

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

>> GOOD MORNING.
WELCOME TO THE FLORIDA SUPREME
COURT.
FIRST CASE ON THE DOCKET THIS
MORNING IS ADVISORY OPINION TO
THE ATTORNEY GENERAL IN REGARDS
TO VOTER CONTROL OF GAMBLING IN
FLORIDA.

READY, WHEN YOU ARE.
>> GOOD MORNING, MR. CHIEF
JUSTICE.

MAY IT PLEASE THE COURT.
I'M RACHEL NORDBY APPEARING ON
BEHALF OF THE ATTORNEY GENERAL.
WE ARE HERE TODAY ON ATTORNEY
GENERAL'S OPINION ADVISORY
OPINION REGARDING THE BALLOT
INITIATIVE ENTITLED VOTER
CONTROL OF GAMBLING IN FLORIDA.
TODAY YOU WILL HEAR ARGUMENT
FROM INTERESTED PARTIES
CONCERNING THE INITIATIVE'S
BALLOT PLACEMENT.
FIRST MR. SCHACHTER WILL PRESENT
ON BEHALF OF THE SPONSOR, VOTERS
IN CHARGE, IN SUPPORT OF BALLOT
PLACEMENT.

THEN THE COURT WILL HEAR FROM
MR. DUNBAR ON BEHALF OF THE
VOTERS THAT OPPOSE PLACEMENT AND
MR. SCHACHTER WILL HAVE
REBUTTAL.
THANK YOU.

>> GOOD MORNING.
MAY IT PLEASE THE COURT.
MY NAME IS ADAM SCHACHTER.
WITH ME AT COUNSEL TABLE, MY
PARTNER FREDDIE KUNIS WE

REPRESENT THE SPONSORS, VOTERS
IN CHARGE.

THIS INITIATIVE REPRESENTS A
SIMPLE AND STRAIGHTFORWARD
AMENDMENT TO THE FLORIDA
CONSTITUTION BY PROVIDING
FLORIDA'S VOTERS WITH THE
EXCLUSIVE RIGHT TO AUTHORIZE
CASINO GAMBLING IN FLORIDA, THIS
AMENDMENT PROVIDES CLARITY AND
COMMON SENSE ON AN ISSUE WHERE
BOTH ARE SORELY NEEDED.

THE BALLOT SUMMARY AND TITLE ARE
EQUALLY STRAIGHTFORWARD.

>> COULD YOU EXPLAIN RIGHT NOW
WHAT THE STATE, WHO CAN
AUTHORIZE GAMBLING AND HOW THAT
WORKS CURRENTLY?

>> WELL, SIMPLE ANSWER TO THAT,
YOUR HONOR, THERE IS A LACK OF
CLARITY ON THAT PRECISE ISSUE
AND THE PERFECT EXAMPLE OF THAT
WOULD BE THE GRETNA CASE THAT IS
CURRENTLY BEFORE THIS COURT.

IN THE CASE THERE ARE COMPETING
ARGUMENTS WHETHER THE
LEGISLATURE HAS THE AUTHORITY TO
AUTHORIZE A CERTAIN TYPE OF
CASINO GAMBLING IN CERTAIN TYPES
OF GAMBLING FACILITIES IN
FLORIDA AND AS THIS COURT IS
AWARE THERE ARE COMPETING
ARGUMENTS ON EVERYTHING FROM
GRAMMAR TO STATUTORY
INTERPRETATION TO CONSTITUTIONAL
AUTHORIZATION ON WHAT THE ANSWER
TO THAT ISSUE IS.

SO THERE IS A LACK OF CLARITY ON
THIS, THIS AMENDMENT MAKES
PARTICULAR SENSE BECAUSE IT
WOULD PROVIDE THE MUCH-NEEDED
CLARITY.

>> WHETHER IT WAS THE
LEGISLATURE OR THE COUNTY, IT
WOULD TAKE AWAY FROM EITHER OF
THOSE ENTITIES THE ABILITY TO
DECIDE ON THE ISSUE OF GAMBLING.
IT WOULD LEAVE IT TO THE VOTERS?

>> WELL, LET ME ANSWER THAT IN
TWO-WAYS.

WHAT THE AMENDMENT WOULD DO,
WOULD MAKE IT TO AUTHORIZE A
CERTAIN TYPE OF CASINO GAMBLING
WHICH IS DEFINED IN THE
AMENDMENT, TO AUTHORIZE THAT
DEFINED TYPE OF CASINO GAMBLING
WOULD HAVE TO GO THROUGH THE
CITIZEN INITIATIVE PROCESS.
THE ARGUMENT HAS BEEN RAISED AND
THE QUESTION YOU'RE GETTING AT
HOW DOES THAT IMPACT ON EXISTING
GAMBLING LAWS AND EXISTING
GAMBLING FACILITIES AND THERE IS
TWO ANSWERS TO THAT.
FIRST OF ALL THIS AMENDMENT IS
NOT RETROACTIVE AS HAS BEEN
SUGGESTED IN SOME OF THE PAPERS.
SUBSECTION D PROVIDES IT IS
EFFECTIVE UPON APPROVAL BY THE
VOTERS, AND THERE IS NOTHING IN
THE BALLOT SUMMARY TO SAY
OTHERWISE.
THAT IS NOT TO SAY OF COURSE IF
THIS AMENDMENT IS PASSED IT WILL
INTERACT WITH AND IMPACT UPON
GAMBLING LAWS AND EXISTING LAWS.
THAT IS PRECISELY WHAT
CONSTITUTIONAL AMENDMENTS ARE
SUPPOSED TO DO.
>> HOW DOES IT AFFECT ARTICLE X
SECTION 23 RELATED TO SLOT
MACHINES?
YOU MENTIONED THAT, AND SUMMARY
MENTIONS THAT IT AFFECTS
ARTICLE X, RIGHT?
>> IT DOES, IT AFFECTS
ARTICLE X.
>> HOW SO?
>> THE ANSWER TO THAT, YOUR
HONOR, WE DON'T KNOW YET.
IT MAY IMPACT UPON CERTAIN-- IF
YOU'RE ASKING ABOUT EXISTING
GAMBLING FACILITIES THE ANSWER
WE DON'T KNOW YET, WE WOULD HAVE
TO SPECULATE.
>> ISN'T THAT PROBLEMATIC OF THE
SUMMARY?
>> IT IS NOT.
AS A MATTER OF LAW, THIS COURT
MADE IT CLEAR TIME AND AGAIN,

YOU MADE IT CLEAR IN THE 1994 IN THE LIMITED CASINOS CASE, MADE IT IN THE 2004 AND RECENTLY IN THE SOLAR CHOICE CASE, THAT THE BALLOT SUMMARY NEED NOT OFFER SPECULATION.

THE BALLOT SUMMARY NEED NOT LOOK INTO A CRYSTAL BALL TO FORESEE HOW AN AMENDMENT, IF PASSED WILL IMPACT UPON EXISTING LAWS. EVEN IF THOSE RAMIFICATIONS ARE BROAD.

>> IT WOULD BE ONE THING TO IMPACT UPON EXISTING LAW BUT ISN'T IT SOMETHING DIFFERENT TO IMPACT ON OTHER EXISTING CONSTITUTIONAL PROVISIONS?

>> WELL THE SUMMARY MAKES CLEAR IT DOES IMPACT UPON EXISTING CONSTITUTIONAL PROVISIONS. IT MAKES CLEAR THIS WILL BE A NEW AMENDMENT THAT WILL PROVIDE AN EXCLUSIVE AUTHORIZATION WITH THE VOTERS TO AUTHORIZE CASINO GAMBLING.

I THINK THOUGH THE DEEPER QUESTIONS OF PARTICULAR IMPACT TO PARTICULAR FACILITIES, THOSE, AND I WOULD POINT OUT EVEN THE CASES CITED BY THE OPPONENTS ON THIS, MAKE CLEAR THE EXACT POINT THAT WE WANT TO MAKE WHICH IF YOU LOOK AT THE LABOZLI CASE, WHICH IS THEIR LEAD CASE THE IN THAT CASE THE FIRST SENTENCE THE COURT IS ANALYZING BEEN ALREADY PASSED AMENDMENT IS OPERATING RETROACTIVELY WITH RESPECT TO EXISTING LAWS.

