

IN THE SUPREME COURT OF FLORIDA  
CASE NO. 77,179

**FILED**

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CLERK, SUPREME COURT

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Deputy Clerk

BOB MARTINEZ, et al.,  
Appellants/Cross-Appellees,

vs.

MARK SCANLAN, et al.,  
Cross-Appellants and/or Appellees.

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ON APPEAL FROM THE CIRCUIT COURT,  
SECOND JUDICIAL CIRCUIT, IN AND FOR LEON COUNTY, FLORIDA

ANSWER BRIEF OF APPELLEE,  
FLORIDA POLICE BENEVOLENT ASSOCIATION

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## I.

### STATEMENT OF THE CASE AND FACTS

The Florida Police Benevolent Association is filing this brief on behalf of the Appellees/Cross Appellants, Mark Scanlan, the Professional Firefighters of Florida, Inc., the Communication Workers of America, Bill Stanfill, Ralph Ortega, Albert Darryl Davis, the Florida AFL-CIO, the International Brotherhood of Electrical Workers, Local 606 and the Florida Police Benevolent Association. Due to the shortness of time, the Appellees have divided the labors and are submitting separate briefs on the various legal issues involved in this case. This brief will address the trial court's finding that Chapter 90-201, Laws of Florida, violated the single subject requirement of Article III, Section 6 of the Florida Constitution. This issue of retroactivity of the newly passed legislation, which attempted to cure the single subject violation of Chapter 90-201, is addressed in a companion brief.

## II.

### ISSUE ON APPEAL

WHETHER THE TRIAL COURT CORRECTLY HELD THAT CHAPTER 90-201, LAWS OF FLORIDA, VIOLATED THE SINGLE SUBJECT RULE CONTAINED IN ARTICLE III, SECTION 6 OF THE FLORIDA CONSTITUTION.

## III.

### SUMMARY OF THE ARGUMENT

The trial court was correct in ruling that Chapter 90-201, Laws of Florida, violated the single subject requirement in Article III, Section 6 of the Florida Constitution. The Act embraces more than one subject and matter properly connected therewith and fails to briefly express the subject in the title.

To determine whether legislation meets the single subject requirement requires application of a "common sense" test. The act should be examined to determine if the

provisions are fairly and naturally germane to the subject of the act or are necessary to effect or promote the objects and purposes of the legislation. The legislature combined two different subjects, i.e., worker's compensation and economic development, and international trade, into one bill which it renamed the Comprehensive Economic Development Act of 1990. While economic development may have a tangential relationship to both worker's compensation and international trade, the necessary logical connection between these subjects is not present. There is no profound effect between international trade and worker's compensation which would require a finding that they are logically connected and appropriate in a single bill.

One of the factors which the courts have looked at in determining whether an act violates the single subject requirement of the Constitution is whether it would be awkward and unreasonable to enact the provisions in separate legislation. This clearly is not present in this case, as evidenced by the fact that the bills were totally separate until the last day of session. Thus, the purpose could clearly have been adopted by enactment of the provisions in separate legislation.

The requisite connection between worker's compensation and international trade is simply not present. Although the legislature attempted to delineate the relationship through approximately nine pages of description, the topics are sufficiently separate and disassociated with each other that they do not meet the logical and germane connection required to comply with the single subject requirement of the Florida Constitution.

Likewise, the title does not sufficiently describe the contents of the act so as to put a person on reasonable notice as to its content. The Comprehensive Economic Development Act of 1990 will not put interested persons on notice that it contains massive

changes to the worker's compensation law and creates an international trade bill. These title defects also make the act violative of the single subject requirement of the Constitution.

Accordingly, this Court should affirm the trial court's ruling that Chapter 90-201, Laws of Florida, is violative of the single subject requirement found in Article III, Section 6 of the Florida Constitution.

