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**ANDY FORD, ET AL. v. KURT BROWNING, ETC., ET AL.
CASE NO. SC08-1529**

>> PLEASE RISE.

HEAR YE, HEAR YE, HEAR YE.

THE SUPREME COURT OF FLORIDA IS
NOW IN SESSION.

ALL WITH CAUSE TO PLEA, DRAW
NEAR, GIVE ATTENTION, AND YE
SHALL BE HEARD.

GOD SAVE THESE UNITED STATES,
THIS GREAT STATE OF FLORIDA,
AND THIS HONORABLE COURT.

LADIES AND GENTLEMEN, THE
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> GOOD MORNING.

AND WELCOME TO THIS SPECIAL
SESSION OF THE FLORIDA SUPREME
COURT.

WE HAVE TWO CASES ON THE DOCKET
INVOLVING PROPOSED BALLOT
AMENDMENTS.

ARE THE PARTIES READY TO
PROCEED?

WE CALL THE FIRST CASE OF FORD
v. BROWNING.

>> THANK YOU, MADAM CHIEF
JUSTICE.

MAY IT PLEASE THE COURT?

MY NAME IS RON MEYER.

I REPRESENT THE SEEK PETITIONER
SEEKING REVIEW LEON COUNTY
WHICH DECLINED TO REMOVE BALLOT
AMENDMENTS NUMBER 7 AND NUMBER
9 FROM THE NOVEMBER 4th GENERAL
ELECTION BALLOT.

WITH ME AT COUNSEL TABLE IS
BOB CHANIN AND JENNIFER BLOHM,
A PARTNER IN MY LAW OFFICE.
THE TAXATION AND BUDGET REFORM
COMMISSION WHICH I'M LIKELY TO
LAPSE INTO CALLING TBRC WAS
CREATED BY ARTICLE 11 SECTION 6
OF THE CONSTITUTION AS ONE OF
THE FIVE METHODS OF AMENDING
FLORIDA'S CONSTITUTION.

>> WELL, WHEN YOU TALK ABOUT
THE POWERS OF THE COMMISSION,

DO YOU AGREE THAT WHAT THIS CASE COMES DOWN TO IS WHETHER WE READ 11 SECTION 6D AND SECTION 6E TOGETHER SO THAT THE POWERS OF D INFORM THE POWERS OF E TO PROPOSE AMENDMENTS OR WHETHER THE POWERS TO INVESTIGATE IN SECTION D ARE TOTALLY SEPARATE FROM THE POWERS TO, TO PROPOSE AMENDMENTS IN SECTION E? DOES IT COME DOWN TO THAT?

>> JUSTICE CANTERO, WHAT I THINK IT COMES DOWN TO IS THE TERMINOLOGY THAT'S USED IN SECTION 6E, WHICH DEFINES WHAT THE POWER OF THE COMMISSION TO ACT IS.

AND THAT POWER OF THE COMMISSION TO ACT INCLUDES WRITING A REPORT ON MATTERS THAT IT FINDS THROUGH ITS INVESTIGATIVE PROCESS THAT IT'S ENABLED TO CONDUCT IN SUBSECTION E TO MAKE RECOMMENDATIONS TO THE LEGISLATURE FOR BUDGETARY LAWS THAT PERHAPS WERE INFORMED BY THE INVESTIGATIONS CONDUCTED BY SECTION 6D, AND WHAT'S RELEVANT TO THIS CASE IS TO PROPOSE CONSTITUTIONAL AMENDMENTS IN THE LIMITED ARENAS GOING TO THE EXACT LANGUAGE OF THE CONSTITUTION IN 6E OF A REVISION OF THIS CONSTITUTION OR ANY PART OF IT DEALING WITH TAXATION OR THE STATE BUDGETARY PROCESS.

NOW, I DON'T THINK ANYONE HERE HAS ARGUED THAT AMENDMENT 7 AND AMENDMENT 9 AFFECT OR, OR RELATE TO TAXATION.

SO WHAT WE'RE REALLY LEFT TO IS THOSE WORDS, STATE BUDGETARY PROCESS AND WHAT THEY MEAN.

NOW, SECTION 6D CERTAINLY GIVES THE TBRC A BROAD RANGE OF REVIEW POWERS.

IT'S TO EXAMINE THE STATE BUDGETARY PROCESS, THE REVENUE NEEDS AND EXPENDITURE PROCESSES OF THE STATE.

IT'S TO REVIEW POLICIES.

IT'S TO DETERMINE METHODS
FAVORED BY CITIZENS.

>> SO, AND ONE OF THE POWERS IS
TO EXAMINE CONSTITUTIONAL
LIMITATIONS ON TAXATION AND
EXPENDITURES AT THE STATE AND
LOCAL LEVEL.

NOW, IF THEY HAVE THE POWER TO
EXAMINE CONSTITUTIONAL
LIMITATIONS, BUT THEY DON'T
HAVE THE POWER TO PROPOSE ANY
AMENDMENTS TO ADDRESS THOSE
LIMITATIONS, THEN WHAT'S THE
PURPOSE OF EXAMINING THEM?

>> WELL, FIRST OF ALL, THERE
ARE SEVERAL PURPOSES OF
EXAMINING THEM.

THE FIRST PURPOSE IS THE
BEGINNING PART OF SECTION 6E,
WHICH SAYS THAT THE COMMISSION
SHALL ISSUE A REPORT INFORMING
THE PUBLIC, INFORMING THE
LEGISLATURE, INFORMING ANYONE
WHO'S INTERESTED OF THE NEEDS
OF THE STATE IN THOSE REGARDS.
IT'S NOT UNUSUAL FOR A STATE TO
HAVE A TAX AND BUDGET STUDY
COMMISSION WITH NO POWER TO
ACT.

INDEED, AS THE RESPONDENTS IN
THIS CASE HAVE POINTED OUT,
THEY HAVE ISSUED A 100-PAGE
REPORT DEALING WITH EDUCATION
POLICY WHICH IF INDEED IT
RAISES ISSUES THAT ARE
IMPORTANT TO THE PEOPLE OF
FLORIDA THROUGH THE INITIATIVE
PROCESS, THROUGH THE
LEGISLATIVE PROCESS, THROUGH
THE CONSTITUTIONAL REVISION
PROCESS, WHICH DOES HAVE
PLENARY AUTHORITY, THEY CAN
CERTAINLY ADDRESS THOSE
BUDGETARY PROCESS NEEDS.
SECONDLY, THE LIMITATION ON
TAXATION, WHICH IS NOT RELEVANT
HERE IN THIS PARTICULAR SET OF
AMENDMENTS, CERTAINLY DOES,
THERE'S NO LIMITATION IN 6E ON
THE LEVEL OF TAXATION THAT THIS
COMMISSION COULD PROPOSE.
FOR EXAMPLE, AMENDMENT 8 WHICH
IS ALSO NOT BEFORE THE COURT
BUT IS ON THE NOVEMBER 4th

BALLOT.

>> WHAT WE ARE REALLY DEALING WITH IN A VERY NARROW SENSE, WHAT THE TERM "STATE BUDGETARY PROCESS" MEANS IN 6E, AND I THOUGHT, AND I'M GOING TO, YOU KNOW, ASK THE RESPONDENTS TO ADDRESS THIS, I BELIEVE, WHAT ARE YOU CALLED?