THE SAME WITH THE WATERMAN CASE. IT WAS FOUR YEARS AFTER AN AMENDMENT HAD ALREADY BEEN PASSED AND THE COURT WAS ANALYZING AFTER IT WAS PASSED IT OPERATED RETROACTIVELY. THE MORE INSTRUCTIVE CASE IN THE WATERMAN CASE, IF YOU GO FOUR YEARS EARLIER, WHEN THE AMENDMENT AT ISSUE WAS BEING CONSIDERED IN PROCEEDING JUST

LIKE THIS ONE, IN THAT PROCEEDING THE OPPONENTS RAISED THE EXACT SAME ARGUMENT BEING RAISED HERE, NAMELY, THAT THE AMENDMENT WOULD WREAK HAVOC ON EXISTING STATUTES AND EXISTING LEGAL LANDSCAPE.

THIS COURT SQUARELY REJECTED THAT ARGUMENT AND SAID LACK OF A PREDICTION AS TO HOW THE AMENDMENT MIGHT INTERACT WITH OTHER LAWS, HOW IT MIGHT INTERACT WITH PARTICULAR FACILITIES--

>> BUT THAT'S DIFFERENT THAN, MAY BE OR NOT INTERACTING WITH OTHER PROVISIONS OF THE CONSTITUTION.

YOU WOULD AGREE WITH THAT? THAT THE IDEA THAT THERE'S AN EXISTING CONSTITUTIONAL PROVISION, AND IT SAYS ONE THING AND THE PUBLIC DOES NOT HAVE A RIGHT TO KNOW IF THE SECOND AMENDMENT IS GOING TO WREAK HAVOC WITH THE FIRST AMENDMENT?

>> THE PUBLIC ABSOLUTELY HAS A RIGHT TO KNOW WHAT THE AMENDMENT IS GOING TO AFFECT IN THE CONSTITUTION AND SUMMARY PROVIDES THE SPECIFIC ARTICLES AND SPECIFIC SECTIONS IT IS GOING TO INTERACT WITH.

BEYOND THAT, HOWEVER, PARTICULARLY IN A 75-WORD BALLOT SUMMARY, IT WOULD BE AN IMPOSSIBLE EXERCISE TO TRY TO WALK THROUGH ALL OF THE POSSIBLE SCENARIOS, ALL THE POSSIBLE RAMIFICATIONS HOW THE AMENDMENT, IF PASSED, MIGHT WORK ITS WAY THROUGH THE LEGAL SYSTEM.

>> WELL IS THERE ANYTHING IN THE AMENDMENT ITSELF YOU CAN POINT TO THAT SHOWS HOW IT WOULD BE IMPACTED, THIS OTHER CONSTITUTIONAL PROVISION?

>> WELL THE AMENDMENT, THE SUMMARY, FOR EXAMPLE, PROVIDES THERE IS A DEFINITION IN THE

AMENDMENT OF CASINO GAMBLING WHICH, OBVIOUSLY DOES NOT MISLEAD THE VOTERS.

SAYS THERE IS A DEFINITION. YOU GO TO THE AMENDMENT TEXT. IT DEFINES CASINO GAMBLING AND DEFINES IN EXTENSIVE PARAGRAPH.

>> INCLUDES SLOT MACHINES?

>> ABSOLUTELY INCLUDES SLOT MACHINES.

SO THE ARGUMENT WE HEAR FROM OPPONENTS IS THAT, WELL, THAT DEFINITION GOES TOO FAR AND IT CAPTURES TOO MANY POTENTIAL TYPES OF GAMBLING ACTIVITIES AND IT'S RELIANT ON DEFINITIONS THAT THE FEDERAL GOVERNMENT MAY SET THROUGH.

>> IS THERE ANYTHING IN THE AMENDMENT ITSELF THAT WOULD FURTHER EXPLAIN HOW ARTICLE X, SECTION 23 IS IMPACTED BY THIS OTHER PROPOSED CONSTITUTIONAL AMENDMENT?

>> AS I SAID, YOUR HONOR, IT DOES DEFINE SLOT MACHINES AS BEING WITHIN THE, WITHIN THE DEFINITION OF CASINO GAMBLING BUT THE POINT I THINK THERE IS, TO THE EXTENT SOMEONE THINKS THAT THE DEFINITION GOES TOO FAR AND PERHAPS THE OPPONENT SAYS, WELL, IT SHOULDN'T APPLY TO SLOT MACHINES, THAT'S ALSO NOT AN ISSUE FOR THIS COURT IN A LEGAL SETTING TO MAKE.

THAT IS WHAT THIS COURT HAS IDENTIFIED TIME AND AGAIN AS SOMETHING FOR THE PUBLIC DEBATE.

>> THE PROBLEM WE HAVE BEEN SEEING AND SEE IT NOW WITH AMENDMENT 1, THE VOTERS SHOULD HAVE THE RIGHT, AND I REALIZE YOU GOT THE 75-WORD LIMIT, TO KNOW THAT IF I VOTE FOR THIS, IN MY VIEW, THIS IS WHAT IT WILL DO FOR THE STATE EITHER FOR GOOD OR FOR BAD DEPENDING ON YOUR VIEW OF GAMBLING.

AND SO THAT'S, BEEN THE CONCERN

IS SOMEBODY-- I DON'T KNOW
THAT'S A REASON WE REJECT IT BUT
IT'S A REASON THAT THE CITIZEN
INITIATIVES CAN CAUSE PROBLEMS
AND HAVE TO RELY ON EACH SIDE
RAISING MONEY TO MAKE THEIR CASE
AS OPPOSED TO SAY, JUST READ IT
AND YOU'LL UNDERSTAND WHAT
YOU'RE VOTING ON.

ISN'T THAT A PROBLEM?

>> I SURELY DON'T THINK IT'S A
PROBLEM WITH RESPECT TO THIS
AMENDMENT.

YOU BROUGHT UP THE SOLAR CHOICE
CASE.

THE ISSUE THAT DIVIDED THIS
COURT IN SOLAR CHOICE AND, AS
YOU PUT IT JUSTICE PARIENTE IN
YOUR DISSSENT, NOT WHAT THE
SUMMARY SAID BUT WHAT IT DID NOT
SAY.

IN SOLAR CHOICE, THAT ISSUE WAS
FAILURE, SUPPOSED FAILURE TO
TALK ABOUT THE EXISTING RIGHT
THAT APPLIED AND THE SOLAR
CHOICE AMENDMENT MAY HAVE
SUBSUMED THAT RIGHT.

HERE THERE'S NO SUCH ISSUE.
THE RIGHT BEING PUT FORTH BY
THIS AMENDMENT HAS NO, IT
REPLACING NOTHING IN THE
EXISTING LAW.

THERE IS NO EXCLUSIVE RIGHT
RIGHT NOW WITH THE CITIZENS TO
APPROVE GAMBLING.

SO THE ISSUE THAT DIVIDED THIS
COURT IN SOLAR CHOICE IS NOT--

>> GOING BACK TO THE FIRST
THING, SO THE VERIERS VOTE ON
THIS, THEY WILL KNOW WHAT
THEY'RE DOING IS TAKING AWAY
FROM THE AUTHORITY OF THE
LEGISLATURE AND THE COUNTIES TO
DO ANYTHING REGARDING GAMBLING,
IS THAT CORRECT?

>> I DON'T KNOW THAT I WOULD PUT
IT THAT WAY.

>> WHAT'S WRONG WITH THAT
STATEMENT?

>> I THINK CERTAINLY A VOTER

COULD PERCEIVE IT THAT WAY.

>> YOU'RE THE PROPONENT.
IS THAT THE INTENT OF THE
AMENDMENT?

>> THE INTENT IS TO GIVE THE
CITIZENS EXCLUSIVE RIGHT TO
AUTHORIZE CASINO GAMBLING VIA
CITIZENS INITIATIVE.

>> DOES THAT MEAN A STATEWIDE
BALLOT ON ANY INITIATIVE, OR
COULD IT BE COUNTY BY COUNTY?

>> IT CONTEMPLATES AN INITIATIVE
PURSUANT TO ARTICLE 11, EXCUSE
ME, ARTICLE 12, SECTION 3,
CITIZEN INITIATIVE PROCESS.
IT WOULD BE STATEWIDE.
NOT COUNTY REFERENDUM.