#### IV.

#### ARGUMENT

**THE TRIAL COURT CORRECTLY HELD THAT CHAPTER 90-201, LAWS OF FLORIDA, VIOLATED THE SINGLE SUBJECT RULE CONTAINED IN ARTICLE III, SECTION 6 OF THE FLORIDA CONSTITUTION.**

The trial court correctly ruled that Chapter 90-201, Laws of Florida, entitled "The Comprehensive Economic Development Act of 1990", violates the single subject rule contained in Article III, Section 6 of the Florida Constitution. Article III, Section 6, provides in pertinent part:

Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.

In ruling that Chapter 90-201 violated this provision, the court reasoned that the subject of the Act, economic growth and development, created too broad an "umbrella" and allowed for a disparity of topics within the Act that were not reasonably and rationally connected to the subject of the Act.

## HISTORY OF THE BILL

Committee Substitute for House Bill 3809 passed the House and Senate on the final day of the legislative session; it became Chapter 90-201, Laws of Florida. The Act essentially combined a worker's compensation bill and an international trade bill under the guise of a "comprehensive" law relating to economic development. These disparate topics were combined on the last day of session for one reason: to make sure that the international trade bill got out of committee.

Prior to that time, both the House and Senate had passed their respective versions of a worker's compensation bill. Although a consensus had not been reached, both chambers had passed a bill, although neither bill contained a reference to international trade or international affairs.

The title of the worker's compensation bill changed shortly after it was introduced. When initially introduced, it was captioned "An Act Relating to Worker's Compensation". Shortly thereafter, the title was changed to "An Act Relating to Economic Development and Worker's Compensation". Presumably, this was done to comply with the single subject requirement and put individuals on notice of the contents of the bill, i.e., economic development and worker's compensation. An inference can be made that the legislature knew that a bill simply entitled Economic Development would not put people on notice that it pertained to worker's compensation, and vice versa.

Meanwhile, an international trade bill was languishing in committee, and was effectively "dead" until it was combined with the bill relating to economic development and worker's compensation. On the last day of session, these bills were merged and became the Comprehensive Economic Development Act of 1990.



The trial court correctly held that Chapter 90-201 violated the single subject requirement in Article III, Section 6 of the Florida Constitution by combining the disparate topics of worker's compensation and international trade into one bill, which were not reasonably and rationally connected to economic growth and development, the purported subject of the Act.

### INTERPRETATION OF THE SINGLE SUBJECT REQUIREMENT

The single subject requirement requires application of a two pronged test. First, the act must embrace only one subject and matter properly connected therewith, and second, the subject must be briefly expressed in the title. Santos v. State, 380 So.2d 1284 (Fla. 1980). The trial court correctly held that the 1990 Act failed to meet either requirement.

The purpose of the constitutional prohibition against a plurality of subjects in a single legislative act is to prevent the act from becoming a "cloak" for dissimilar legislation having no necessary or appropriate connection with the subject matter. State v. Lee, 356 So.2d 276 (Fla. 1978). In Lee, the court upheld a challenge to Chapter 77-468, Laws of Florida, an act relating to tort claims, automobile insurance and related insurance problems, on grounds that it violated the single subject requirement in the Constitution. In reaching this determination, the court noted the "profound effect of tort litigation on all phases of the automobile insurance industry", thereby reasoning that tort law and automobile insurance must be logically connected.

In Bunnell v. State, 453 So.2d 808 (Fla. 1984), the Supreme Court held that Chapter 82-150, Section 1, Laws of Florida, violated the single subject provision of Article 3, Section 6 of the Florida Constitution. Section 1 of the Act created a criminal penalty for

obstruction by false information; Sections 2 and 3 amended a provision relating to the Florida Council on Criminal Justice and repealed other sections relating to the council. The court concluded that Section 1 of the Act had no cogent relationship to the subject of Sections 2 and 3, and that the objects of the sections were separate and disassociated with each other.