IS THAT IT SEEMED TO ME THAT, AND MAYBE YOU WANT TO ADDRESS IT A LITTLE BIT, A LITTLE MORE DETAIL, THAT BY USING STATE BUDGETARY PROCESS AT THE BEGINNING OF 6D BUT ALSO TALKING ABOUT REVENUE NEEDS, EXPENDITURE PROCESSES, GOVERNMENTAL PRODUCTIVITY, AND ALSO TAXATION, AND THEN IN 6E ONLY RELATING THE CONSTITUTIONAL AMENDMENT TO BUDGETARY PROCESS AND TAXATION, THAT READING THEM TOGETHER ACTUALLY TO ME MAKES IT SOUND LIKE BUDGETARY PROCESS HAS TO BE NARROWER -- MORE NARROW THAN JUST EVERYTHING IN 6E, AND SO IT MAYBE IS THAT A PLAIN LANGUAGE?

IS THAT READING IT TOGETHER? CONSTITUTION CONSTRUCTION HERE, WHAT WOULD YOU, WHAT PRINCIPLES WOULD YOU SAY THAT WE SHOULD APPLY?

>> JUSTICE, THE PLAIN LANGUAGE OF 6E INFORMS US RELEVANT TO 7 AND 9.

ARE WE DEALING WITH A CONSTITUTIONAL PROPOSAL THAT DEALS WITH THE STATE BUDGETARY PROCESS.

IF YOU READ 6D TO DEFINE THAT PROCESS, EXPAND IT LIKE THE RESPONDENTS WISH TO, THEN YOU'VE REALLY JUST WRITTEN OUT OF THE CONSTITUTION THE LIMITED AUTHORITY IN 6E TO PROPOSE CONSTITUTIONAL --

>> YOU WOULDN'T NEED TAXATION, WOULD YOU?

YOU WOULDN'T NEED THE TERM TAXATION.

>> YOU WOULDN'T NEED ANY OF IT, YOU WOULD SIMPLY SAY THE

COMMISSION IS EMPOWERED TO FORWARD ANY AMENDMENT THAT DEALS WITH THE ISSUES IN 6D AND THEN WHAT YOU HAVE DONE IS MADE THIS COMMISSION THE CONSTITUTIONAL REVISION COMMISSION, WHICH DOES HAVE PLENARY AUTHORITY --

>> UNDER YOUR VIEW OF THIS RESTRICTION, ON PLACING CONSTITUTIONAL INITIATIVES ON THE BALLOT, CAN THERE BE BY THIS COMMISSION A RECOMMENDATION THAT THERE WILL BE A 1% SALES TAX, THAT IS, AND THE EXPENDITURE BE LIMITED TO CAPITAL OUTLAY AT THE LOCAL LEVEL?

>> YOUR HONOR, I THINK YOU'RE JUMPING FROM STATE BUDGETARY PROCESS THEN TO PROPOSAL TAXATION.

I THINK THE ANSWER IS YES.

>> OKAY.

BUT ISN'T THAT A HYBRID SITUATION IN WHICH YOU, YOU DO HAVE IN THAT CONSTITUTIONAL INITIATIVE A LIMITATION ON WHAT THE REVENUE IS GOING TO BE SPENT FOR, IN OTHER WORDS, A LIMITATION ON EXPENDITURE.

>> BUT THAT'S NOT WHAT THIS, THESE AMENDMENTS DOES. WHAT THESE AMENDMENTS -- YOU KNOW, WHETHER THE TBRC COULD HAVE PROPOSED A SPECIAL 1% SALES TAX EARMARKED TO PROVIDE SCHOLARSHIPS FOR STUDENTS TO ATTEND NONPUBLIC SCHOOLS, PERHAPS THEY WOULD UNDER THEIR TAXATION AUTHORITY HAVE THAT ABILITY, BUT THAT'S NOT WHAT THEY DID.

AND IF THEY HAD DONE THAT, PARENTHETICALLY I WOULD ADD THEY WOULD PROBABLY RUN INTO COLLISIONS THAT THIS COURT FOUND IN BUSH v. HOLMES.

HAS THIS COMMISSION IN THE PAST PUT ON THE BALLOT AND ADOPTED INITIATIVE THAT DO JUST THAT, THAT HAVE A HYBRID SITUATION OF RAISING REVENUE AND LIMITING WHAT THE EXPENDITURE OF THAT

REVENUE IS FOR?

>> I DON'T KNOW IF I WOULD DESCRIBE IT AS A HYBRID PROPOSAL.

I THINK AMENDMENT 8 IS SUCH A PROPOSAL WHERE THEY HAVE PROPOSED A LOCAL OPTION SALES TAX TO BE LEVIED TO SUPPORT COMMUNITY COLLEGES THROUGH THE STATE AND ONLY TO BE USED FOR THAT, SO IF PEOPLE IN A LOCAL COMMUNITY ELECT TO TAX THEMSELVES MORE HEAVILY AND RAISE THE PENNY SALES TAX TO PAY FOR THEIR COMMUNITY COLLEGES IN THEIR AREA, THEY COULD DO SO.

BUT THEY COULDN'T USE IT FOR OTHER REASONS.

BUT THAT'S ON THE TAXATION SIDE.

THAT, THAT, THAT REALLY DOESN'T AFFECT THE STATE BUDGETARY PROCESS.

>> WELL, LET'S GET BACK TO THE BUDGETARY SIDE.

BECAUSE I BELIEVE ONE OF YOUR ARGUMENTS IS THAT UNDER ARTICLE 3 SECTION 19, WHICH IS ANOTHER SECTION OF THE CONSTITUTION THAT USES THE WORD BUDGET AND PROCESS, IS, DOES THAT HELP YOUR ARGUMENT AT ALL IN HELPING TO NARROW THE SCOPE OR DEFINE THE SCOPE OF WHAT THE BUDGETING PROCESS IS?

>> CHIEF JUSTICE QUINCE, I THINK IT DOES EXACTLY THAT. I MEAN, IF YOU WANT TO LOOK AT WHAT A STATE BUDGETARY PROCESS IS, YOU ONLY HAVE TO LOOK AT WHAT WAS PROPOSAL 4 OR VOTED FAVORABLY BY THE PEOPLE STEMMING FROM A TBRC PROPOSAL IN 1992, WHICH LAYS OUT THE ANNUAL BUDGETS PROCESS, THE APPROPRIATION BILLS, FORMAT, THE APPROPRIATIONS REVIEW PROCESS, THE PUBLIC REVIEW, IT'S A PROCESS --

>> SO YOU ARE SAYING IT'S LIMITED BASICALLY TO THE HOW, WHEN, AND WHERE AND NOT THE SPECIFICS OF THE BUDGET?

>> CORRECT.

BECAUSE IT'S THE LEGISLATURE
THAT MAKES APPROPRIATION
DETERMINATIONS.

WHAT THE, THE CONSTITUTION DOES
IS IT SETS THE PROCESS BY WHICH
THE LEGISLATURE MAKES THOSE
KINDS OF DETERMINATIONS.
IF YOU READ THAT SECTION 6D IN
THE MANNER THAT THE RESPONDENTS
DO TO EXPAND THE SCOPE OF 6E,
TO ALLOW IT TO BE ANYTHING AS
THE TRIAL COURT NOTED THAT
TOUCHES UPON AN EXPENDITURE,
THAT, YOU KNOW, IN ANY WAY
AFFECTS AN EXPENDITURE OR A
STATE BUDGET, YOU WOULD HAVE
READ INTO OBLIVION THE
LIMITATION THAT THE PEOPLE PUT
IN 6E.

THE, THE, THE CONSTITUTIONAL
REVISION COMMISSION HAS THAT
POWER BUT THE STATE TAXATION
AND BUDGET REFORM COMMISSION
HAS TO BE MORE NARROW BECAUSE
THE PEOPLE HAVE SAID IT'S STATE
BUDGETARY PROCESS.