>> SO ANY CHANGE FOR CASINO
GAMBLING HAS TO BE DONE ON
STATEWIDE BASIS, CAN NOT BE DONE
COUNTY BY COUNTY?

>> FOR THIS TYPE OF GAMBLING--
>> COULD A CITIZEN INITIATIVE
THAT SETS THIS UP, RIGHT, THAT
THIS WOULD ANTICIPATE, IT CAN
ONLY BE DONE BY CITIZEN
INITIATIVE, COULD THAT AMENDMENT
PROVIDE THEN AND ONLY PROVIDE
UNDER THIS PARTICULAR PROVISION
A STATEWIDE ELECTION, OR COULD
IT BE DONE COUNTY BY COUNTY.

>> I'M NOT SURE I'M FOLLOWING
YOUR QUESTION.
FOR EXAMPLE--

>> THIS ANTICIPATES, LET ME SEE
IF I CAN HELP.

THIS ANTICIPATES ANOTHER
AMENDMENT TO BE DONE BY CITIZEN
INITIATIVE, RIGHT?

>> CORRECT.

>> COULD UNDER THIS PROVISION
THAT CITIZEN INITIATIVE LAWFULLY
SAY THAT THIS, THAT IT CAN BE
DONE BY COUNTY BY COUNTY
REFERENDUM, OR IS IT LIMITED TO
A STATEWIDE BALLOT?

>> I THINK I FOLLOW YOUR
QUESTION.

FOR EXAMPLE, THE WAY THAT SLOT
MACHINES WERE AUTHORIZED IN

MIAMI, DADE AND BROWARD--

>> RIGHT.

>> THAT WAS VIA CITIZEN INITIATIVE AND IT WAS FOR TWO PARTICULAR COUNTY.

>> RIGHT.

>> THAT IS PARTICULARLY APPROPRIATE UNDER THIS PROPOSED AMENDMENT THROUGH THE CITIZEN INITIATIVE PROCESS.

I THINK WHAT YOU'RE GETTING AT JUSTICE POLSTON, WHICH THE PROPOSED INITIATIVE, OBVIOUSLY DIFFICULT FOR ANY OF US TO SPECULATE WHAT MAY FOLLOW IF THIS AMENDMENT IS PASSED, IF YOU SPECIFY FOR PARTICULAR COUNTY.

>> WHAT I'M TRYING TO UNDERSTAND SUNDAY SUBSECTION A, IT SAYS THIS AMENDMENT INSURES FLORIDA VOTERS WILL HAVE EXCLUSIVE RIGHT, DOES THAT MEAN ALL THE FLORIDA VOTERS IN THE WHOLE STATE OR FLORIDA VOTERS IN EACH COUNTY?

>> AS FAR AS THE INITIAL AMENDMENT, IT WOULD BE VOTERS IN THE ENTIRE STATE.

>> WHAT ABOUT AFTER THAT?

>> AFTER THAT IT WOULD DEPENDS WHAT INITIATIVE CAME FORWARD AFTER THAT.

>> SO IT COULD BE DIFFERENT? IT COULD BE COUNTY BY COUNTY OR STATEWIDE?

>> I THINK WE'RE, I MUST BE MISUNDERSTANDING YOUR QUESTION. NO, THE CITIZEN INITIATIVE PROCESS CONTEMPLATED BY THIS AMENDMENT WOULD BE A STATEWIDE VOTE.

>> SURE, THAT IS REQUIRED BY THE CONSTITUTION.

BUT AFTER THAT, IT DEPENDS ON WHAT THE AMENDMENT SAYS.

IS THAT AMENDMENT LIMITED IN SOME WAY BY THIS PROPOSAL?

>> IT'S DIFFICULT FOR ME TO SPECULATE WHAT SOMEONE WOULD PUT FORTH AS AN AMENDMENT.

I THINK THAT IS EXACTLY THE POINT WE WOULD SUGGEST.

THIS AMENDMENT IS AGNOSTIC.

>> [INAUDIBLE].

-- AMENDMENT THAT SAYS LEGISLATURE HAS FULL AUTHORITY. IT DOESN'T BIND A SUPER-- [INAUDIBLE].

>> WELL, IT DOESN'T BIND, WE WOULD HAVE TO SEE WHAT THE AMENDMENT SAYS.

IF SOMEONE CAME FORWARD WITH AN AMENDMENT THAT PROPOSED SOMETHING, FOR EXAMPLE, IF SOMEONE CAME FORWARD WITH AN AMENDMENT THAT WAS GOING TO PROPOSE TO MAKE SPORTS BETTING LEGAL THROUGHOUT THE STATE, THE OPPONENTS RAISE SUPPLEMENTAL AUTHORITY A CASE FROM ARKANSAS WHICH POINTED OUT THAT THE FEDERAL GOVERNMENT HAS OUTLAWED THAT PURSUANT TO PARTICULAR STATUTE.

THAT AMENDMENT WOULD RUN INTO THAT LAW.

THAT WOULD BE AN ISSUE TO BE CONTEMPLATED BOTH BY THIS COURT WHEN SUBSEQUENT AMENDMENT CAME UP FOR BALLOT TITLE AND SUMMARY REVIEW.

AND THEN--

>> [INAUDIBLE]

VIOLATION OF THE CONSTITUTION, THEN IN THE SUBSEQUENT ELECTION OF AN INITIATIVE PEOPLE CAN PROPOSE WHAT THEY CHOOSE AND THE VOTERS CAN DECIDE WHAT THEY CHOOSE.

THIS IS NOT, WHAT, IF THIS PASSES, WHAT YOU'RE TRYING TO GET ON THE BALLOT PASSES, IT IS NOT GOING TO LIMIT THE AUTHORITY OF THE PEOPLE ACTING THROUGH THE INITIATIVE PROCESS TO DO WHAT THEY CHOOSE, RIGHT?

>> PRECISELY.

IT IS DESIGNED TO GIVE PEOPLE EXCLUSIVE RIGHT.

>> THIS IS DESIGNED TO LIMIT THE

LEGISLATURE AND OTHERS, NOT THE PEOPLE.

>> WITH RESPECT TO THIS PARTICULAR TYPE OF GAMBLING, THIS IS DESIGNED, GOING BACK TO JUSTICE PARIENTE'S QUESTION, I AGREE IT VESTS WITH CITIZENS THAT RIGHT.

THE LEGISLATURE UNDER THIS AMENDMENT COULD NO LONGER AUTHORIZE CASINO GAMBLING. THAT RIGHT WOULD SOLELY REST WITH THE CITIZENS.

I SEE--

>> I WANT TO MAKE SURE TO CLARIFY THIS, THAT YOU COULD HAVE ANOTHER STATEWIDE CITIZENS INITIATIVE, ASSUMING THIS PASSED, THAT SAID THAT PEOPLE IN VARIOUS COUNTIES CAN NOW HAVE THE RIGHT TO VOTE ON PARTICULAR KIND OF CASINO GAMBLING?

>> YES.

THIS INITIATIVE CONTEMPLATES SUBSEQUENT INITIATIVES THAT WOULD BRING FORTH PARTICULAR TYPES OF GAMBLING ACTIVITY IN PARTICULAR LOCATIONS, OF PARTICULAR SCOPE, AND THOSE AMENDMENTS, TO FOLLOW, WOULD CERTAINLY BE SUBJECT TO SCRUTINY ON ANY NUMBER OF GROUNDS BUT THIS PARTICULAR AMENDMENT, WHAT WE THINK IS THE BEAUTY OF THIS, THIS PROPOSE AS PROCESS AGNOSTIC WHETHER--

>> IT GETS INTO THE WHOLE FINANCIAL IMPACT WHICH PEOPLE TALK, YOU SEEM TO SAY THERE IS NO FINANCIAL IMPACT.

BUT IT SEEMS TO ME THAT EVERY TIME YOU HAVE TO HAVE A CITIZENS INITIATIVE TO DO SOME OTHER KIND OF GAMBLING, WHETHER IN PARTICULAR PARTS OF THE STATE OR YOU KNOW, STATEWIDE, THAT, THESE INITIATIVES COST A LOT OF MONEY TO GET ON THE BALLOT.

SO THERE REALLY COULD BE QUITE A FINANCIAL IMPACT?