Prior to the Supreme Court's ruling in Bunnell, supra, the Fifth District Court of Appeal in Williams v. State, 459 So.2d 319 (Fla. 5th DCA 1984), concluded that Chapter 82-150, Laws of Florida, violated the single subject requirement of the Constitution. Disagreeing with the Second District's opinion in State v. Bunnell, 447 So.2d 228 (Fla. 2d DCA 1983), which was subsequently quashed by the Supreme Court's decision in Bunnell, supra, the Fifth District concluded that while the general object of the Act may have been to improve the criminal justice system, that did not make the topics related to the same subject matter. The court explained:

The Bunnell court reasoned that although not expressed in the title, it could infer from the provisions of the bill, a general subject, the criminal justice system, which was germane to both sections. Even if that subject was expressed, for example, in a title reading "Bill to Improve Criminal Justice in Florida," we think this is the object and not the subject of the provisions. Further, approving such a general subject for a non-comprehensive law would write completely out of the Constitution the anti-logrolling provision of Article 3, Section 6. (Footnote omitted)

459 So.2d at 321.

Relying upon Colonial Investments Company v. Nolan, 100 Fla. 1349, 131 So. 178 (1930) and Albritton v. State, 82 Fla. 20, 89 So. 360 (1921), the court held Chapter 82-150 violated the single subject requirement in the Constitution by serving as an umbrella subject containing different substantive matters.

In perhaps the most liberal interpretation of the single subject requirement, the Supreme Court in Smith v. Department of Insurance, 507 So.2d 1080 (Fla. 1987), held that Chapter 86-160, Laws for Florida (The Tort Reform and Insurance Act), did not violate the single subject requirement of the Florida Constitution. This Court adopted the reasoning of the trial court which found that the Act could easily be divided into five basic areas and that the areas were properly connected.

In upholding the constitutionality of the act, the trial court held:

Over the years, the tort system as we now know it and liability insurance have grown together, the former having influenced and molded the nature of the latter. The availability of liability insurance has liberalized the law of torts, as well. Legal scholars have long commented on the relationship between the two.

507 So.2d at 1086.

The test to determine whether legislation meets the single subject requirement is based on common sense, and requires an examination of the act to determine if the provisions "are fairly and naturally germane to the subject of the act, or are such as are necessary incidents to or tend to make effective or promote the objects and purposes of legislation included in the subject". Id. at 1087. In Smith, this court found that each of the challenged sections in the act was an integral part of the statutory scheme enacted by the legislature to achieve its goal of providing affordable liability insurance, and that the legislature was attempting to meet this goal through the enactment of The Tort Reform and Insurance Act. Concluding that civil litigation has an effect on insurance and that there is no reasonable way to say they are not properly connected, this court held that the act did not violate the single subject requirement of the Florida Constitution.

Application of the "common sense" test to Chapter 90-201, Laws of Florida, requires a contrary finding. The provisions in the Act are not fairly and naturally germane to the subject of the Act, nor are they necessary to make effective or promote the objects and purposes of the legislation. They were, until the last day of session, completely separate pieces of legislation. Presumably, if passed separately, they would have accomplished their respective goals: passage of a bill relating to economic development and worker's compensation; and passage of an international trade bill. The later cannot be an integral and necessary part of the statutory scheme of economic development and worker's compensation or it would have been included within the bill relating to economic development and worker's compensation from the beginning.

Burch v. State, 558 So.2d 1 (Fla. 1990), is the Supreme Court's most recent pronouncement on the single subject requirement. In Burch, the court reviewed Chapter 87-243, Laws of Florida, which included within its confines topics such as the definition of certain crimes, drug abuse education, safe neighborhoods, forfeiture of conveyances, entrapment, crime prevention studies and money laundering. In a 4-3 opinion, the court concluded that all of the topics bore a logical relationship to the single subject of controlling crime and did not violate the single subject requirement. The majority reasoned that the Act was comprehensive in nature, that all of its parts were directed toward meeting the crisis of increased crime, and that it would have been awkward and unreasonable to enact many of the provisions in separate legislation.

Although Chapter 90-201 is comprehensive in nature, all of its parts are not directed toward a single subject nor would it have been awkward and unreasonable to enact some

of the provisions in Chapter 90-201 in separate legislation. Quite to the contrary, they were two totally separate bills until the last day of the legislative session.