>> WELL, LET'S LOOK AT STATE
BALLOT 7 AND 9 BECAUSE YOU HAVE
GOT THESE TWO VERY CLEAR THINGS
THAT WERE BEING DONE BY BALLOT
7 IS TO OVERRULE HOLMES 1 FROM
THE FIRST DISTRICT AND BALLOT 9
TO OVERRULE THIS COURT'S
OPINION ON SCHOOL VOUCHERS BUT
IN BALLOT 9, THEY ALSO HAVE THE
75% -- 65% REQUIREMENT AND I
WOULD JUST LIKE TO ASK YOU, IF
THE ONLY THING THAT HAD BEEN
DONE IN BALLOT 9 WAS TO SAY,
YOU KNOW, BECAUSE I KNOW WAY
BACK THERE WAS SOME ATTEMPT TO
SAY 65% OR 75% OF THE STATE
BUDGET SHALL BE SPENT ON
EDUCATION.

>> RIGHT.

>> COULD THAT BE CONSTRUED TO
BE PART OF --, JUST, YOU KNOW,
AGAIN TO SEE WHETHER THIS IS
JUST ABOUT PROCESS OR, OR
THEY'VE ARGUED YOU'RE SAYING
IT'S, YOU'VE MADE IT SO NARROW
THAT IT WOULD ONLY BE
PROCEDURE.

COULD DOLLAR BE UNDER THE STATE BUDGETARY PROCESS SOME MANDATE TO THE LEGISLATURE THAT STATEWIDE A CERTAIN PERCENTAGE IS SPENT ON EDUCATION OF THE ENTIRE BUDGET.

>> I DON'T BELIEVE SO FOR TWO REASONS.

ONE IS YOU GOT TO KEEP IN MIND THAT WHAT THE CONSTITUTION SAYS IS THIS IS A STATE BUDGETARY PROCESS AND WHILE WE MAY DEBATE WHAT BUDGETARY PROCESS IS, THERE'S NO MISTAKE ABOUT WHAT MISTAKE S. WHAT THE 65% PROPOSAL IN AMENDMENT 9 DOES IS IT SIMPLY TELLS LOCAL SCHOOL DISTRICTS THIS IS HOW YOU'VE GOT TO SPEND YOUR MONEY.

>> NO, I'M NOT ASKING THIS.

I'M GOING A STEP BEYOND TO SEE WHETHER THIS, THERE'S ANYTHING SUBSTANTIVE IN STATE BUDGETARY PROCESS.

COULD THEY HAVE PROPOSED SOMETHING UNDER STATE BUDGETARY PROCESS THAT WOULD REQUIRE THE STATE TO ALLOCATE A, REMEMBER, THERE WAS SOME AMENDMENT WAY BACK --

>> WELL --

>> THAT REQUIRED THAT AND WE STRUCK IT ON A SINGLE, I THINK SINGLE SUBJECT VIOLATION. IT WAS --

>> THERE WAS AN INITIATIVE INDEED.

THE RESTORE EDUCATION SHARE AMENDMENT, WHICH WOULD HAVE EARMARKED A PERCENTAGE OF GENERAL REVENUE.

>> RIGHT.

>> FOR --

>> SO COULD THAT BE DONE?

THAT'S WHAT I'M ASKING, UNDER THE DEFINITION OF, OR YOUR DEFINITION THAT YOU'RE URGING US TO FOLLOW STATE BUDGETARY PROCESS, COULD THAT TYPE OF, OF LIMITATION OR DIRECTIVE TO THE LEGISLATURE BE PROPOSED? BECAUSE THAT WOULDN'T BE TAXATION.

THAT WOULD --

>> WELL, IT MAY BE TAXATION.
BECAUSE IT MAY BE EARMARKING A
TAX REVENUE STREAM --

>> BUT I'M JUST -- THE MANDATE
IS ON, THERE JUST LIKE THE
CITIZENS' INITIATIVE WAS THE
LEGISLATURE SHALL ALLOCATE THIS
PERCENTAGE FOR EDUCATION OF ITS
GENERAL REVENUE BUDGET.

>> THAT COMES CLOSER TO STATE
BUDGETARY PROCESS --

>> BECAUSE WE WERE THINKING
THIS COURT THAT KEEPS ON
GETTING, YOU KNOW, A LESSER AND
LESSER SHARE OF THE BUDGET,
THAT WE WERE HOPING THEY'D COME
OUT WITH SOMETHING AND SAY THAT
THE, JUDICIAL SYSTEM SHALL
RECEIVE NO LESS THAN 1% OF THE
GENERAL REVENUE SO THAT WAS
SORT OF A SELFISH QUESTION ON
MY PART TO ASK WHETHER
SOMETHING LIKE THAT WOULD'VE
BEEN WITHIN THEIR AUTHORITY.

>> CERTAINLY THE LEGISLATURE
COULD PROPOSE A, A, AN
AMENDMENT SUCH AT THAT.
THE CRC COULD PROPOSE SUCH AN
AMENDMENT BUT AGAIN I THINK IF
YOU ARE GOING TO GIVE ANY
MEANING TO THE LANGUAGE THAT
WAS CHOSEN FOR 6E, YOU HAVE
GOT TO GIVE THE LANGUAGE THAT
STATE BUDGETARY PROCESS IS THE
STRUCTURE THE PROCESS BY WHICH
THE --

>> LET ME FOLLOW UP ON JUSTICE
PARIENTE'S QUESTION.
AREN'T THERE SUBSTANTIVE ISSUES
AND SHE'S POSITED ONE EXAMPLE
FOR INSTANCE WHERE YOU ARE
DEVOTING SUCH A LARGE PART OR
REALLY ANY PART OF, OF THE
STATE BUDGET TO A PARTICULAR
SUBJECT MATTER.

THAT THE STATE HAS TO FUND.
AREN'T THERE SOME PROVISIONS
LIKE THAT THAT WOULD BE SO
SIGNIFICANT THAT THEY WOULD
IMPACT THE BUDGET PROCESS?

IF, IF, IF THE IF THE
LEGISLATURE STARTS OFF WITH A
PROVISION LIKE THAT, IN ESSENCE
THEY'RE STARTING OFF WITH ONE

HAND TIED BEHIND THEIR BACK.
WHEN THEY APPROACH THE BUDGET
PROCESS.

LET ME ASK THE REVERSE REALLY
OF WHAT, OF WHAT JUSTICE
PARIENTE ASKED AND THAT IS IF
THERE WAS SUCH A PROVISION,
ALREADY IN THE CONSTITUTION.
THE BUDGET COMMISSION PUT ON
THE BALLOT A CONSTITUTIONAL
AMENDMENT THAT WOULD REMOVE
SUCH A RESTRICTION BECAUSE THEY
SEE THIS AS BEING SUCH A
SIGNIFICANT RESTRICTION ON THE
BUDGET PROCESS THAT, THEY AT
THE SAME POINT TO FREE UP --
THAT THEY WANT TO FREE UP THE
LEGISLATURE AND IT'S PROCESS
FROM HAVING THAT SIGNIFICANT A
RESTRICTION.

>> JUSTICE ANSTEAD, THAT'S PART
OF THE ARGUMENT I THINK THAT
THE RESPONDENTS MAKE HERE, AND
WE DON'T BELIEVE THAT THAT IS
THE STATE BUDGETARY PROCESS
WITHIN THE MEANING OF 6E.

I MEAN, I THINK IF YOU FOCUS
BACK ON AMENDMENT 7 FOR
EXAMPLE, THEY HAVE ADDED A
COMPONENT LANGUAGE.

AN INDIVIDUAL OR ENTITY MAY NOT
BE BARRED FROM PARTICIPATING IN
A PUBLIC PROGRAM BECAUSE OF
RELIGION.