>> WELL PERHAPS FOR SUBSEQUENT AMENDMENTS.

AS FAR AS THIS AMENDMENT, THE FINANCIAL IMPACT WAS DEEMED TO BE INDETERMINATE.

THAT IS BECAUSE OF THE EXACT ISSUE I DISCUSSED EARLIER WE DON'T KNOW YET HOW OTHER COURTS OR THIS COURT MIGHT APPLY THIS AMENDMENT TO EXISTING LAWS AND TO EXISTING GAMBLING FACILITIES BUT THE BALLOT SUMMARY FOR SURE IS NOT REQUIRED TO WALK THROUGH THOSE SCENARIOS.

I SEE I'M INTO MY REBUTTAL TIME. I WILL SAVE THE REST FOR REBUTTAL IF THERE IS NO OTHER QUESTIONS.

>> THANK YOU, MAY IT PLEASE THE COURT.

MY NAME IS MARK DUNBAR APPEARING ON BEHALF OF THE COLLECTIVE OPPONENTS OF THE MEASURE.

I'M JOINED AT COUNSEL TABLE WITH THE JOHN LOCKWOOD AND KAYLA SHANKEL.

A COUPLE QUICK POINTS I WOULD LIKE TO ADDRESS, THE ANSWER TO JUSTICE POLE CITIES'S QUESTION, THAT TALKS ABOUT THE ARTICLE WITH 10, 23 NO THERE IS NOTHING IN THERE.

JUSTICE PARIENTE IS THERE ANYTHING YOU PROPOSED LOSS OF POWER OF COUNTIES AND LEGISLATURE TO DETERMINE GAMING, GAMING POLICY, THAT LOSS OF AUTHORITY, ANSWER IS NO. THERE IS NOTHING IN THERE.

>> TO ME THAT'S DIFFERENT. THIS IS CLEARLY SAYING THE CITIZENS HAVE THE RIGHT.

I THINK THE OTHER MORE QUESTIONABLE THING, WHAT IS YOUR VIEW ABOUT HOW THOSE TWO, IF THIS CONSTITUTIONAL AMENDMENT WERE TO PASS HOW THAT INTERACTS WITH THE CURRENT SLOT MACHINE AMENDMENT?

>> I THINK IT IS VERY

PROBLEMATIC BECAUSE KEEP IN MIND
THE CONSTITUTIONAL AMENDMENT WAS
IMPLEMENTED BY THE LEGISLATURE.
THE AMENDMENT ITSELF, STANDING
BY ITSELF MEANS NOTHING.
IT NEEDED IMPLEMENTING
LEGISLATION IN ORDER FOR US TO
PASS THE SINGLE SUBJECT TEST.
WE HAVE ENTIRE BODY OF LAWS
ADOPTED, THAT BODY OF LAW, NOW
THE QUESTION DOES IT HAVE TO SIT
FOR REFERENDUM?

THAT IS THE POINT WE TRIED TO
MAKE THROUGHOUT ALL OF OUR
COLLECTIVE BRIEFS.

YOU HAVE--

>> ISN'T THAT SOMETHING, SOMEONE
WOULD HAVE TO BRING SOME KIND OF
ACTION TO MAKE THAT
DETERMINATION.

I DON'T THINK THAT, IT DOESN'T
SEEM TO ME IS THE KIND OF ISSUE
THAT YOU CONTEMPLATE WHEN YOU'RE
LOOKING AT WHETHER OR NOT THIS
IS THE SINGLE SUBJECT OR THAT
THE BALLOT SUMMARY IS
MISLEADING.

>> ACTUALLY, JUSTICE QUINCE, I
WOULD DISAGREE.

I THINK PRECEDENT FROM THIS
COURT SAYS THAT IN ORDER TO
DETERMINE WHETHER THE SUMMARY IS
MISLEADING OR NOT, YOU HAVE TO
TELL THE VOTERS WHAT THE
POTENTIAL CONSEQUENCES ARE.
THE MATERIAL CONSEQUENCES.
AND ONE OF THE VERY CLEAR
CONSEQUENCES IS THE
RETROACTIVITY PORTION OF THIS.

>> BUT HE HAS ALREADY SAID,
FIRST OF ALL, I THINK, OF ALL
YOUR ARGUMENTS THAT IS PROBABLY
RESPECTFULLY THE WEAKEST BECAUSE
HE SAID IT ACTUALLY SAYS IN
THERE, NOT RETROACTIVE.

PLUS WE HAVE CASE LAW THAT WOULD
SAY IF THERE IS EXISTING RIGHTS,
PROPERTY RIGHTS, AS FAR AS NOT
MAKING IT RETROACTIVE.

I'M MORE, AGAIN, WOULDN'T-- I

REALIZE YOU WANT TO REPRESENTING
GAMBLING INTERESTS BUT IF
SOMEBODY IS AGAINST GAMBLING
WOULDN'T THEY WANT THIS
AMENDMENT?

>> IF THEY WERE AGAINST GAMBLING
THEY WOULD WANT THIS AMENDMENT,
NO QUESTION ABOUT IT.

>> WHEN WE GO OVER, THIS THEN,
GIVE THE CITIZENS, AGAIN IF
THERE WAS A COUNTY THAT WANTED
GAMBLING, WHAT I'M UNDERSTANDING
IS THE CITIZENS INITIATIVE COULD
BE PROPOSED THAT WOULD SAY IN
THIS SPECIFIC COUNTY WE WILL
AUTHORIZE GAMBLING LIKE THEY DID
WITH MIAMI-DADE AND WHEREVER,
RIGHT?

YOU AGREE THAT'S STILL, THAT
NOTHING ABOUT THIS AMENDMENT
WILL DO ANYTHING IN THE FUTURE
UNLESS THERE IS ANOTHER CITIZENS
INITIATIVE?

>> WELL THAT'S FRANKLY CURRENT
LAW.

RIGHT NOW WE CAN'T HAVE CASINO
GAMBLING WITHOUT COUNTY
REFERENDUM.

>> SO IT IS TAKING IT AWAY
FROM--

>> TAKING AWAY FROM EVERYBODY
THAT HAD IT FOR LAST 150 YEARS.
OVERTURNING ALL OF YOUR
PRECEDENT AND ALL THE LAWS OF
THE LEGISLATURE, TAKING IT AWAY,
SAYING IF YOU WANT IT BACK YOU
HAVE TO HAVE SOME TYPE OF
CONSTITUTIONAL AMENDMENT.

IT IS IMPORTANT TO POINT OUT THE
ADVOCACY OF THE PROPONENTS IN
THEIR OWN, IN THEIR OWN BRIEF,
PAGE 14, FOOTNOTE 5, THEY STATE
THAT THERE IS IMPLIED REPEAL.
IN THE ADVOCACY OF THEIR LEAD
SPOKESPERSON, JOHN SOWINSKI, IN
FRONT OF THE REVENUE IMPACT
CONFERENCE IN THEIR OWN
DOCUMENTS AND STATEMENTS TO THE
PRESS THEY HAVE SAID, WE WANT TO
RETROACTIVELY, WANT TO TAKE AWAY

PRIVILEGES FROM GRETNA, TAKE AWAY ELECTRONIC GAMES AND PLAYER BANK GAMES.

>> LET'S CALM DOWN HERE.

>> HERE IS WHAT IS IMPORTANT AND REASON WHY WE ARE CONCERNED.

YOU GO BACK TO THE ERA OF PROHIBITION WHEN A CONSTITUTIONAL AMENDMENT LIMITED ALCOHOL SALES.

THERE HAVE BEEN LOTS OF CHALLENGES THE TAKEAWAY OF A SIN AUTHORIZATION.

IT HAS BEEN IN GAMBLING.

IT HAS BEEN IN TOBACCO.

IT HAS BEEN IN ALCOHOL.

IN EVERY INSTANCE THE COURTS ACROSS THE COUNTRY SAID YOUR ENTITLEMENT IS ONLY SO LONG AS THE LEGISLATURE OR CONSTITUTION DOESN'T COME INTO--

>> HERE'S THE THING.

OUR COURTS WILL NEVER STAY, WILL ALWAYS STAY BUSY WITH THESE CITIZEN CONSTITUTIONAL-- RIGHT? THEY POINTED OUT THESE CASES FROM THE PAST WHERE THE QUESTION WAS, WHAT WAS THE RETROACTIVE EFFECT?

