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IN THE SUPREME COURT
STATE OF FLORIDA

In re: Advisory Opinion to the Attorney General -- Limited Political Terms in Certain Elective Offices.	)	Case No. 78,647

Initial Brief of Respondents
Let The People Decide -- Americans For Ballot Freedom;
R. Ed Blackburn; J. Hyatt Brown; Doyle E. Conner;
Louis de La Parte; Patricia A. Dore; Raymond Ehrlich;
Richard W. Ervin; Wade L. Hopping; Richard A. Pettigrew;
T. Terrell Sessums; Parker D. Thomson; and Ralph Turlington

In Opposition to the Proposed Amendment

Original Proceeding
pursuant to Article V, Section 3(b)(10),
Florida Constitution

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Statement of the Case and Facts

This case arose on a petition from the Attorney General of Florida relating to a proposed constitutional amendment that would limit terms for certain state and federal elective offices. In compliance with constitutional and statutory procedural requirements,[1] the Attorney General has asked the Court to consider whether the proposed constitutional amendment meets the requirements of law for placement on a ballot submitted to the voters of Florida.[2]

On October 2, 1991, the Court entered an order authorizing interested parties to file briefs on or before October 18, and setting oral argument for November 8. These respondents duly filed a Notice of Appearance, declaring their interest in the proceeding in opposition to the proposed amendment.

Let the People Decide -- Americans for Ballot Freedom ("Americans") is a national, non-profit organization formed under section 501(c)(4) of the Internal Revenue Code to educate the public concerning the consequences of placing limitations on the number of terms a public official may serve, the serious threat such action would impose on the rights of voters, and the effects limitations would have on the balance of power between the branches of government set forth in the United States Constitution. Americans has a Board of Advisors composed of prominent individuals with substantial experience in federal, state and local government, and panels of prominent legal scholars, political scientists and historians.

A number of distinguished Floridians have indicated an interest in joining with Americans in order to present their opposition to the proposed initiative petition. These are, in alphabetic order:

> R. Ed Blackburn, former Sheriff of Hillsborough County and former member of the Florida House of Representatives;

1/ *See* art. IV, § 10, art. XI, § 3, Fla. Const.; § 16.061(1), Fla. Stat. (1989).

2/ The Supreme Court has jurisdiction pursuant to article V, section (3)(b)(10) of the Florida Constitution.

J. Hyatt Brown, former Speaker of the Florida House of Representatives;

Doyle E. Conner, former Commissioner of Agriculture and former Speaker of the Florida House of Representatives;

Louis de la Parte, former President of the Florida Senate;

Patricia A. Dore, Professor of Law, Florida State University College of Law;

Raymond Ehrlich, former Chief Justice of the Florida Supreme Court;

Richard W. Ervin, former Chief Justice of the Florida Supreme Court;

Wade L. Hopping, former Justice of the Florida Supreme Court;

Richard A. Pettigrew, former Speaker of the Florida House of Representatives; and former Special Assistant to the President of the United States for Reorganization;

T. Terrell Sessums, former Speaker of the Florida House of Representatives;

Parker D. Thomson, Partner, Thomson, Muraro, Bohrer & Razook;

Ralph Turlington, former Speaker of the Florida House of Representatives and former Commissioner of Education.

Summary of Argument

The proposed limited term amendment violates the one-subject requirement of the Florida Constitution, as it addresses three entirely distinct subjects and matters: state legislative officeholding; state executive officeholding; and federal legislative officeholding.

The amendment fails to inform voters that it conflicts with or substantially affects other provisions of the state and federal constitutions, thus requiring the Court to engage in constitutional construction previously denounced in order to save a conflict-ridden initiative petition. *See Fine v. Firestone,* 448 So.2d 984 (Fla. 1984).

There is no functional unity in this proposed amendment, contrary to the requirements of Article XI, section 3 of the Florida Constitution. *See Fine.* The elected officers in these respective classes function in separate branches of two separate governments. Their functions are vastly different from each other, and have unique concerns and interests with respect to their constituents and their peers.