In Justice Shaw's dissenting opinion in Burch, supra, he noted that the challenged act's title contained eight pages of description, 76 sections and three separate titles including Crime Prevention and Control Act; Money Laundering Control Act; and Safe Neighborhoods Act. It also contained provisions on numerous unrelated subjects. Relying upon Williams v. State, supra at 321, Justice Shaw wrote:

The common thread that permeates the fabric of the legislation is crime prevention. However, an act in violation of the single subject provision of the Constitution cannot be saved or pass constitutional muster by virtue of the fact that improvement of the criminal justice system is the general object of the law - it is the subject matter which is our focus.

558 So.2d at 4.

While recognizing the common sense test set forth in Smith and the wide latitude afforded the legislature in the enactment of acts, provided that matters included in the acts have a natural and logical connection, Justice Shaw nevertheless held that:

[T]hese propositions do not militate against the requirement that the matters included in an act must bear a logical and natural connection, and must be germane to one another. In my view, it will not suffice to say all of the act's provisions deal with crime prevention or control. By upholding the constitutionality of the act before us, the single subject requirement of the Constitution is rendered meaningless. (emphasis added).

As noted in Bunnell v. State, 453 So.2d 808 (Fla. 1984), the Constitution requires a "cogent relationship" among sections of an act in order to avoid unconstitutionality. I find that relationship lacking here ...

558 So.2d at 4.

Justice Shaw's dissent, in which Justices Barkett and Kogan concurred, has particular application to the instant case. Chapter 90-201 is a comprehensive act. The act's title contains nine pages of description and 121 sections, including 2 separate titles: the Worker's Compensation Act of 1990 and the International Affairs, Economic Development and Trade Information Act. However, the Act contains numerous provisions on totally unrelated subjects including provisions providing for an international affairs officer, creating the Florida International Affairs Commission, providing for a strategic plan for international economic development in Florida, providing exemptions from public records law, providing responsibilities and duties of an office of an executive director relating to inter-governmental relations, creating the Florida-West Africa Institute, authorizing certain exemptions from payment of out of state tuition rates, creating and providing membership, terms and duties of the International Language Institute Advisory Council, requiring that the Post-secondary Education Planning Commission serve as an advisory body to certain state entities and include international education in its master plan for post-secondary education, changing the International Banking and Trade Study Commission to an advisory council within the Florida International Affairs Commission, increasing membership of the Economic Development Advisory Council, creating the Florida Trade Information Trust Fund, and providing for allocation of funds, in conjunction with provisions totally changing Florida's worker's compensation law as it had previously existed, all under the guise of an act entitled the Comprehensive Economic Development Act of 1990.

"The purpose of the requirement that each law embrace only one subject and matter properly connected with it is to prevent subterfuge, surprise, "hodgepodge" and logrolling in legislation". Santos v. State, 387 So.2d 1284, 1285 (Fla. 1980). As Justice

Brown wrote in Colonial Investments Company v. Nolan, 100 Fla. 13~~79~~<sup>4</sup>, 131 So. 178 (1930):

It had become quite common for legislative bodies to embrace in the same bills incongruous matters having no relationship to each other .... And frequently such distinct subjects, affecting diverse interests, were combined in order to unite the members who favored either in support of all. ...

131 So. at 179. And in Williams v. State, 459 So.2d 319 (Fla. 5th DCA 1984), the Fifth District also condemned this practice:

If diverse and dissimilar matters were included within one law, the legislative process could be subverted by passing matters which really have no majority support in the legislative body, but which were passed because the legislators were voting to approve other provisions included in the bill. It could also impair the governor's veto power if he or she were forced to accept an unwanted or undesirable provision in order to obtain the enactment of a desirable one. (Footnotes omitted)

459 So.2d at 320.

The practices referenced in Nolan and Williams are precisely what Judge Hall was referring to when he mentioned the accountability of lawmakers in passing an Act as broad as Chapter 90-201:

In essence, there is so much in there that is good that it reduces the accountability of the legislator because they can always say that they voted for the good portion of the bill and not necessarily the bad part of it, but at least they can explain away that which might be politically distasteful.