THE COURT MADE DECISIONS ABOUT WHETHER THE AMENDMENT COULD HAVE RETROACTIVE EFFECT.

SO I'M NOT SEEING THAT AS, BEING THE PROBLEM.

I DON'T UNDERSTAND, IF VOTERS DO NOT WANT A COUNTY TO HAVE THE CONTROL OVER WHETHER GAMBLING OCCURS IN THEIR COUNTY, OF COURSE INEVITABLY WHAT HAPPENS, PEOPLE FROM OTHER COUNTIES COME IN THERE AND THERE ARE PEOPLE THAT DON'T THINK GAMBLING'S GOOD FOR, IT MAY BE GOOD FOR CERTAIN SEGMENT OF THE PUBLIC.

SO WHY IS THIS AMENDMENT EFFECTIVE IN, EITHER SINGLE SUBJECT OR THE TITLE?

I GUESS I'M STILL TRYING TO STRUGGLE WITH THAT.

OTHER THAN, I'M STILL CONCERNED

ABOUT THIS CURRENT SLOT MACHINE AMENDMENT?

>> AS IT RELATES TO SORT OF THE TWO REASONS WE'RE HERE, FOR SINGLE SUBJECT, YOU HAVE A PROBLEM THAT JUSTICE POLSTON IDENTIFIED AS WELL AS OTHERS. YOU HAVE A CONFLICT WITH OTHER CONSTITUTIONAL DECISIONS THAT IS NOT DISCLOSED.

THIS COURT SAYS THAT PRESENTS A SINGLE SUBJECT PROBLEM. IN ADDITION TO THAT, SEPARATE AND APART FROM SINGLE SUBJECT IS WHAT COURTS HAVE SAID IS THE TRUTH IN PACKAGING LAW.

WHETHER OR NOT THIS IS MISLEADING OR NOT. THE VOTERS TRULY DO NOT KNOW THE IMPACT OF THIS IN A COUPLE OF IMPORTANT AREAS.

I WILL PUT RETROACTIVITY OVER HERE BECAUSE I KNOW WE'VE BEATEN THAT UP.

THEY DO NOT KNOW OF TRANSFER OF FEDERAL GOVERNMENT BASICALLY WHO DEFINES GAMBLING AND THAT IS A BIG ISSUE HERE.

THE SUBTLETIES OF GAMBLING LAW UNDER INDIAN GAMING REGULATORY ACT AND RULES ESSENTIALLY NOW CODIFIED IN OUR CONSTITUTION FROM THE NATIONAL INDIAN GAMING COMMISSION, HOW ARE VOTERS SUPPOSED TO KNOW THIS AMENDMENT TRANSFERS TO THE FEDERAL GOVERNMENT THE ABILITY TO DEFINE WHAT IS OR IS NOT CASINO GAMBLING?

I WILL GIVE YOU A PERFECT EXAMPLE.

INTERNET GAMBLING AND SPORTS BETTING ARE THE BIGGEST THINGS RIGHT NOW.

THERE IS LOTS OF EFFORTS IN WASHINGTON, D.C., TO TRY TO DEAL WITH BOTH OF THESE.

YOU HAVE HEARD OF FANTASY SPORTS.

FANTASY SPORTS EXISTS BECAUSE OF

A FEDERAL DEFINITION THAT WAS BURIED IN A BUDGET BILL, THE SAFE HARBOR ACT, THAT DECIDED WHAT GAMBLING WAS NOT OKAY? SO THE FEDERAL GOVERNMENT SAID THIS TYPE OF ACTIVITY IS NOT INTERNET GAMBLING.

FANDUEL AND DRAFTKINGS, SEIZED UPON IT AND WE HAVE FANTASY SPORTS.

YOU COULD HAVE THE EXACT SAME THING HAPPEN IN RULE-MAKING BY THE NATIONAL INDIAN GAMING COMMISSION DEFINING WHAT IS NOT GAMBLING AND ALL OF SUDDEN, IT DROPS COMPLETELY OUT OF THIS AMENDMENT.

NOW THEY HAVE, THEY HAVE BUILT IN A VERY BIG CATCH-ALL WHICH JUSTICE LABARGA YOU CRITICIZED IN MARIJUANA ONE, YOU HAD A CONCERN ABOUT THE BROAD CATCH-ALL, DEBILITATING DISEASES.

IF YOU HAVE SUCH A BROAD CATCH-ALL, ALONG WITH THE TRANSFER, WHAT DO THE VOTERS REALLY KNOW?

AREN'T THEY REQUIRED TO DISCLOSE TO THEM THAT WE ARE GOING TO TAKE VOTER CONTROL, NOT REALLY, AND GIVE IT TO YOU.

>> WHAT ARE YOU REFERRING TO WHEN YOU SAY THIS BROAD CATCH-ALL?

>> IN THE AMENDMENT ITSELF, THE CATCH-ALL BEGINS, IN THE LANGUAGE THAT SAYS, IN ANY THAT ARE ADDED TO THE CLASS DEFINITION OF GAMING IN THE FUTURE.

THEN THERE'S AN ADDITIONAL CATCH-ALL THIS INCLUDES, BUT NOT LIMITED TO, AND THERE IS LENGTHY LIST.

>> WHAT SECTION ARE YOU LOOKING AT?

>> I'M SORRY IT IS B. IN THE DEFINITION OF CASINO GAMBLING.

THEN YOU HAVE A ADDITIONAL
CATCH-ALL.
ANY OTHER GAME NOT AUTHORIZED BY
THE LOTTERY PROVISION OF THE
CONSTITUTION WHETHER OR NOT
DEFINED AS A SLOT EMERGENCY OR
NOT.

IT IS CATCH-ALL AFTER CATCH-ALL.
THE PROPONENT DRAFTED ALL OF
THESE CATCH-ALLS INTENTIONALLY
BECAUSE THEY ARE LOOKING AT
MR. LOCKWOOD AND I, YOU'RE GOING
TO SOMEHOW ENGINEER A PRODUCT
AROUND THEM.

SO THIS IS AN EFFORT, I'M SURE
TO DO THAT.

BUT IN DOING THAT, THEY HAVE
OVERREACHED SO FAR THAT THE
VOTERS DON'T TRULY KNOW WHAT IS
HAPPENING, AND WHAT IS BEING--
I WILL GIVE YOU AN EXAMPLE.
ONE.

INDUSTRIES THAT IS VERY
CONCERNED ABOUT THIS IS THE
ARCADE INDUSTRY.

>> IS THE WHAT?

>> THE ARCADE INDUSTRY.

A CLAW MACHINE, WHICH YOU WILL
SEE IT, RED ELEPHANT OR ANY
LOCAL RESTAURANT AROUND HERE IS
SLOT MACHINE UNDER STATE AND
FEDERAL LAW.

WE PASS AD SLOT MACHINE
EXEMPTION IN THE 1960S FOR IT.
WE JUST UPDATED THAT STATUTE.

>> IS YOUR ARGUMENT THEN THAT
MIGHT BE SUBSUMED UNDER THE
TERM, CASINO GAMBLING.

>> IT IS.

ABSOLUTELY IT IS.

NO QUESTION, FEDERAL LAW AND OUR
OWN STATE LAWS IS ABSOLUTELY
CLEAR ON THAT.

THERE IS NO QUESTION ABOUT IT.
IF YOU HAVE A MACHINE HAS SOME
UNCERTAINTY, PUT A COIN IN IT,
AWARD A PRIZE OR GET SOMETHING
AGAIN OR PLAY THE MACHINE AGAIN,
THAT IS LOT MACHINE UNDER STATE
AND FEDERAL LAW, NO QUESTION.

EVERY ARCADE WITH REPLAY, EVERY
PINBALL MACHINE THAT HAS REPLAY
IS A SLOT MACHINE UNDER STATE
AND FEDERAL LAW AND WE HAVE PASS
AD STATUTORY EXEMPTION.

THE QUESTION I HAVE
PROSPECTIVELY IS, THE ARCADE
INDUSTRY JUST HAD TO GO THROUGH
A LARGE ROUND OF REWRITING THEIR
STATUTES BECAUSE THEY WERE
CAUGHT IN THE INTERNET CAFE
SCANDALS AND THINGS LIKE THAT.
WILL THEY BE FROZEN FOREVER MORE
ON ANY NEW PRODUCT BECAUSE THEY
OPERATE UNDER SLOT MACHINE
EXEMPTION?