The proposed ballot and summary fail to provide fair notice to the voters of the ramifications of the amendment. By omitting relevant data, the ballot and summary do not sufficiently inform voters as to how they are being asked to change the paramount law of the state. The ballot is drafted in a thoroughly biased fashion to persuade voters in the voting booth, rather than merely to inform them with neutral language as to the choices they will be asked to make in the privacy of the voting booth.

The proposed amendment violates the supremacy clause of the United States Constitution because it alters the qualifications for United States Representatives and Senators expressly prescribed in the United States Constitution. It also violates the First Amendment of the United States Constitution.

Although the proposed amendment contains a severability clause, severance would be inappropriate. The presence of a severability clause does not compel severance. The advisory process under article V, section 3(b)(10) of the Florida Constitution does not provide severance authority for an initiative petition. In all events, severing the proposed amendment would defeat the expressed intent of its proponents and all present petition signatories, and would run counter to decisions which declare that the Court will not engage in guesswork and arbitrary decision-making. *E.g., Fine.*

Argument

The Attorney General initiated this proceeding to test the constitutionality of a proposed constitutional amendment commenced through the initiative process of article XI, section 3, Florida Constitution, by a group of citizens and taxpayers known as "Citizens for Limited Political Terms" ("proponents"). Under article XI, section 3, any initiative petition must be confined to "one subject and matter directly

connected therewith."[3] Additionally, the proposed amendment must contain in clear and unambiguous language the substance of the amendment and the ballot title. § 101.161(1), Fla. Stat. (Supp. 1990). The proposed amendment, of course, must not conflict with the federal constitution, pursuant to the supremacy clause (article VI) of the United States Constitution.

It is the position of Americans that the "limited term" amendment is constitutionally and statutorily defective under Florida law, and that it is preempted by the United States Constitution. Americans adopt by reference here, without unneeded elaboration, the first amendment arguments presented by brief on behalf of the National Conference of State Legislatures and the Southern Legislative Conference of The Council of State Governments.

The operative provisions of the proposed constitutional amendment state:[4]

> Article VI [entitled "Suffrage and Elections"], § 4 of the Constitution of the State of Florida is hereby amended by:
>
> a) inserting "(a)" before the first word thereof and,
>
> b) adding a new sub-section "(b)" at the end thereof to read:
>
> "(b) No person may appear on the ballot for re-election to any of the following offices:
>
> "(1) Florida representative,
>
> "(2) Florida senator,
>
> "(3) Florida Lieutenant governor,
>
> "(4) any office of the Florida cabinet,
>
> "(5) U.S. Representative from Florida, or

3/ Article XI, section 3 of the Florida Constitution provides in relevant part:

> SECTION 3. Initiative. - The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment shall embrace but one subject and matter directly connected therewith.

(Emphasis supplied.)

4/ The full text of the proposed amendment is attached as an appendix to this brief.

"(6) U.S. Senator from Florida

"if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years."

The initiative petition contains an effective date, an anti-retroactive feature, and a severability clause. (See Appendix).

The title and summary to appear on the ballot read:

TITLE: Limited Political Terms in Certain Elective Offices

SUMMARY: Limits terms by prohibiting incumbents who have held the same elective office for the preceding eight years from appearing on the ballot for re-election to that office. Offices covered are: Florida Representative and Senator, Lieutenant Governor, Florida Cabinet, and U.S. Senator and Representative. Terms of office beginning before amendment approval are not counted.

1. <u>The proposed amendment violates the one-subject requirement of article XI, section 3 of the Florida Constitution</u>.

In his petition to the Court, the Attorney General opined that the limited term amendment does not violate the one-subject requirement of the Florida Constitution. However, the Attorney General provided no analysis or reasoning to support his conclusion. Americans will demonstrate that the limited term amendment does indeed violate the one-subject requirement. In fact, the proposed amendment embraces three unconnected subjects: state legislative officeholding; state executive officeholding; and federal legislative officeholding.