NOW THAT MAY BE A FEEL-GOOD
KIND OF THING, BUT IT HAS
ABSOLUTELY NOTHING TO DO WITH
TAXATION OR THE STATE BUDGETARY
PROCESS.

IF PRIVATE PROVIDERS, RELIGIOUS
PROVIDERS ARE PARTICIPATING IT
MAY TOUCH UPON EXPENDITURES BUT
THAT'S NOT TOUCHING UPON THE
BUDGETARY PROCESS.

WHAT DOES AMENDMENT 7 IN THAT
LANGUAGE HAVE TO DO WITH EITHER
TAXATION OR A STATE BUDGETARY
PROCESS.

THE ANSWER IS NOTHING.

THE SAME GOES -- THE SAME IS
TRUE FOR BALLOT AMENDMENT 9.
TELLING THE LOCAL SCHOOL
DISTRICT THAT WHATEVER THE
STATE DECIDES TO FUND, WHATEVER

LEVEL THE STATE DECIDES TO FUND EDUCATION AT, HERE'S YOUR, HERE'S YOUR PIECE OF THE BUDGET.

YOU SHALL SPEND IT THIS WAY. DOESN'T CHANGE ONE WIT THE AMOUNT OF MONEY THE STATE APPROPRIATED, DOESN'T CHANGE ANYTHING ABOUT THE STATE BUDGETARY PROCESS, IT SIMPLY SAYS THIS IS HOW YOU'VE GOT TO SPEND THE MONEY WE GIVE YOU.

>> THE PROVISION, OVER HERE, I'M SORRY.

>> THAT'S ALL RIGHT.

>> IF WE READ THE PROVISION AS YOU ARGUE, THEN IT'S REALLY A VERY NARROW AUTHORITY THAT THIS COMMISSION HAS AND THEN THE QUESTION BECOMES WHY WOULD THE PEOPLE ADOPT A CONSTITUTIONAL PROVISION CREATING A COMMISSION WITH SUCH NARROW AUTHORITY TO MEET EVERY 20 YEARS BUT ONLY BE ABLE TO TOUCH UPON A, A VERY SMALL SUBSET OF WHAT GOES ON IN THE STATE? WHY NOT JUST SAY LET THE CONSTITUTION REVISION COMMISSION DEAL WITH, WITH THIS OTHER 1%?

>> WELL, THERE WAS, YOU KNOW, SOME SENTIMENT TO DO JUST THAT WHEN, WHEN THE POWER OF TAXATION AND STATE BUDGETARY PROCESS WAS GIVEN BACK TO THE CRC, IF YOU'LL RECALL WHEN THE TBRC WAS ORIGINALLY CREATED THAT WAS STRUCK FROM THE CRC AND THEN IN 1990 THE CRC PUT IT BACK.

I THINK YOU ARE READING 6D AND 6E, TOO NARROWLY.

>> I'M JUST ASKING YOU IF WE READ IT THE WAY YOU WANT, WHY HAVE THIS COMMISSION AT ALL?

>> BECAUSE --, I DON'T KNOW THAT I CAN ANSWER WHY HAVE THE COMMISSION AT ALL OTHER THAN THE PURPOSE OF THIS COMMISSION AS STATED BY THE PROPONENTS OF IT WAS TO TAKE A SPECIFIC LOOK AT THE FISCAL AND TAXATION NEEDS OF THE STATE, TO WRITE A

REPORT, TO MAKE RECOMMENDATIONS TO THE PUBLIC, TO MAKE RECOMMENDATIONS TO THE LEGISLATURE, AND IN A LIMITED SCOPE TO MAKE SOME PROPOSALS DIRECTLY TO THE BALLOT THAT DEAL WITH TAXATION AND STATE BUDGETARY PROCESSES.

>> BUT THOSE COULD BE HUGE. I MEAN, AGAIN, WHEN WE GET INTO TAXATION AND THEY WERE LOOKING, THIS WAS RIGHT AFTER THE FAILED SERVICE TAXES.

THEY WERE LOOKING TO SEE WHETHER WE COULD FIGURE OUT IN THIS STATE WHERE SOURCES OF INCOME WERE GOING TO COME FROM AND TAX REFORM.

I MEAN, THE TAXATION PART TO ME WAS REALLY THE HUGE PART.

>> AND I THINK, YOU KNOW --
>> I MEAN, DO YOU AGREE WITH THAT?

>> I ABSOLUTELY AGREE WITH THAT AND THAT'S WHERE THE HUGE POWER OF THE TAXATION AND BUDGET REFORM COMMISSION REPOSES ON PROPOSING TAXES.

AND INSTEAD OF DOING THAT, INSTEAD OF USING THIS POWER IN A MANNER THAT FACILITATES SOME CREATIVITY AND SOME ADDRESSING THE STATE'S NEEDS, THIS COMMISSION INSTEAD DECIDED TO VENTURE OFF INTO EDUCATIONAL AND -- POLICY AND PROPOSED BALLOT AMENDMENT 7 AND 9.

WHICH SHOULD BE STRUCK.

>> YOU ARE WELL INTO YOUR REBUTTAL TIME BUT I'M SURE WE WILL GIVE YOU A FEW MINUTES FOR REBUTTAL.

>> GOOD MORNING, CHIEF JUSTICE QUINCE.

MAY IT PLEASE THE COURT, SCOTT MAKAR ON BEHALF OF KURT BROWNING, SECRETARY OF STATE.

ALONG WITH ME ARE THE INTERVENING ATTORNEYS.

>> MR. MAKAR, LET ME GET RIGHT TO MY CONCERN.

>> SURE.

>> HERE AND THAT IS THAT I KNOW IN YOUR BRIEF THAT YOU, YOU, YOU MAKE THIS STATEMENT. IT WOULD BE ODD TO ACCEPT PETITIONER'S INTERPRETATION OF THE TERM STATE BUDGETARY PROCESS WHEN THEY HAVE BEEN UNABLE TO DEFINE IT IN ANY MEANINGFUL WORKABLE WAY. THE PHRASE DOES NOT APPEAR IN THE FLORIDA CONSTITUTION, THE FLORIDA STATUTES, OR FLORIDA CASE LAW EXCEPT OTHER THAN IN SECTION 6.

HOWEVER, EXPLAIN TO ME THIS: ^IN KEEPING IN MIND THAT STATEMENT, THAT WHAT WE HAVE HERE IN SECTION 6 OF ARTICLE 11 IS A PROVISION WHICH SAYS THAT THE, THE COMMISSION CAN MAKE A REPORT, WHICH WILL GO TO THE LEGISLATURE AS TO BUDGET LAWS. WHEREAS IN RESPECT TO THE CONSTITUTIONAL INITIATIVE, THE COMMISSION SHALL MAKE -- CAN SET OUT INITIATIVES THAT HAVE TO DO WITH A STATE BUDGETARY PROCESS AND THEN IN ARTICLE 3, SECTION 19, CONTRARY TO WHAT YOUR BRIEF SAYS, THERE IS A WHOLE SECTION THAT DELINEATES STATE BUDGETARY PROCESS, AND WE ALSO HAVE END SECTION 215 OF THE FLORIDA STATUTE A WHOLE CHAPTER ON THE STATE BUDGETARY PROCESS.

SO I, I ASK YOU, ISN'T REALLY THIS, THIS INITIATIVE PROCESS SOMETHING THAT IS GOING TO WHAT YOU COULD CHANGE IN ARTICLE 3, SECTION 19 OR WHAT YOU COULD CHANGE IN CHAPTER 216 AND THAT IN FACT THE STATUTES AND THE CONSTITUTION BOTH CONTAIN REFERENCES TO THE STATE BUDGETARY PROCESS?