AND IF A NEW PRODUCT THEY WANT A
NEW ACTIVITY, DO THEY HAVE TO
NOW DO A STATEWIDE AMENDMENT,
AND AMEND THE CONSTITUTION TO
GET THEIR NEXT VERSION OF A
PINBALL MACHINE.

THERE IS A BURGEONING
INDUSTRY CALLED E SPORTS, BOTH
SOMETHING THAT MY KIDS PLAY BUT
ALSO A, IS VERY, ONE OF THE
FASTEST GROWING CASINO GAMBLING
INDUSTRIES SUCH THAT VEGAS
CASINOS ARE TAKING OFF SLOT
MACHINES AND VIDEO CONSOLES
WHERE PEOPLE ARE GAMBLING
AGAINST EACH OTHER ON THEM.
WHERE IS THAT IN HERE?

WHAT IS THE IMPACT OF THAT.
THAT IS THE NEXT VERSION OF
GAMBLING WE'LL HAVE TO DEAL
WITH.

THAT IS CASINO GAMBLING AND TAKE
YOU INTO THREE OR FOUR CASINOS
IN VEGAS THERE IT IS, HOW IS
THAT ENVISIONED UNDER HERE?
IS THE NIGC CAN CARVE IT OUT SO
THE LEGISLATURE CAN ACT ON IT?
WHO IS IN CHARGE.

DPBR LOST ITS AUTHORITY.
LOTTERY LOST ITS AUTHORITY.
LEGISLATURE HAS LOST ITS
AUTHORITY.

UNLESS WE GIVE AT CITIZENS
INITIATIVE TO GIVE IT BACK TO

THEM.

I WILL ADD ONE THING THAT
DEMONSTRATES A LACK OF CLARITY.
THIS CONSTITUTIONAL AMENDMENT
SAYS YOU HAVE TO COMPLY WITH
ARTICLE X SECTION 3.

THAT IS THE SIGNATURE GATHERING
REQUIREMENT.

THAT IS NOT THE VOTING
REQUIREMENT.

THAT IS ARTICLE X, SECTION 5.
THE LEGISLATURE, COULD THEY NOT
IMPLEMENT THIS, YOU GATHERED
ENOUGH SIGNATURES AND HAVE A
COUNTY REFERENDUM AND THAT
SATISFIES IT?

THAT IS A BIG AMBIGUITY HIRE.
THE VOTING IS ACTUALLY NOT, NOT
REFERENCED AT ALL.

THE CORRECT ARTICLE OF THE
CONSTITUTION IS NOT REFERENCED.
THE ONLY THING THE VOTERS ARE
TOLD IF THEY READ THIS, THEY
HAVE TO GATHER THE SIGNATURES,
NOT HAVE A STATEWIDE REFERENDUM.
THE LEGISLATURE COULD EASILY
STEP IN, I THINK, PASS
IMPLEMENTING LEGISLATION SAY FOR
PURPOSES OF THAT THE REFERENDUM
THAT IS REQUIRED IS A COUNTY
REFERENDUM.

SHOULD THE VOTERS KNOW THAT'S AN
OPTION?

THAT THE LEGISLATURE HAS THE
ABILITY TO DO THAT?

>> WHERE IS THAT ADDRESSED IN
THIS PROPOSAL WITH REGARD TO
WHETHER WE REALLY ARE TALKING
ABOUT COUNTY BY COUNTY THAT
JUSTICE POLSTON IS CONCERNED
WITH, OR WITH A STATEWIDE VOTE
MEANING, WHATEVER, SOMETHING MAY
HAPPEN IN DADE COUNTY, WELL,
DOES IT REQUIRE VOTERS ALL OVER
THE STATE TO VOTE ON IT OR JUST
THE VOTERS OF A SINGLE COUNTY?

>> PROPONENTS WOULD SAY IT IS
INFERRED BY--

>> SO IT'S NOT.

>> IT'S NOT.

ARTICLE 11, SECTION 3, BECAUSE THAT DEALS WITH, THAT IS THE SIGNATURE GATHERING REQUIREMENTS FOR THE ARTICLE 11, SECTION 5 STATEWIDE REFERENDUM THAT IS IMPLEMENTED BY A SERIES OF STATUTES THAT THE LEGISLATURE PASSED.

>> YOUR VIEW IS THIS PROPOSAL, NEITHER THE SUMMARY NOR THE AMENDMENT MAKE A STATEMENT WITH REGARD TO THAT?

THAT IS JUST NOT ADDRESSED?

>> THAT'S CORRECT.

THEY WOULD SAY IT IS INFERRED. I THINK FRANKLY A TYPO IN THE DRAFTING THAT NEEDS TO BE CLEANED UP.

THAT IS THE IMPORTANT PART OF THIS.

THIS COURT REGULARLY STATED THE PURPOSE OF THIS PROCESS IS TO ALLOW THIS COURT TO RULE ON THE VALIDITY OF THE INITIATIVE PETITION BEFORE THE SPONSOR GOES TO CONSIDERABLE EFFORT AND EXPENSE OF GETTING THE REQUIRED NUMBER OF SIGNATURES. THEY HAVE DONE THE 10%.

THEY STILL HAVE ANOTHER 90 THEY HAVE TO GO.

THIS IS FOR 2018 BALLOT.

CLEANING THAT UP IS NOT THAT DIFFICULT.

THIS SHOULD GO BACK TO AVOID WHAT WILL BE A RIDICULOUS AMOUNT OF LITIGATION AROUND WHAT THIS MEANS, WHAT THE BOUNDARIES OF THE LEGISLATURE ARE, AND WHETHER OR NOT IT IS PROSPECTIVE OR RETROACTIVE.

AND I WOULD SUGGEST THAT IN ROBERTS VERSUS BROWN, WHEN THE COURT LAID THAT OUT THERE IT ANTICIPATED U-7 PROVIDING INSTRUCTION TO THE DRAFTERS, SAYING YOU GOT THIS WRONG, YOU GOT THIS WRONG, GO FIX IT.

THAT IS IN A CITIZENS INITIATIVE THIS IS NOT ONE THAT'S BEEN

PROPOSED BY LEGISLATURE THAT
WILL BE ON THE BALLOT NEXT WEEK
THAT YOU HAVE TO DECIDE WHAT TO
DO.

THERE IS PLENTY OF TIME HERE.
AND YOUR COURT'S PRECEDENT HAS
SUGGESTED---

>> YOU RAISED AN INTERESTING
QUESTION WHICH IS THE
LEGISLATURE HAS NOW, THERE IS A
PROCESS, IF WE FIND SOMETHING IS
NOT CLEAR, IT GOES BACK TO THE
ATTORNEY GENERAL AND IT NOW,
THAT CAN'T BE A REASON IT
DOESN'T GO ON THE BALLOT.
HERE, WE DON'T HAVE THAT
PROCESS.

AND, YOU KNOW, THAT IS
UNFORTUNATE BECAUSE, BECAUSE I'M
ASSUMING EVERYBODY'S ACTING IN
GOOD FAITH ON, IF SOMETHING
SHOULD BE IN THERE OR SHOULDN'T.
SO, AGAIN JUST AN IDEA OF
WHETHER LEGISLATURE OR EVEN IN
THE CONSTITUTIONAL REVISION
COMMISSION LOOK AT THAT WHAT'S A
BETTER IF WE'RE GOING TO
AUTHORIZE AND ENCOURAGE CITIZENS
INITIATIVES, SHOULDN'T WE HAVE
SOME PRE-CLEARING SO THAT THE
CITIZENS DON'T GO 10% WHICH
STILL COULD BE EXPENSIVE?

>> IT ALSO SPEAKS TO THE
SANCTITY OF THE CONSTITUTION.
THE QUESTION IS DO YOU SUBSCRIBE
IT SHOULD BE EASY TO AMEND OR
DIFFICULT?

>> AFTER PREGNANT PIGS YOU KNOW
WHAT MY VIEW IS.

>> I'M NOT POLICYMAKER.
JUST AN ADVOCATE.