Decisions of this Court with respect to initiative petitions to amend the Florida Constitution require that the provisions within the amendment have a "logical and natural oneness of purpose." *Fine v. Firestone,* 448 So.2d 984, 990 (Fla. 1984) *see also, In Re: Advisory Opinion to the Attorney General -- Homestead Valuation Limitation,* 16 FLW S472, 473 (Fla., July 3, 1991); *In re Advisory Opinion to the Attorney General: English -- the Official Language of Florida*, 520 So.2d 11, 12 (Fla. 1988). This one-subject requirement of article XI, section 3 views the proposal from a functional perspective. That is, if a proposed amendment would affect multiple functions of government upon adoption, it violates the one-subject rule. This functional analysis of a proposed amendment entails two components with

which the amendment must strictly comply. *Fine,* 448 So.2d at 989. The limited term amendment complies with neither.

(a) **The proposal fails to identify for voters provisions of the state and federal constitutions with which it conflicts or substantially affects.**

The first feature of the functional requirement of the one-subject rule is that the proposed amendment "should identify the articles or sections of the constitution substantially affected." *Fine,* 448 So.2d at 989. Clear identification

> is necessary for the public to be able to comprehend the contemplated changes in the constitution and to avoid leaving to this Court the responsibility of interpreting the initiative proposal to determine what sections and articles are substantially affected by the proposal.

Id.

The limited term proposal flatly fails to satisfy this standard. It states that the proposal seeks to amend article VI, section 4 of the Florida Constitution. However, the proposal fails to identify at least two other provisions of the Florida Constitution with which it directly conflicts or that it substantially affects: article IV, section 5, and article III, section 15.

(1) State executive branch officeholders. Article IV, section 5 sets forth the "qualifications" and "terms" of Florida's constitutional, executive officeholders: the governor, the lieutenant governor, and the other cabinet members.[5] Subsection (a) of

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5/ Article IV, section 5 is entitled: "Election of governor, lieutenant governor and cabinet members; qualifications; terms." (Emphasis supplied.)

this provision sets the term of these executive branch officeholders at four years.[6] Subsection (b) sets limiting qualifications on these officeholders: each of them must be at least thirty years old and must have been a resident of Florida for the seven years preceding taking office; the attorney general must have been a Florida lawyer for the five years preceding taking office; and the governor and acting governor have a two consecutive term limitation.[7]

The Court will note that the clearly expressed intention of the proposed amendment is to limit the "terms" of these very officeholders with the "disqualification" of specified prior service in the same office.[8] Yet no mention is made of article IV, section 5, and the fact that it contains a complete set of officeholding disqualifications: age; residency; tenure as a lawyer for the attorney

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6/ Subsection (a) provides:

> At a state-wide general election in each calendar year the number of which is even but not a multiple of four, the electors shall choose a governor and a lieutenant governor and members of the cabinet each for a term of four years beginning on the first Tuesday after the first Monday in January of the succeeding year. In the general election and in party primaries, if held, all candidates for the offices of governor and lieutenant governor shall form joint candidacies in a manner prescribed by law so that each voter shall cast a single vote for a candidate for governor and a candidate for lieutenant governor running together.

7/ Subsection (b) provides:

> When elected, the governor, lieutenant governor and each cabinet member must be an elector not less than thirty years of age who has resided in the state for the preceding seven years. The attorney general must have been a member of the bar of Florida for the preceding five years. No person who has, or but for resignation would have, served as governor or acting governor for more than six years in two consecutive terms shall be elected governor for the succeeding term.

8/ The proposed amendment would be added to article VI, section 4, which is entitled: "Disqualifications."

general; and a term limitation for the governor and acting governor. Obviously, the proposed disqualification provision dramatically affects the constitution's present disqualification provision.