>> WELL, ACTUALLY, JUSTICE WELLS, IF YOU PUT THE PHRASE IN STATE BUDGETARY PROCESS, YOU WILL FIND IT ONLY TWO PLACES. 6D AND 6E, THAT'S IT. WHAT YOU ARE REFERRING TO IS STATE BUDGETING PROCESS OR STATE PROCEDURES.

>> WHAT IS THE DIFFERENCE
BETWEEN THE STATE BUDGETING
PROCESS AND BUDGETARY PROCESS?

>> WELL, THAT'S EXACTLY THE KEY
OF THIS CASE, WHICH IS THE
PHRASE STATE BUDGETARY PROCESS
IS A UNIQUE PHRASE IT'S ONLY IN
CHARGE OF AUTHORITY TO THIS
COMMISSION AND THE QUESTION IS
WHAT DOES IT MEAN?

WELL LET ME GIVE THE NARROW
CONTRADICTED WORKABLE VIEW FROM
OUR PERSPECTIVE THE PETITIONERS
HAVE GIVEN IT OR WILL IT BE
GIVEN THE BROADER VIEW OF, OF
WHAT THE COMMISSION --

>> IS IT A REAL DIFFERENCE
BETWEEN BUDGETING PROCESS AND
BUDGETARY?

ISN'T I MEAN, WHAT, WHAT I'M
HAVING STRUGGLE WITH, MR. ^MAKAR
S THAT, I'VE ALWAYS THOUGHT
THAT WHAT YOU'RE DEALING WITH
IN THE BUDGETARY PROCESS AND
THE BUDGETING PROCESS IS A
SYSTEM THAT WE GO THROUGH EVERY
YEAR IN PUTTING TOGETHER THE
BUDGET.

AND THAT WE, WE HAVE TO HAVE --
WE HAVE AN ANNUAL BUDGET.
WE HAVE AN, AN APPROPRIATIONS
BILL FORMAT.

WE HAVE TO SEND OVER TO THE
LEGISLATURE IN TIME FOR THEM TO
PUT TOGETHER AND MEET THE
REQUIREMENTS OF THIS SECTION.
PUT TOGETHER THE BUDGET.

AND THEN IT HAS TO BE, THERE
HAS TO GO A REVIEW PROCESS AND
THERE'S A 72-HOUR REVIEW.

ALL OF THOSE LOOK TO ME LIKE
THAT'S THE PROCESS.

>> WELL, I WOULD RESPECTFULLY
-- I'M SORRY.

I WOULD SAY THAT'S PROCEDURE.
CERTAINLY THAT'S A SUBSET OF
PROCESS.

LET ME GIVE YOU AN EXAMPLE.
IF THIS WAS A JUDICIAL REFORM
COMMISSION, IT WAS CHARGED AT
LOOK AT THE BEGINNING STATE
JUDICIAL PROCESS, WOULD ANYONE
HERE BE THINKING THAT STAT
STATE JUDICIAL REFORM

COMMISSION WOULD BE LIMITED TO CHANGING THE RULE OF THE CIVIL PROCEDURE --

>> BUT, AREN'T WE --, AND AGAIN, YOU SAY IT WASN'T DEFINED ANYWHERE, AND THEY SAY, YEAH, IT'S CLOSE ENOUGH THAT IT IS REFERENCED OTHER PLACES SO IT HAS A MEANING.

STATE BUDGETARY PROCESS. THIS IS MY, THESE ARE, WELL, THERE'S SEVERAL CONCERNS I HAVE BECAUSE I STARTED OUTS, I MEAN, I DIDN'T, YOU KNOW, I THOUGHT THIS WAS A BROAD COMMISSION. I REALLY, I WAS UNINFORMED AND THE BRIEFS REALLY BOTH SIDES WERE VERY HELPFUL TO ME IN TRYING TO UNDERSTAND THIS. BUT WHAT I DO IS I GO BACK TO, WE'RE GOING TO START WITH PLAIN LANGUAGE AND TEXTUALLY.

IF 6D IS SAYING THAT THE AUTHORITY TO EXAMINE, IT STARTS WITH STATE BUDGETARY PROCESS, AND THEN IT SAYS REVENUE NEEDS AND EXPENDITURE PROCESSES, THE APPROPRIATENESS OF THE TAX STRUCTURE, SO STATE BUDGETARY PROCESS, WHATEVER IT IS, IT WAS JUST ONE LITTLE DISCREET PART OF 6D.

THEN YOU GET TO 6E, AND IT SAYS THEY CAN PROPOSE ANY RECOMMENDED STATUTES RELATING TO THE TAXATION OR BUDGETARY LAWS.

SO YOU'RE THINKING WELL, THEIR POWER TO PROPOSE MAYBE WAS TO BE BROADER.

AND THEN IT GOES BUT THEIR REVISION TO THE CONSTITUTION ONLY DEALS WITH TAXATION, WHICH NO ONE'S ARGUING THIS IS TAXATION, OR THE STATE BUDGETARY PROCESS.

SO I GUESS WHAT I'D ASK YOU, IF WE WERE REALLY JUST DOING, THIS WAS JUST A STATUTE, WE READ THEM TOGETHER AND WE SAY, WELL, THEY MUST HAVE MEANT IT TO BE NARROWER THAN EVERYTHING IN -- OTHERWISE THE WAY THE AMICI ARE DEFINING IT YOU WOULD NOT NEED

ANYTHING OTHER TO SAY, AND THEY HAVE, YOU PUT IN 6E, THEY HAVE A POWER TO PROPOSE ANYTHING IN 6D.

HOW CAN YOU KNOW IN THE WAY WE INTERPRET STATUTES AND YOU SAY WE DO PARALLEL STATUTES, HOW CAN YOU SAY THAT THE, WHOEVER DRAFTED THIS DIDN'T INTEND FOR STATE BUDGETARY PROCESS TO BE NARROWER -- I DON'T KNOW WHY I'M HAVING TROUBLE WITH THAT WORD.

MORE NARROW THAN THE ENTIRE STATE EXPENDITURES?

AND EVERYTHING FROM THE BULLET TRAIN TO, I'M SURE THEY COULD FIND SOMETHING WITH PREGNANT PIGS AND EVERY OTHER CITIZENS' INITIATIVE WOULD BE ENCOMPASSED WITH WHAT THIS COMMISSION COULD'VE PROPOSED?

>> WELL, JUSTICE PARIENTE, I BELIEVE THE PROPER STRUCTURE TO ANALYZE THIS CASE IS, IS TO SAY WHAT DOES STATE BUDGETARY PROCESS MEAN?

IS IT NARROW OR BROAD.

>> CAN'T YOU ANSWER THAT QUESTION WITHIN 6D AND E WHETHER THEY USE STATE BUDGETARY PROCESS AS ONLY ONE DISCREET WORD AND THE WAY YOU AND THE AMICUS ARE ARGUING, IT WOULD SWALLOW UP EVEN TAXATION. YOU WOULDN'T EVEN NEED THE WORD TAXATION BECAUSE THEY SAY IT'S TO DO WITH HOW THE STATE RAISES REVENUE, HOW MUCH REVENUE IS RAISED, HOW THE MONEYS ARE SPENT.

YOU WOULD NOT EVEN NEED TAXATION THERE.

>> THERE ARE AT LEAST FIVE REASONS WE SPELLED THEM OUT IN THE BRIEF.

LET ME HIGHLIGHT THEM VERY QUICKLY.

THIS COMMISSION LOOKS AT PROCESS.

BROAD REMEDIAL REFORM.

THE STRUCTURE AND LANGUAGE.

