TIME TO SEND A MESSAGE. IF I MIS TAKE JUST A MOMENT TO REFER TO THE FINAL ISSUE.

CHIEF JUSTICE: I THOUGHT YOU WERE GOING TO SAY IT WAS A GOOD TIME TO CONCLUDE. IT IS IF YOUR HONOR TELLS ME THAT IT IS.

CHIEF JUSTICE: IF YOU WANT TO TAKE ONE MORE MINUTE.

I ONLY WANTED TO SAY ONE MORE THING, WHICH WAS THE LAST I WERE ISSUE , THE -- THE LAST ISSUE, THE ONE REGARDING THE OATH , AND JUSTICE BELL POINTED OUT THE MOST EGREGIOUS

ASPECT OF THIS IS THAT THE AMENDMENT ITSELF REALLY DOESN'T EVEN TALK ABOUT THE ELECTION PROCESS. THE ONLY THING THE AMENDMENT SAYS IS THAT A CONDITION OF SERVING ON THE COMMISSION REQUIRES THAT ONE TAKE AN OATH. IT SAYS NOTHING ABOUT A LIMITATION UPON YOUR ABILITY TO RUN FOR OFFICE, IN ADDITION, OF COURSE, IS THAT ALL IT REQUIRES IS THAT ONE TAKE AN OATH. IT DOES NOT PROHIBIT YOU FROM RUNNING. I CAN THINK OF FEW THINGS AS MISLEADING TO THE VOTER AS TELLING THE VOTER THAT, IF YOU SERVE ON THIS COMMISSION YOU ARE LIMITED BY THE AMENDMENT AND YOUR ABILITY TO SEEK OFFICE FOR A PERIOD OF YEARS AFTERWARDS, WHEN THE AMENDMENT DOESN'T EVEN SPEAK TO SEEKING OFFICE. THANK YOU, YOUR HONOR.

CHIEF JUSTICE: THANK YOU VERY MUCH. MR. HERRON, REBUTTAL.

MAY IT PLEASE THE COURT. WITH RESPECT TO THE ISSUE THAT JUSTICE CANTERO RAISED AND MR. RICHARD JUST ADDRESSED, THIS ISSUE ABOUT MULTIPLE SUBJECTS DEALING WITH THE STANDARDS, WE WOULD SUGGEST THAT THIS COURT WOULD CONSIDER THE LANGUAGE IN THE LIMITED CASINOS CASE, THAT SAYS THAT ALTHOUGH THE PETITION CONTAINS DETAILS PERTAINING TO THE NUMBER, SIZE, LOCATION AND TYPE OF FACILITIES, WE FIND THAT SUCH DETAILS ONLY SERVE TO PROVIDE THE SCOPE AND IMPLEMENTATION OF THE INITIATIVE PETITIONS. THESE FEATURES PROPERLY CONSTITUTE MATTERS DIRECTLY AND LOGICALLY CONNECTED TO THE SUBJECT OF THE AMENDMENT. THAT IS HOW WE VIEW SUBJECT PARAGRAPH A. THEY ARE MATTERS THAT FILL IN THAT MAKE IT COMPLETE THAT ARE PART AND PARCEL OF THE ENTIRE PROCESS OF HAVING A NONPARTISAN --

WHAT ABOUT THE OTHER PART OF THE ARGUMENT THAT HAS BEEN MADE HERE, IS THAT PRESENTLY YOU CAN HAVE MULTIMEMBER DISTRICTS, AND THIS PETITION WOULD LIMIT THE COMMISSION TO HAVING SINGLE MEMBER DISTRICTS. DOES THAT TAKE THAT, NOW, INTO YET ANOTHER SUBJECT MATTER?

WELL, I DON'T THINK SO. I THINK THE ISSUE THERE IS THAT WE ARE NOT HIDING THE BALL WITH RESPECT TO SINGLE MEMBER DISTRICTS HERE. THE TITLE CLEARLY SAYS WE ARE GOING TO DO SINGLE MEMBER DISTRICTS. AS A DRAFTER, I ONLY HAVE 75 WORDS THAT I CAN DEAL WITH. IF I HAD THE UNLIMITED ABILITY LIKE THE LEGISLATURE DOES, I COULD PROBABLY CRAFT A TITLE THAT DEALS WITH EVERY SPECIFIC ISSUE RAISED. IF I HAD ADDRESSED ALL OF THE ISSUES THAT THE OPONENTS SAID I NEEDED TO ADDRESS, I WOULD HAVE NEEDED MUCH MORE THAN 75 WORDS, PROBABLY 300 OR 400, AND IN THIS CASE I DON'T THINK WE ARE HIDING THE BALL. WE ARE TELLING PEOPLE UP FRONT THAT WE ARE GOING TO SINGLE MEMBER DISTRICTS.