For one thing, the present list of disqualifiers for all of these executive-branch officials is exclusive. The proposed amendment is tantamount to an unexpressed amendment to article IV, section 5, as it adds a new disqualifying limitation for "prior service".[9] In the proposed amendment, none of these officeholders may seek re-election for the term immediately following eight consecutive years of service in the particular office. Under article IV, section 5(b) as it now reads, however, any of these officeholders may seek re-election to that office indefinitely. Not only is this the most direct form of conflict, but it is precisely the type of conflict which this Court has said irremediably violates the one-subject requirement:

> The problem of conflicting provisions resulting from the adoption of an initiative proposal cannot be satisfactorily addressed by the application of the principle of constitutional construction that the most recent amendment necessary supersedes any existing provisions which are in conflict.

Fine, 448 So.2d at 989.

For another thing, the proposed amendment sets up a conflict regarding the office of lieutenant governor which will require interpretation and resolution by this

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9/ This Court's decisions on the one subject requirement do not contemplate a scattering of disqualifying limitations on executive branch officials willy-nilly throughout the constitution, when there is an express and complete schedule of those limitations in a discrete provision of the executive branch article itself. The functional union of the proposed term limitation with article IV, section 5 -- the qualifications and terms of executive branch officeholders -- is far more compelling than it is with the disqualifications identified in the "suffrage and elections" article of the constitution. Like age, residency, bar tenure, and re-election prohibitions, the proposed amendment creates an absolute, unchangeable, re-election ban for executive terms. The disqualifying conditions to which the proposed amendment would be appended -- unredeemed conviction of a felony or adjudication of mental incompetency -- are temporal and correctable eventualities which affect all officeholders in Florida, including judicial officers, circuit court clerks, state attorneys, and public defenders. See article V, sections 3, 4, 5, 6, 16, 17 and 18, Fla. Const.

Court, contrary to the dictates of *Fine*. Under article IV, section 3(b) as it now exists, the lieutenant governor serves as "acting governor" under certain circumstances. Postulate that physical incapacity of a governor in the third year of his second term causes the triggering of section 3(b), thereby elevating the lieutenant governor to the position of acting governor. Query whether the proposed amendment would then bar the lieutenant governor's appearance on the ballot for re-election as lieutenant governor, on the ground that he had "served . . . in that office" (emphasis added) for eight years. No answer is needed here, of course. The point is evident. By not amending the provision most functionally related to its objectives, and by not identifying the provision most directly affected, the proposed amendment opens the door to the ambiguity and confusion which the one-subject requirement prohibits.

(2) State legislators. The proposed amendment also fails to identify a provision in the legislative branch article of the constitution: section 15 of article III. This provision sets forth the "terms" and "qualifications" of Florida legislators.[10] As with the provision on executive branch officeholders, this provision establishes the duration of legislators' terms,[11] as well as age and residency qualifications.[12] And as with the provision on executive branch officeholders, this section is presently express and exclusive.

The proposed amendment will affect it functionally with an amendment adding the disqualifying condition of "prior service," thereby directly conflicting with the present, more limited and exclusive listing. Yet this existing provision is nowhere mentioned in the proposed amendment.

10/ Article III, section 15 is entitled: "Terms and qualifications of legislators."

11/ Senators have four-year terms and House members have two-year terms. Art. III, §§ 15(a), (b), Fla. Const.

12/ Legislators must be 21 years of age, electors and residents of their districts, and two-year Florida residents. Art. III, § 15(c), Fla. Const.

These deficiencies are similar to those found in other cases where the Court found violations of the one-subject limitation. In *Fine*, for example, an initiative proposal to cap governmental spending declared that it amended only one article of the constitution, but the Court found that the amendment substantially affected at least nine other sections in three different articles, without identifying any of them to the voters. Likewise, in *Adams v. Gunter*, 238 So.2d 824 (Fla. 1970), the Court struck from the ballot a proposal to create a unicameral legislature because it failed to identify other constitutional sections being amended or specify how they would be amended. *Cf. Evans v. Firestone*, 457 So.2d 1351, 1353-54 (Fla. 1984) (striking from the ballot the "Citizens Rights in Civil Actions" proposal because it "fail[ed] to delineate the subject or subjects of this amendment in any meaningful way").