I WOULD SUGGEST THAT YOU HAVE
SUFFICIENT EXAMPLES OF
MISLEADING NATURE OF THIS THAT
IS GOING TO LEAD TO A PARADE OF
HORRIBLES THAT COULD VERY EASILY
BE FIXED.

THIS COURT SAID THAT'S YOUR ROLE
IN IT.

EVEN BETTER THAN THE

LEGISLATURE, YOU GET TO WRITE
OPINION AND GIVE IT TO THE
OPPONENTS HOW TO FIX IT.
YOU GET TO PROVIDE THEM THE ROAD
MAP.

THAT IS THE EASIEST WAY TO SOLVE
THIS PROBLEM, TO AVOID WHAT IS
GOING TO BE A SERIES OF
UNINTENDED CONSEQUENCES.

>> [INAUDIBLE]

>> I THINK IT IS BOTH, YOUR
HONOR.

>> YOU'RE SUGGESTING IT'S OUR
ROLE TO FINE TUNE SUBSTANCE OF
THIS CONSTITUTIONAL AMENDMENT TO
ELIMINATE ANY AMBIGUITIES OR
QUESTIONS OR PROBLEMS THAT WE
FORESEE THAT MIGHT ARISE FROM
THE IMPLEMENTATION OF THE
PROPOSED AMENDMENT?

>> NO, SIR.

YOU'RE NOT THE WORDSMITH.
WHAT MY SUGGESTION IS, YOUR ROLE
IS VERY CLEAR TO SAY, WE BELIEVE
IT IS MISLEADING AND THIS IS
WHY.

WE BELIEVE YOU FAILED ON SINGLE
SUBJECT AND THIS IS WHY.

>> SUMMARY?

>> BOTH.

BOTH.

YOU HAVE DONE THAT IN BOTH
INSTANCES.

>> ACTUAL AMENDMENT ITSELF CAN
BE MISLEADING AND WE-- ARE TO
GIVE INSTRUCTIONS ABOUT HOW TO
CHANGE THE SUBSTANCE OF THE
AMENDMENT?

>> MISLEADING AS IT RELATES TO
TITLE AND SUMMARY.

SINGLE SUBJECT AS IT RELATES TO
THE LANGUAGE ITSELF.

BUT IT IS, IT IS BOTH.

YOU HAVE BEEN CRITICAL OF THE
TEXT, DRILLING DOWN INTO
MARIJUANA ONE, WHEN THE DEBATE
WAS AROUND THE DEFINITION OF
DEBILITATING DISEASES AND
WHETHER OR NOT THE SUMMARY
MATCHED WHAT WAS IN THAT

AMENDMENT, YOUR OPINION AND THE DISSENTS AND CONCURRENCES IN THERE DID A LOT OF THAT, BOTH OF THE SUMMARY AND TITLE AS WELL AS THE TEXT ITSELF.

NOW, FAR BE IT FROM ME TO TELL YOU HOW YOUR PEN SHOULD GO BUT IN THE PAST COURTS HAVE WEIGHED IN AND SAID WE SEE THIS PROMPT.

>> I THINK THAT IS VERY DANGEROUS, AND I DON'T KNOW-- WE SEE AMENDMENTS ALL THE TIME THAT WE GO WHAT IS THIS GOING TO DO?

ALTHOUGH PEOPLE THINK OUR ROLE WE'RE VOTING ON THE MERITS IS TO INSURE THAT BALLOT TITLE AND SUMMARY ACCURATELY REFLECTS THE SUBSTANCE OF THE AMENDMENT.

SO IF THE AMENDMENT ITSELF HAS SOME AMBIGUITY, THAT IS THE SUBJECT OF SUBSEQUENT LITIGATION, NOT OUR SAYING WELL, WE DON'T UNDERSTAND WHETHER IT IS RETROACTIVE OR NOT.

>> BUT LET'S THINK ABOUT IT FROM THE VOTERS PERSPECTIVE.

IS IT FAIR FOR THE VOTERS IN COUNTIES THAT NOW, ROUGHLY 7.2 MILLION IN POPULATION THAT WILL HAVE CAST THEIR VOTE IN A COUNTY REFERENDUM TO DECIDE WHETHER OR NOT THEY WANT SLOT MACHINES IN THEIR COUNTY BY NEXT WEEK?

ISN'T IT FAIR FOR THEM TO KNOW WHETHER OR NOT THAT VOTE IS BEING TAKEN AWAY BY THIS AMENDMENT?

OR HOW ABOUT MORE THAN 10,000 PEOPLE EMPLOYED IN THE INDUSTRY OR 400 PLUS MILLION DOLLARS THAT GO INTO YOUR TREASURY FROM THE INDUSTRY?

HAVE THEY NOT ALLOWED TO KNOW THAT?

HOW ABOUT THIS?

IF THIS AMENDMENT WERE TO BE ADOPTED, LET'S JUST SAY IT WAS RETROACTIVE, THE SEMINOLE TRIBE

HAS ABSOLUTE MONOPOLY ON GAMING
IN FLORIDA, ABSOLUTE MONOPOLY ON
GAMING IN FLORIDA.

HOW ABOUT THE NATIVE-AMERICAN
TRIBES THAT OPERATE CLASS 2
GAMING?

THIS TAKES THEM, THAT AWAY FROM
THEM.

A FEDERAL RIGHT, THIS TAKES IT
AWAY, SAYS YOU DON'T HAVE THE
GAMING ANYMORE.

YOU HAVE TO GET A CONSTITUTIONAL
INITIATIVE.

>> YOU'RE SAYING A STATE
CONSTITUTIONAL AMENDMENT CAN
PREEMPT FEDERAL LAW?

>> THIS LANGUAGE RIGHT HERE
STATES THAT IN ORDER FOR YOU TO
HAVE THOSE TYPE OF GAMES IN
FLORIDA, YOU HAVE TO PASS A
REFERENDUM.

THERE WILL BE LITIGATION ON IT.
CAN IT?

I DON'T KNOW BUT ISN'T IT
FAIR--

>> SUBSECTION C MEAN?

I THOUGHT THEY SAY IT DOESN'T,
NOTHING HEREIN SHALL BE
CONSTRUED TO LIMIT THE ABILITY
OF THE STATE OR NATIVE-AMERICAN
TRIBES TO NEGOTIATE GAMING
IMPACT PURSUANT-- SO, IT SEEMS
TO ME THAT NEGATES THE ARGUMENT
THAT YOU'RE MAKING RIGHT NOW.

>> IT ABSOLUTELY MAKES THE
ARGUMENT AND HEAR'S WHY.

YOU WOULD HAVE TO PRACTICE
GAMING LAW TO KNOW THIS.

A CLASS 2 GAME DOES NOT REQUIRE
A COMPACT.

OWN ONLY CLASS 3.

ONLY CLASS 3.

THIS ONLY SAYS THAT CLASS 3
GAMING UNDER A COMPACT OR GAMING
UNDER A COMPACT IS PROTECTED.

THE MICCOSUKEE TRIBES HAVE
ABSOLUTE RIGHT TO CLASS 2 GAMING
WITHOUT A COMPACT BUT THE GAMES
THEY ENGAGE IN ARE DESCRIBED IN
THE CATCH-ALL AS WE REFERENCED

IN OUR BRIEF.
THERE IS NO, THAT IS NO QUESTION
IN THE GAMING WORLD THAT IS
CAUGHT BY THE CATCH-ALL
PROVISIONS DOWN BELOW.
>> THEN THERE IS A SECOND
SECTION, AFFECT ANY EXISTING
GAMBLING OR TRIBAL LANDS
PURSUANT TO COMPACTS?
>> THEY'RE NOT UNDER COMPACTS.
>> EXECUTED BY--
>> THAT IS MY-- THEY DO NOT
OPERATE UNDER A COMPACT.
THEY'RE NOT REQUIRED TO OPERATE
UNDER A COMPACT.
>> CERTAINLY SEEN SOME.
>> THE SEMINOLE TRIBE.
THE SEMINOLE TRIBE IS THE ONLY
ONE.
THE SEMINOLE TRIBE IS ONLY ONE.
>> WE'RE OUT OF TIME.
>> THANK YOU.
>> THANK YOU.
THE PROPOSED COURSE OF ACTION
SUGGESTED BY THE OPPONENT WITH
RESPECT TO THIS AMENDMENT IS THE
EXACT OPPOSITE WHAT THIS COURT
HAS SET FORTH AS THE LAW TIME
AND AGAIN.
IT IS UNDISPUTED IT IS NOT FOR
THIS COURT AT THIS POINT IN TIME
TO WEIGH IN ON THE WISDOM OF THE
AMENDMENT, THE MERITS OF THE
AMENDMENT.
OR APPLY THE LANGUAGE OF THE
AMENDMENT TO PARTICULAR FACTS OR
CIRCUMSTANCES.
THE ISSUE BEFORE THIS COURT, THE
ISSUE HERE, WHETHER THE BALLOT
TITLE AND SUMMARY ARE
MISLEADING.
THE SUMMARY STATES IN CLEAR
TERMS, THERE IS A DEFINITION.
THE AMENDMENT PROVIDES THE
DEFINITION.
TO BE SURE, THERE ARE ARGUMENTS
TO BE HAD WHETHER THAT
DEFINITION GOES TOO FAR AND
CAPTURES TOO MANY TYPES OF
CASINO GAMING.