>> LET'S SHOW, I'M SORRY, I MISSED WHAT YOU SAID.

>> THE PURPOSE --, THIS COMMISSION.

>> YOU SAID IT'S TO BE BROAD AND REMEDIAL AND WHERE DO YOU READ THAT.

>> OUT OF THE HISTORY OF THE TBRC.

IN FACT THE COMMISSION WAS SO BROAD THAT THE CRC WAS CONCERNED.

I MEAN, WE'RE NOT TALKING ABOUT SMALL 1% OF THE CIRCLE HERE. WE ARE TALKING ABOUT THE BIG AREA OF REFORM THAT THIS TBRC CAN LOOK AT AND TO ACCEPT THIS SIDE'S --

>> I'M SORRY, I GUESS I'M ASKING YOU, YOU CAN GIVE YOUR FIVE REASONS I AM ASKING YOU FROM A PLAIN LANGUAGE AND STATUTORY CONSTRUCTION VIEWPOINT WHY THE POWER TO PROPOSE CONSTITUTIONAL AMENDMENTS AS OPPOSED TO REPORT TO THE LEGISLATURE ON THE STATE OF FISCAL STATE WHERE WE ARE IN -- WE NEED REVENUE AND WHY THAT WASN'T WHAT THE FOCUS WAS SUPPOSED TO BE EVERY 20 YEARS? WHY WITHIN THE TEXT CAN'T YOU -- CAN YOU TELL ME THAT THERE IS NOTHING YOU CAN SAY TO REFUTE THE FACT THAT THEY HAVE USED IT NARROWLY.

>> I RESPECTFULLY DISAGREE THIS IS ALL ABOUT TAXATION. THERE'S TWO SIDES. REVENUES AND EXPENDITURES, TO FOCUS ON REVENUES THROUGH TAXATION IS TO TRUNCATE THIS COMMISSION AND GIVE IT NO -- AS TO THE CONSTRUCTION OF THE LANGUAGE, WHAT I AM SUGGESTING TO THIS COURT IS YOU HAVE GOT A PHRASE HERE, AND LET'S ASSUME IT'S AMBIGUOUS, IT'S UNCLEAR EXACTLY WHAT IT MEANS WE THINK THE TBRC'S OWN RULE IS --

>> WELL, LET ME ASK YOU ABOUT THAT.

WHAT DOES THE WORD MANNER MEAN IN THAT -- WHERE IT SAYS THE STATE BUDGETARY PROCESS MEANS

THE MANNER IN WHICH EVERY LEVEL OF GOVERNMENT -- ISN'T THAT, ISN'T THE WORD MANNER THERE IN THE NATURE OF THE PROCEDURE BY WHICH IT GOES ABOUT SETTING UP ITS BUDGET?

>> WELL, I THINK THE MANNER -- THE SAYS THE MANNER IN WHICH EVERY LEVEL IN THE GOVERNMENT -- I THINK THE BROAD PHRASE IS INTENDED TO MEAN THEY CAN LOOK AT HOW MONEY IS SPENT.

THIS IS A COMMISSION SUPPOSED TO LOOK AT EFFICIENCIES AND PROPOSE CONSTITUTIONAL REFORMS TO DEAL WITH EFFICIENCIES.

>> DON'T WE GO BACK TO, IF YOU HAVE D, WHICH HAS A DELINEATION OF FIVE OR SIX DIFFERENT THINGS THAT THIS COMMISSION CAN EXAMINE, THEN WHY DO WE HAVE, AND IF THEY CAN PROPOSE AN AMENDMENT ABOUT ANYTHING THAT THEY EXAMINE, THEN WHY DO WE GET TO E AND WE HAVE TWO THINGS THAT ARE DELINEATED THAT THIS COMMISSION CAN MAKE PROPOSED AMENDMENTS ABOUT?

THAT'S WHERE THE REAL PROBLEM COMES IN, AND WE'RE HAVING A PROBLEM.

>> AND IF I COULD GET TO THE RESPONSE TO THE QUESTION YOURS AS WELL I THINK IS THE SAME, THE CANONS OF CONSTRUCTION HERE, HOW SHOULD THIS COURT INTERPRET THIS PHRASE AND WHEN YOU LOOK AT THIS.

FIRST OF ALL, THIS COURT ALWAYS CONSTRUES THINGS TOGETHER. 6D AND E AS THE TRIAL COURT DID.

WHAT DOES THIS MEAN HERE? ARE THERE GOING TO BE ABSURD RESULTS?

I CAN'T IMAGINE IN PLAIN ARGUMENT, CONSTITUTIONAL LIMITATIONS, BUT THEY CAN'T DO ANYTHING ABOUT IT AND PROPOSE A CONSTITUTIONAL REFORM?

>> WHERE DOES THAT STOP? IT SEEMS TO ME UNDER YOUR READING OF THIS CONSTITUTIONAL PROVISION, THE, THIS COMMISSION

CAN MAKE, IF THEY CAN TELL US THAT WE'RE GOING TO CHANGE THE RELIGIOUS FREEDOM AMENDMENT, THEN THEY CAN CHANGE ANY AMENDMENT.

MOST THINGS WOULD TOUCH ON SOME KIND OF BUDGET ISSUE.

>> WELL, THAT'S NOT EXACTLY CORRECT.

I MEAN, IF YOU -- THERE ARE CERTAINLY SOME LIMITATIONS HERE, AND IF I WERE TO PROPOSE A TEST FOR THE COURT, THE COURT HAS TO -- FIRST OF ALL, IT'S A HIGH STANDARD OF REVIEW.

WE KNOW THAT.

IT HAS TO BE CLEARLY, CONCLUSIVELY SHOW THAT IT'S UNCONSTITUTIONAL WITHOUT A REASONABLE DOUBT AND GIVEN DUE DEFERENCE -- THAT'S A HIGH STANDARD OF REVIEW.

THE QUESTION IS DID THIS COMMISSION EXCEED THE AUTHORITY.

AND IS THERE A REASONABLE CONNECTION TO TAXATION OR BUDGETARY PROCESS MATTER.

>> WHAT --

>> WHAT IS THE TITLE OF BALLOT 7?

>> 7, THE TITLE IS, FOR 7.

>> ISN'T IT RELIGIOUS FREEDOM.

>> YES.

>> AND DOES NOBODY ATTACK THE TITLE BUT, I MEAN TO ME -- I MEAN TO ME I THINK THAT IF IT WAS RAISED, AND I'M CONCERNED THAT TITLE IS MISLEADING IN ITSELF BUT THE FACT THAT IT'S CALLED RELIGIOUS FREEDOM AND THE FACT THAT IT IS, YOU KNOW, TAKING THE PHRASE THAT THEY MAY NOT BE BARRED FROM PARTICIPATING IN ANY PUBLIC PROGRAM COULD BE AS FAR AFIELD AS ANY.

IF THEY SAID WE ARE GOING TO PROPOSE A REPEAL OF THE CLASS-SIZE AMENDMENT BECAUSE IT IS REALLY IMPACTING THE BUDGET, I THINK THAT YOU'D HAVE A CLOSER ARGUMENTS.

BECAUSE THE QUESTION IS TO ME

WHETHER IT IS 100% STATE
BUDGETARY COMMISSION --
BUDGETARY PROCESS MEANS
ANYTHING OR IT'S REALLY NARROW
OR IS IT 25% AND I MIGHT BE
WILLING TO SAY WELL IT MIGHT BE
25% LIKE THIS IDEA OF A
LIMITATION ON SOMETHING, BUT IF
IT'S ANYTHING THAT TOUCHES ON
EXPENDITURES THEN IT SEEMS LIKE
IT'S ALMOST CLOSE TO 100% AND
YOU DON'T EVEN NEED TAXATION TO
BE A SEPARATE PHRASE.