The gravity and nature of constitutional amendments is such, said the Court in *Fine*, that the constitution demands strict compliance with the requirements of the one-subject rule to enable the public to comprehend the changes that are contemplated. The Court will not resort to principles of constitutional construction to resolve conflicts, because to do so would place the Court on the "dangerous" course of having to redraft "substantial portions of the constitution by judicial construction." *Fine*, 448 So.2d at 989. The misplacement of a limited term amendment in the constitution, and its lack of direct reference to provisions most functionally related and affected, invites the Court to embark on that dangerous course.

(3) Federal legislators. The identification requirement expressed in *Fine* logically extends to proposed amendments that conflict with or substantially affect the federal constitution. As argued below, this proposed amendment alters the qualifications of federal legislators which are set forth in article I, sections 2 and 3 of the United States Constitution. Yet the proposal makes no reference to the federal constitution, leaving voters unadvised as to the true scope of that which they are being asked to approve. In effect, they are being asked to amend the United States Constitution under the guise of amending the state constitution.

(b) **The proposed amendment substantially affects three discrete functions of government.**

The limited term proposal embraces not one, not two, but at least three discrete subjects and matters not directly connected: state legislative officeholding; state executive branch officeholding; and federal legislative officeholding. These are distinct classes of offices, engaged in diverse governmental functions, and prescribed by two different constitutions. By combining them in one amendment, the proponents ask the voters of Florida to limit the terms of all or none of these positions, despite the fact that each class reasonably and generally is viewed quite differently. This attempt to "reform" multiple branches of government in two distinctive governments, with a single swipe of the pen, embodies the essence of the primary evil properly vilified and condemned by the one-subject rule: "logrolling". *Evans v. Firestone,* 457 So.2d 1351, 1354 (Fla. 1984); *Fine.*

A case can be made for viewing Florida's two chief executive officers, the governor and lieutenant governor, as generically joined with the cabinet officers as the executive branch officers designated by the constitution to enforce the laws and administer the executive departments of the state.[13] As a matter of state policy, limiting the terms of these executive branch officers arguably may promote a cohesive administration of the laws and policies of the state, while eliminating the fear that any one group of executives will maintain perpetual control. The present

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13/ There are distinctive functional responsibilities within the ambit of the executive branch, however. Under Florida's unique arrangement, the governor shares executive power with elected cabinet members to greater and lesser degrees. For example, as the holder of supreme executive power (article IV, § 1(a), Fla. Const.) in a state with vast agricultural interests, the governor has no role in matters pertaining to agriculture. *See* Art. IV, § 4(f), Fla. Const. All functions of state government in that area are consigned by the constitution to the commissioner of agriculture -- one of the cabinet members affected by the proposed amendment. To this extent, and others comparable, the proposed amendment substantially affects an executive branch function completely separate from the governor or any other executive branch officeholder.

term limitation on governors in article IV, section 5(b), reflects an existing desire toward that end.

Similarly, it may seem desirable to some as a matter of state policy to limit the terms of state senators and representatives. The considerations for limiting their terms, however, are vastly different from the considerations involved in limiting executive branch officials, and voters quite properly might draw opposite conclusions about the two, or at least not want both limited. Those who may not want continuity at the head of the executive branch may find it highly desirable to have continuity and experience, through seniority, in the legislative branch. Limiting the terms of legislators will reduce the amount of experience and training in specialized, and often highly technical areas of public concern, as citizens want and expect of effective legislators.

Another difference between these branches relates to institutional memory. Given the choice, many voters may not be averse to rotating the elected heads of the executive branch every eight years in light of the institutional memories which the agencies and departments of that branch retain through the vast levels of bureaucracy. Agricultural inspectors will continue to inspect; revenue agents will continue to collect taxes; and capital appeals will continue to be argued by assistant attorneys general, no matter who sits at the head of Florida's executive branch. On the other hand, those same voters may be very uneasy with the thought that legislative staff members know more than their rotating bosses about the laws of Florida and the processes that lead to their alteration, repeal and enactment. The notion of "citizen legislators" might be carried too far, in the view of some, if Senate and House seats become revolving doors and all members became heavily dependent on non-elected staffers.