CHIEF JUSTICE: ANOTHER THING THAT WAS WEIGHED -- THAT WAS RAISED AND I AM LOOKING AT IT AGAIN AND AGAIN, THE 75-WORD LIMITATION IS SIGNIFICANT, AND WHEN YOU ARE LOOKING AT SOMETHING AS SIGNIFICANT AS WHAT THIS WOULD BE DOING, THAT BECOMES MORE DIFFICULT, AND THAT IS WHEN YOU ASK THE QUESTION IS TOO MUCH BEING DONE IN ONE AMENDMENT. CONVENIENT CONTIGUOUS TERRITORY. -- CONVENIENT CONTIGUOUS TERRITORY. CONVENIENT. WHAT DOES THAT MEAN AND IS IT A RESTRICTION THAT NOWHERE APPEARS IN THE SUMMARY, BECAUSE WE HAVE HAD ISSUES ABOUT HOW SOME OF THESE DISTRICTS GO AND ARE CONNECTED BY LAKE OKEECHOBEE -- LAKE OKEECHOBEE. IS THAT A CONVENIENT DISTRICT?

THAT ISSUE ABOUT SNAKING DISTRICTS WOULD HAVE BEEN DEALT WITH IN COMPACTNESS WHICH THIS COURT HAS NOTED IN ITS OPINIONS RELATING TO THERE IS NO WORD CONVENIENT --

CHIEF JUSTICE: IS CONVENIENT USED IN THE PRIOR PACKAGE?

CONVENIENT IS NOT USED PRIOR. AS THIS COURT TOOK NOTE OF IN YESTERDAY'S MARRIAGE AMENDMENT, IT WOULD BE CONSTRUED BY THE COURT IN THIS QUESTION THAT COMES BEFORE YOU.

CHIEF JUSTICE: BUT TWO THINGS THAT ARE TRYING TO BE ACCOMPLISHED HERE THAT ARE SIGNIFICANT ENOUGH THAT, IS ONE DEALING WITH THE PROCESS BY WHICH THE APORTIONMENT WILL OCCUR, AND THE OTHER ON WHAT ARE THE RESTRICTIONS ON THE REDISTRICTING PROPOSAL. IT SEEMS TO ME THAT, IF YOU, IF THE MORE YOU GET THAT IT IS CODIFYING OR CONSTITUTIONALLY CODIFYING SINGLE MEMBER DISTRICTS AND, ALSO, CONVENIENT AND CONTIGUOUS, THAT ARE NOW INTO SOMETHING THAT IS DIFFERENT ENOUGH THAT IT MAYMAY BE A SINGLE SUBJECT VIOLATION.

AND, AGAIN, YOUR HONOR --

CHIEF JUSTICE: I DO N'T KNOW THE ANSWER TO THAT. I AM SHOWING MY CONCERN.

I THINK STANDARDS, INCLUDING STANDARDS IN THESE PROCEEDINGS IN THESE PROVISIONS IS NOT NECESSARILY A VIOLATION OF THE SINGLE SUBJECT RULE. I THINK IT IS NATURALLY AND LOGICALLY CONNECTED AND CAN BE VIEWED AS PART OF THE WHOLE. THANK YOU.

CHIEF JUSTICE: THANK YOU VERY MUCH.

CHIEF JUSTICE: THE COURT WILL TAKE, FIRST TAKE THIS MATTER UNDER ADVISEMENT AND WILL, HERE WE THANK EVERYBODY FOR THEIR VALUABLE INPUT ON THIS ISSUE. WE WILL TAKE A, JUST A MINUTE BREAK SO THAT THOSE THAT ARE NOT WANTING TO BE A PART OF THE NEXT CASE CAN BE PART.

MARSHAL: PLEASE RISE.