(R. 1283)

There was no majority support for passage of the international trade bill; it was going to die in committee. The bill was kept alive by making it part of the worker's compensation and economic development bill, which had already passed both the House and Senate. The bills were combined for one reason: to get the international trade bill

out of committee and passed as law. This goal was accomplished by combining it with the bill relating to economic development and worker's compensation, and calling it The Comprehensive Economic Development Act of 1990.

In sum, by combining the International Trade Bill with the bill relating to worker's compensation and economic development, the legislature passed a law which arguably had as the general object of the law "economic development." However, as Justice Shaw wrote in his dissent in Burch v. State, *supra*, it is the subject matter which must be the focus. There are two subjects: worker's compensation and international trade. While the legislature prepared a nine page description in the act's title in an attempt to show a logical and natural connection between worker's compensation and international trade, there is simply not enough of a connection to each other to give meaning to the single subject requirement in the Florida Constitution.

Arguably, there is a common thread between international trade and worker's compensation, and that is economic development, the purported subject of the Act. However, to give meaning to the single subject requirement, worker's compensation and international trade must bear a logical and natural connection and be germane to each other. They are not. Thus, they violate the single subject requirement in the Constitution.

In addition to requiring that every law embrace but one subject and matter properly connected therewith, Article III, Section 6 requires that the subject be briefly expressed in the title. The predominant reason for this requirement is to prevent deception and to insure sufficient information in the title to put interested persons on notice for inquiry of its contents. State v. Parrish, 23 So.2d 731 (Fla. 1945). These requirements are designed



to prevent surprise or fraud that would spring from hidden provisions not indicated in the title. Alterman Transport Lines, Inc. v. State, 405 So.2d 456 (Fla. 1st DCA 1981).

The appropriate test is whether the title is worded so as not to mislead a person of average intelligence as to the scope of the law, and whether it is sufficient to put that person on notice and cause him to inquire into the body of the statute itself. More specifically, "whether the title is so worded as not to mislead a person of average intelligence as to the scope of the enactment." Williams v. State, 370 So.2d 1143, 1144 (Fla. 1979). The title in Chapter 90-201, Laws of Florida, is clearly not sufficient to put an ordinary person on notice of its contents and thus violates the provisions of Article III, Section 6 of the Florida Constitution.

#### CONCLUSION

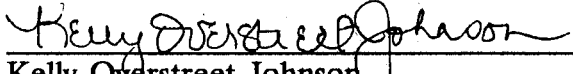
The 1990 Act clearly frustrates the purpose and intent of the single subject requirement in Article III, Section 6 of the Florida Constitution. International trade and worker's compensation simply do not have a sufficient connection to economic development or to each other. Application of the common sense test requires a finding that there is no natural and germane connection between these two disparate subjects.

Furthermore, it is evident that the intent of the legislature was to pass the International Trade Bill which was languishing in committee. The two bills were combined on the final day of session for that singular purpose. There is no profound effect or long standing relationship between international trade and worker's compensation. The 1990 Act clearly contains two subjects which do not have a logical and germane connection to the object of the Act, economic development, nor do they have a connection to each other.

Furthermore, the title of the act, the Comprehensive Economic Development Act of 1990, is worded so as to mislead a person of average intelligence as to the scope of its enactment.

For the foregoing reasons, the trial court's decision invalidating the Comprehensive Economic Development Act of 1990 on single subject grounds should be affirmed.

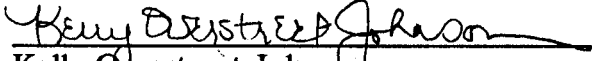
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I HEREBY CERTIFY that a true and correct copy of the foregoing has been delivered by U.S. Mail to the persons on the attached service list.

  
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