The proposed amendment further affects the leadership of the legislative branch in ways qualitatively different from its affect on the leadership of the executive branch. The Speaker of the House and the President of the Senate are not chosen by the public. They are selected from among a group of people with whom

they have served over time; people who (hopefully) have demonstrated leadership qualities suited to legislative tasks. These people are not selected by the voters for their policies and their politics, unlike the selection of elected executive branch officeholders. By limiting the terms of all elected officials in the legislative branch, the process for selecting standout legislators to assume leadership roles becomes less a function of experience and ability, since lawmakers have a limited time to determine who among them have the qualities of leadership and consensus-building.

In short, the institutional memory of lawmaking is dramatically diminished under the proposal. Yet, given the opportunity to reflect on what may be lost, the voters are deprived by this monolithic proposed amendment, of the opportunity to preserve the values of continuity in one branch while willingly abandoning them in the other.[14]

There are also significant functional distinctions between the legislative and executive branches of government. Florida's constitutional executive officers have as their constituents voters from across the entire state, whereas state legislators must answer only to the voters from their respective districts. The interests they serve are necessarily different, and they perform their duties with different considerations in mind.

For example, executive branch officers do not worry about the realignment of their elective base, whereas state representatives and senators shape the future of Florida for a decade, with their own political lives at stake, when they make reapportionment decisions under article III, section 16 of the Florida Constitution.

14/ The value of governmental know-how acquired over time in the Florida legislature has been manifest on more than one occasion in recent memory. Reorganization of the executive branch into 25 departments was (and could only have been) led by experienced legislators, as was education reform and reorganization of the judiciary.

The obvious functional differences between making laws in the legislature, and executing laws in the executive branch, is underscored by the separation of powers doctrines of both the state and federal constitutions.

> The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.[15]

To test the functional disharmony of sweeping into one initiative proposal the elected officials of two branches of state government, the Court need only reflect on the hypothetical addition of Florida's circuit court judges to this proposal. It would be mechanically simple to have added to the list on this proposal: "(7) Florida circuit court judges." In that situation, there is no question that the Court would have found the amendment to be fatally in conflict with article V, section 10(b). We can even know exactly what the Court would have said:

> The proposed amendment now before us affects the function of the legislative and judicial branches of government. . . . [W]here such an initiative performs the functions of different branches of government, it clearly fails the functional test for the single-subject limitation.

Evans, 457 So.2d at 1354. The analysis and outcome expressed in *Evans* should obviously control the analysis and outcome for this proposed amendment's intrusion into the executive and legislative branches, especially considering its reach into two different governmental systems.

Whatever the aspirations of voters with respect to state legislators and executive branch officeholders, unquestionably there are vastly different policy considerations with respect to the federal legislative officeholders. Given the choice, thoughtful voters who may well want a frequent turnover of state legislators and executive branch personnel might feel quite differently about their federal Congressmen and Senators (or vice versa). Like it or not, seniority has historically proved to be the single most critical factor in achieving success among peers in

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15/ Art. II, § 3, Fla. Const.; *cf.* U.S. Const. art. I, §§ 2, 3.

Washington, and bringing home to constituents prestige, projects and jobs.[16] Like it or not, seniority in Washington has been the key to national recognition and opportunities for other important public offices.[17] Many voters in Florida might be totally unwilling to lose the advantages of longevity for their federal lawmakers, at least until such time that lawmakers from all states are similarly limited to eight years in office, even though they are anxious to restrict their state legislators and/or executive branch heads.[18] Their hands are tied, however, by the broad and indiscriminating limited term amendment being put forth.

Even aside from seniority considerations in Congress, there are dramatically different functions of government performed at the state and the federal levels. Issues at the federal level involve the nation and its common defense. They tend to be very complex, and require a great deal of time to master.[19] Legislating and appropriating for the nation in relation to foreign affairs, declarations of war, defense procurement, Social Security, the banking system, and the federal tax laws (to name a few) are qualitatively and functionally different, and require vastly more experience and information, than legislating and appropriating in relation to child welfare, funding of the state court system, or state tax laws.[20]

16/ Who in north Florida does not identify military installations with former U.S. Representative Robert L. F. "Bob" Sikes?