>> IF YOU WOULD JUST ANSWER
THAT QUESTION, YOU'RE WELL INTO
MR.^GRIMES' TIME.

>> IF I COULD.

OBVIOUSLY THAT BALLOT SUMMARY
AND TITLE IS NOT BEFORE THE
COURT, BUT I THINK THE
CONCERN YOU ARE BRINGING IS
ADDED TO THE LANGUAGE THERE AND
THE ISSUE THERE WAS THE
LANGUAGE BEYOND THE TBRC'S
AUTHORITY.

WHAT THEY DID IS RESTRICT THE
CONSTITUTIONAL RESTRICTION AND
IT ADDED TO THE PLACE THE OTHER
SENTENCE BASICALLY TO SAY THE
LEGISLATURE CANNOT DO WHAT THE
BLAINE AMENDMENT DID.

IN OTHER WORDS IT'S PUTTING A
LIMITATION ON THE LEGISLATURE
YOU CAN'T PUT THIS LIMITATION
ON FUNDING.

BUT IN THE END, IT'S A FUNDING
ISSUE AS THIS COURT SAID IN THE
OPINION AND IN THE END LET ME
JUST SAY IF I COULD GET TO THE
ONE QUESTION.

THERE'S ALL METHODS OF
CONSTITUTIONAL CONSTRUCTION
LAID OUT.

THEY ALL LAY OUT A BROAD
AUTHORITY GIVEN TO THE
COMMISSION.

THE CANON, THE COMMISSION OF
THE COMMISSION, THE STANDARD OF
REVIEW, THE STRUCTURE AND
LANGUAGE, READING IT TOGETHER,
THE ONE QUESTION ABOUT HOW
COULD THIS ONE SPECIFIC GENERAL
-- OR THIS ONE SPECIFIC PHRASE
BE BROADLY CONSTRUED WELL IT'S

SURROUNDED BY BROAD PHRASES AND
THIS COURT HAS OF
CONSTRUCTION WHEN YOU DON'T
KNOW ABOUT THE SCOPE OF
PARTICULAR CONSTITUTION.
WE ASK THE TRIAL COURT BE
UPHELD.

THANK YOU, MR. ^MAKAR.
MR. ^GRIMES?

>> STEPHEN GRIMES ON BEHALF OF
THE INTERVENERS.

I THINK THE CONCERN SEVERAL OF
YOU HAVE RAISED IS THAT WELL,
GEE WHIZ, THE COMMISSION, IF WE
TALK ABOUT EXTEND NOT ONLY
TAXATION BUT ALSO EXPENDITURES,
THAT THEY COULD COME UP WITH
ALMOST, ALMOST ANYTHING.

WELL, OF COURSE, THE
CONSTITUTIONAL REVISION
COMMISSION CAN, WHICH MEETS
EVERY 20 YEARS, IT CAN PROPOSE
A CONSTITUTIONAL AMENDMENT ON,
ON ANYTHING.

THIS COMMISSION MEETS EVERY 20
YEARS, AND SO EVERY TEN YEARS
ONE OR THE OTHER MEETING IS.

-- AND THIS COMMISSION
CERTAINLY HAS A, IN OUR JUDGMENT
HAS A BROAD SCOPE BUT IT HAS TO
BE LIMITED TO TAXATION AND
EXPENDITURES.

BUT THEY COMPLEMENT --

>> YOU SAY TAXATION AND
EXPENDITURES, BUT COULDN'T HAVE

-- COULDN'T THE CONSTITUTION
EXPLICITLY SAY TAXATION OR
EXPENDITURES LIKE IT DID IN
SECTION D WHICH SAYS EXAMINE
CONSTITUTIONAL LIMITATIONS ON
TAXATION AND EXPENDITURES?

IT CERTAINLY KNEW HOW TO USE
THAT WORD WHEN IT HAD TO.

THE FACT THAT IT USED A
DIFFERENT PHRASE INSTEAD OF
EXPENDITURES IN SECTION E,
DOESN'T THAT INDICATE A
DIFFERENCE IN MEANING?

>> I SUGGEST THAT IT DOESN'T.
THERE REALLY IS NO PURPOSE IN
SETTING FORTH ALL OF THE THINGS
RELATING TO EXPENDITURES IN D
UNLESS YOU CONSTRUE THEM
TOGETHER.

NOW, WHAT THE OPPONENTS WOULD SAY IS WE HAD TO REPEAT EVERYTHING IN D INTO E.

>> WELL, YOU COULD'VE SAID RECORD THIS PURPOSEFUL ANY REVISION OF THE CONSTITUTION FOR ANY OF THE ITEMS STUDIED IN SECTION D.

>> IT COULD SAY THAT, BUT, BUT THE FACT THAT THE -- I STILL THINK THAT THE, THE, THE LANGUAGE IN D THEN IS RENDERED SIMPLY SUPERFLUOUS GENERALLY IF YOU GO BEYOND I READ THE WORD BUDGETARY PROCESS, THE ADDITIONAL LANGUAGE IS SIMPLY EXPLAINING BUDGETARY PROCESS.

>> WELL, WHY ISN'T D REALLY THE AUTHORITY OF THE COMMISSION TO LOOK INTO ALL THESE ITEMS SO THEY COULD BE -- SO THEY CAN BE INFORMED AS TO WHAT KIND OF TAXATION PROPOSALS TO MAKE OR WHAT KIND OF BUDGET PROCESS PROPOSALS TO MAKE?

I MEAN, YOU DON'T HAVE TO MAKE A, A PROPOSAL ABOUT EACH OF THOSE THINGS THAT YOU EXAMINE. BUT THOSE THINGS ARE USED IN ORDER TO MAKE PROPOSALS. THAT SEEMS TO ME A VERY SIMPLE AND, AND READING OF WHAT THESE TWO PROVISIONS STAND FOR.

>> BUT IF YOU LOOK INTO ALL THESE THINGS, AND THEN CAN'T MAKE A, A RECOMMENDATION FOR A CONSTITUTIONAL REVISION ON IT --

>> WELL, YOU PUT THEM IN YOUR REPORT.

NEXT TEN YEARS THE CONSTITUTIONAL REVISION COMMISSION MEETS, THEY MIGHT WANT TO TAKE UP SOME OF THESE ISSUES THAT ARE ACTUALLY IN THE TAXATION AND BUDGET COMMISSION'S REPORT.

I MEAN, I DON'T SEE THAT AS, AS BEING SOME BIG ISSUE JUST BECAUSE -THEY CAN'T MAKE A CONSTITUTIONAL PROPOSAL ON EACH OF THOSE SPECIFIC ITEMS THAT THEY'RE STUDYING.

I'M JUST --, I'M HAVING A HARD

TIME FOLLOWING YOUR ARGUMENT
THAT JUST BECAUSE THESE THINGS
ARE STUDIED YOU NECESSARILY
NEED TO BE ABLE TO MAKE A
PROPOSAL.
ON THEM.

>> YOU SEE HOW PART OF OUR
CONCERN OR SOME OF US HAS TO DO
WITH IN ESSENCE THE TRIAL JUDGE
BY THIS BROAD INTERPRETATION IS
REALLY READ HAS THE WORD
PROCESS OUT OF THE, THE, THE
EQUATION.

AND THEN, AND INSTEAD, IN
ESSENCE, HAS SUBSTITUTED JUST
PERHAPS THE WORD BUDGET.
EVERY YEAR WE HAVE A ROUND OF
COMPLAINTS BY ALL OF LOCAL
GOVERNMENT THAT THE LEGISLATURE
HAS PASSED A WHOLE BUNCH OF
LAWS AND THAT THEY CREATE
UNFUNDED MANDATES.