THERE ARE SURELY OPPOSITE ARGUMENTS THAT IT DOES NOT GO FAR ENOUGH AND IT SHOULD CAPTURE EVEN MORE GAMES.

THOSE ARE ARGUMENTS AND DEBATES FOR THE POLITICAL PROCESS. FOR THE PROPONENT TO MAKE IN FAVOR OF PASSAGE AND OPPONENTS TO MAKE IN OPPOSITION OF PASSAGE, NOT FOR THIS PARTICULAR PROCEEDING.

WITH RESPECT TO THE MENTION OF MARIJUANA ONE, THIS COURT IN MARIJUANA ONE WENT DOWN THE ROAD ANALYZING PARTICULAR TERMS IN THE AMENDMENT BECAUSE THERE WAS A FACIAL INCONSISTENCY WHAT WAS IN THE SUMMARY WHERE IT SAID DEBILITATING MEDICAL DISEASE AND IN THE AMENDMENT WHERE IT SAID DEBILITATING MEDICAL CONDITION. THAT INCONSISTENCY POTENTIALLY RENDERED THE SUMMARY MISLEADING WHY THE COURT WENT INTO THE ANALYSIS.

>> I THOUGHT WE APPROVED THAT.

>> YOU DID.

>> IT WAS VOTERS REJECTED IT.

>> IN TERMS OF THIS PROCEEDING, THAT ANALYSIS DOESN'T EVEN NEED TO TAKE PLACE BECAUSE HERE THE SUMMARY IS ITS BEAUTY IS THE SIMPLICITY.

DIRECTS THE VOTER TO DEFINITION AND THE DEFINITION IS SET FORTH IN BLACK AND WHITE.

THE MERITS OR WISDOM OF THAT DEFINITION OR WHAT IT MAY OR MAY NOT APPLY TO IS CERTAINLY NOT FOR ANY OF US HERE TO DECLARE WHAT THE STATE OF THE LAW IS OR HOW IT SHOULD BE RULED UPON AND IT IS NOT FOR THIS PROCEEDING TO DETERMINE EITHER.

>> COULD YOU HELP ME UNDERSTAND ON THIS ISSUE THAT JUSTICE POLSTON PRESENTED INITIALLY, AND THAT IS THAT NEITHER THE SUMMARY NOR THE AMENDMENT ITSELF DESCRIBES WHAT WE'RE TALKING

ABOUT THE FLORIDA VOTERS,
WHETHER THERE CAN BE COUNTY
INITIATIVES OR AS, WE LOOK AT
IT, IT SAYS FLORIDA VOTERS.
DOESN'T SAY COUNTY VOTERS.
IT DOESN'T SAY COUNTIES.
IS IT NOT REQUIRED TO AT LEAST
GIVE THE WITH CLARITY WITH
REGARD TO THAT.
>> IT DOES, YOUR HONOR.
>> WOULD YOU POINT TO WHERE YOU
BELIEVE IT DOES.
>> POINTS OUT THE INITIATIVE
PURSUANT TO ARTICLE 11, SECTION
3.
>> DOES THAT TELL US PRECISELY
IT CAN BE COUNTY BY COUNTY OR
DOES IT REQUIRE THE ENTIRE
STATE?
>> IN OUR VIEW IT WOULD REQUIRE
A STATEWIDE INITIATIVE.
>> SO WE ARE BEING CLEAR.
>> YEP.
>> IT REQUIRES IF SOMETHING IS
TO HAPPEN IN ANY PARTICULAR
COUNTY, TAKES THAT OUT OF THE
HANDS OF CITIZENS OF THAT COUNTY
AND PLACES IT IN THE HANDS OF
VOTERS OF ENTIRE STATE?
>> OR THE PARTICULAR INITIATIVE
THAT WOULD BE PROPOSED PURSUANT
TO THIS AMENDMENT.
>> YES.
>> TEXT OF THAT INITIATIVE MAY
PROPOSE SOMETHING IN THE FUTURE
TO PARTICULAR COUNTY.
>> YOU CAN ALWAYS DO THAT.
SO THAT IS ANSWERED STRAIGHT UP.
THAT IS THE WAY I WAS READING
IT.
>> WE ARE IN VIOLENT AGREEMENT I
WOULD SAY.
>> OKAY.
>> I WOULD RESPOND TO THIS
NOTION THAT THE REFERENCE TO
SECTION 3 IS SOMEHOW MISLEADING
BECAUSE IT DOESN'T ALSO SOMEHOW
MENTION SECTION 5.
IT WOULD BE MORE MISLEADING TO
POINT OUT SECTION 5.

SECTION 5 TALKS ABOUT VOTES TO APPROVE CITIZEN INITIATIVE BUT JOINT RESOLUTIONS, BUDGET COMMISSIONS, CONSTITUTIONAL CONVENTIONS THAT WOULD DO A SIS SERVICE TO THE VOTERS.

-- DISSERVICE TO THE VOTERS.

I WOULD REMIND AS THE COURT MADE IT CLEAR TIME AND AGAIN, WE PRESUME THE VOTERS.

A, READ THE AMENDMENTS AND SUMMARIES IN CONTEXT, AND B, THAT THE VOTERS ARE AWARE OF CERTAIN BASELINE CONCEPTS, NEEDLESS TO SAY THE CITIZEN INITIATIVE AMENDMENT PROCESS IS ONE THAT I THINK WE COULD SAFELY ASSUME THE VOTERS ARE AWARE OF, HAVING BEEN THROUGH IT TIME AND AGAIN.

WITH RESPECT TO THIS TYPE OF DEFINED CASINO GAMBLING THE AUTHORITY TO APPROVE THIS TYPE OF CASINO GAMBLING COULD ONLY BE THROUGH CITIZEN INITIATIVE.

NOT THROUGH--

>> COULD THE LEGISLATURE PROPOSE AN AMENDMENT TO DEAL WITH THIS AMENDMENT IF IT WERE ADOPTED?

>> FAR BE IT FROM ME TO SAY WHAT THE LEGISLATURE CAN OR CAN NOT DO.

>> THIS IS NOT DESIGNED TO PRECLUDE THAT, IS IT?

>> I PREFER TO STATE IT IN THE AFFIRMATIVE TERMS.

THIS AMENDMENT IS DESIGNED TO AUTHORIZE THE VOTERS TO HAVE EXCLUSIVE RIGHT TO AUTHORIZE CASINO GAMBLING.

>> IF THE LEGISLATURE WANTED TO PROPOSE, THIS IS WORKING, WE WANT IT BACK AND REPEAL, REMEMBER HIGH-SPEED RAIL? PEOPLE THOUGHT IT WAS PROPOSED. IT WAS DISASTER ACCORDING TO SOME PEOPLE.

THEN IT WAS REPEALED BY THE VOTERS.

>> IN MY VIEW IF THE LEGISLATURE

DID THAT, THAT WOULD MAKE FOR A
ROBUST LEGAL DEBATE AT SOME
POINT, BUT I THINK FOR PURPOSES
OF THIS BALLOT SUMMARY AND
TITLE, COMPLY WITH SECTION
101.61.

THIS AMENDMENT MEETS SINGLE
SUBJECT REQUIREMENT AND THIS
AMENDMENT SHOULD BE PLACED ON
THE BALLOT.

>> THANK YOU.