AND THAT'S JUST ONE EXAMPLE OF
WE KNOW THAT EVERY THING THAT
THE LEGISLATURE DOES HAS AN
EFFECT ON THE BUDGET.
EVERYTHING THEY DO.

IF THEY SAY YOU HAVE TO
INCREASE THE QUALIFICATIONS OF
POLICE OFFICERS, WELL, IT'S
GOING TO IMPACT THE BUDGET
BECAUSE THERE'S A, AND SO, MY
CONCERN, AND I THINK SOME OF
THE OTHER JUDGES' IS THAT THIS
JUST MEANS THAT THIS
COMMISSION, IF ALL IT HAS TO DO
IS IMPACT THE BUDGET, AND, AND
NOT JUST THE PROCESS, THAT THEY
COULD DO ANYTHING.

THEY COULD SAY, WELL WE SHOULD
HAVE 100,000 NEW POLICE
OFFICERS ON THE STREET BECAUSE
THAT'S GOING TO IMPACT THE
BUDGET.

SO HELP US -- HAVEN'T YOU READ
OUT THE WORD PROCESS FROM THIS
PROVISION?

>> WELL, I DON'T THINK PROCESS
-- THE WORD PROCESS IS AS
LIMITING AS YOU MIGHT HAVE IT.

>> WELL, AS JUSTICE WELLS
POINTS OUT, THERE'S TWO DIRECT
PLACES THAT WE CAN GO IN
ADDITION TO THE DICTIONARY, AND

WHAT WE'RE ALL USED TO WITH REFERENCE TO THE DEFINITION OF PROCESS BEING DIFFERENT THAN A SUBSTANTIVE MATTER.

>> WELL, YOU KNOW, I SUGGEST THAT IN D, WHEN IT SAID BUDGET AND PROCESS AND THEN WENT ON TO LIST ALL THESE THINGS, THAT WAS INCLUDED IN BUDGETING PROCESS. HOWEVER, THE PROCESS CAN BE DEFINED IN --

>> SO THE COMMISSION COULD PUT A CONSTITUTIONAL AMENDMENT ON THERE ABOUT ANYTHING SO LONG AS IT AFFECTS THE BUDGET OF THE STATE?

>> AS LONG AS IT AFFECTED AN EXPENDITURE, I THINK IT COULD. NOW, THEY'RE NOT GOING TO DO IT.

>> 100,000 NEW POLICE OFFICERS THE QUALIFICATIONS OF HEARING? YOU KNOW, WHATEVER, SO LONG AS IT HAS SOME FISCAL IMPACT, THIS COMMISSION COULD PUT THAT PROPOSAL ON THE BALLOT?.

>> JUST LIKE THE CONSTITUTIONAL REVISION COMMISSION, COULD PUT ANYTHING ON THE BALLOT. THE FACT IS THEY'RE A NOT GOING TO DO THAT BUT THE,, THE ONLY DIFFERENCE IS BETWEEN THE CONSTITUTIONAL REVISION COMMISSION, THEY CAN PUT ANYTHING ON THE BALLOT. THIS HAS --, THE, THE TBRC HAS TO HAVE SOME RELATIONSHIP TO REVENUE, TO TAXATION, OR EXPENDITURES.

>> MR. ^GRIMES, YOU'RE WELL OVER YOUR TIME.

IF YOU WOULD JUST GIVE US A CONCLUDING STATEMENT, PLEASE.

>> YOUR HONOR, WE, I, I, I SUBMIT THAT YOU HAVE TO LOOK AT D AND E TOGETHER AND WHAT THE, THE INTENT OF THE, THE PEOPLE THAT PASSED THIS TO GIVE A BROAD REVIEW AND TO LIMIT THEM IN THE WAY OF PROCESS, LIMIT PROCESS TO THAT EXTENT, YOU'D HAVE THWARTED THE ABILITY OF THE COMMISSION TO DO A LOT OF MEANINGFUL WORK, AND I, WITH --

TO KEEP THIS AWAY FROM THE VOTERS, IT'S GOT TO BE CONCLUSIVELY INVALID AND I SUBMIT THAT IT DOESN'T APPROACH THAT, THAT, AND THEREFORE, WE SUBMIT THAT THE JUDGMENT SHOULD BE AFFIRMED.

>> THANK YOU.

>> LET ME ASK ONE QUESTION OVER HERE.

IN SUBSECTION D, IT LIMITS THE COMMISSION'S ABILITY TO ANALYZE REGARDING OR ALLOWS IT TO EXAMINE CONSTITUTIONAL LIMITATIONS ON TAXATION AND CONSTITUTIONAL LIMITATIONS ON EXPENDITURES.

SO DO YOU AGREE THAT THAT WOULD LIMIT THE NATURE OF THE BUDGET REVIEW OR RECOMMENDATIONS THAT THIS COMMISSION CAN MAKE?

>> -- BECAUSE HERE WE'RE ONLY TALKING ABOUT CONSTITUTIONAL LIMITATIONS.

>> RIGHT.

>> ON EXPENDITURES, CORRECT?

>> I THINK, I THINK WHAT D DOES IS IT, IT GIVES A BROAD RANGE OF THINGS THAT THE COMMISSION CAN EXAMINE.

>> BUT I'M TALKING ABOUT TO THAT, AS FAR AS CONSTITUTION -- BECAUSE YOU GO INTO THE SECOND, THE ISSUE REPORT SOME GO INS INTO LEGISLATURE TO DEAL WITH LAWS AND THE SECOND PART GOES TO THE PEOPLE TO DETERMINE WHETHER OR NOT THEY WANT TO AMEND THEIR CONSTITUTION BECAUSE THERE'S CONSTITUTIONAL LIMITATIONS OR RESTRAINTS ON TAXATION OR EXPENDITURES.

IN THIS CASE, WE ARE TALKING ABOUT CONSTITUTIONAL LIMITATION ON EXPENDITURES, CORRECT?

>> CORRECT.

>> AND SO YOU AGREE THAT THE COMMISSION HAS THE AUTHORITY TO EXAMINE THOSE CONSTITUTIONAL LIMITATIONS ON TAXATION AND EXPENDITURES?

>> I DO.

>> BUT YOUR BELIEF IS THAT ONCE THEY DO THAT, THE COMMISSION

CAN DO WHAT AS TO LIMITATIONS
ON EXPENDITURES?

NOT TAXATION.

>> WHAT IT CAN DO IS IT CAN
ISSUE A REPORT AS IT DID MAKING
RECOMMENDATIONS.

>> TO WHOM?

>> IT CAN ISSUE A REPORT TO THE
LEGISLATURE MAKING
RECOMMENDATIONS ON BUDGETARY
LAWS.

IT CAN PROPOSE BALLOT
INITIATIVES OR BALLOT PROPOSALS
THAT DEAL WITH TAXATION OR
STATE BUDGETARY PROCESS.

>> BUT NOT LIMITATIONS ON
EXPENDITURES IN THE
CONSTITUTION?

>> NO, YOUR HONOR, I DON'T
BELIEVE SO BECAUSE 6E SAYS IT
CAN'T.

>> WEAL RELY UPON OUR BRIEF FOR
THE REMAINING POINTS AND I'LL
WAIVE ANY FURTHER REBUTTAL.
THANK YOU VERY MUCH.

>> THANK YOU.

WE THANK BOTH FOR YOU FOR YOUR
ARGUMENTS.

WE KNOW THIS IS AN IMPORTANT
ISSUE FOR THE PEOPLE OF THE
STATE OF FLORIDA.