17/ A case in point is Governor Lawton Chiles, a former U.S. Senate Budget Committee Chairman.

18/ Conversely, those voters who feel most strongly about a need to break the incumbency advantages of federal officeholders may have positive feelings for the incumbency for their state legislative delegation.

19/ Perhaps this is one reason that federal legislators are full-time legislators, and are barred from holding other jobs or positions (even law firm affiliations). State legislators, in contrast, are part-time lawmakers whose regular sessions are limited to sixty days. *See* art. III, § 3(d), Fla. Const.

20/ State tax policy cannot stimulate the nation's economy or shift national resource allocations, as can federal tax policy.

Despite these substantial functional differences, the proposed amendment sweeps indiscriminately into the functions of two branches of state government and across two governmental systems. In this respect, the proposed amendment is indistinguishable from the constitutional deficiencies found in *Evans*. In that case, the "Citizens's Rights in Civil Actions" proposal contained two substantive provisions affecting the legislative functions of government and a third provision that fell exclusively within the judicial branch of government. The constitutional acceptability of any one of those provisions on its own was irrelevant, and the test applied was whether a single initiative proposal could substantially affect functions in both the legislative and judicial branches. That proposed amendment flunked the test, and the Court concluded that "where such an initiative performs the functions of different branches of government, it clearly fails the functional test." *Id.*, 457 So.2d at 1354 (emphasis supplied). See also *Fine*, where the Court analyzed the affect of an initiative proposal and struck it from the ballot because it included at least three separate and distinct subjects, each of which affected a separate existing function of government.

The limited term amendment clearly and substantially affects both the legislative and executive branches of state government, as well as the legislative branch of federal government. These are three subjects, not one. It is constitutionally impermissible to merge them into a single initiative proposal that imposes limitations on each. The classes of officers named in the amendment perform wholly distinct governmental functions: state legislators make laws for the state; state executive officers carry out those laws and administer the departments of state government; and federal legislators make policy to govern the entire nation. There is no functional unity, and no "logical and natural oneness of purpose," embraced within the limited term proposal. *Cf. Evans; Fine; Adams.*

The limited term proposal before the Court is readily distinguishable from other cases in which the Court found only one subject.[21] There could be no doubt about the one-subject issue in *In re Advisory Opinion to the Attorney General, English--The Official Language of Florida*, 520 So.2d 11 (Fla. 1988), *In re: Advisory Opinion to the Attorney General - Homestead Valuation Limitation*, 16 FLW S472 (Fla. July 3, 1991), or *In re: Advisory Opinion to the Attorney General, Limitation of Non-Economic Damages in Civil Actions*, 520 So.2d 284 (Fla. 1988). *Carroll v. Firestone*, 497 So.2d 1204 (Fla. 1986), also presented a relatively clear case, in that each section of the proposed amendment was directed to authorizing and administering lotteries within the functions of one branch of government. *Floridians Against Casino Takeover v. Let's Help Florida*, 363 So.2d 337 (Fla. 1978), receded from in part, *Fine v. Firestone*, 448 So.2d 984 (Fla. 1984), was determined on a different basis. The proposed amendment there was held to deal with one subject --

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21/ A recent California Supreme Court decision approving a limited term amendment, *Legislature of the State of California v. Eu*, slip op. No. S019660 (Cal. Oct. 10, 1991), is both distinguishable and unpersuasive for various reasons. First, the Court applied the highly deferential standard of review to "liberally construe[]" the initiative power, unlike the "strict compliance" standard applied in Florida to initiatives. *See id.*, slip op. at 3. Second, the single-subject requirement of the California Constitution sets the standard that subjects need only be "reasonably germane," contrary to the strict "logical and natural oneness" and "direct connection" standards required by the Florida Constitution. *See id.*, slip op. at 25. Third, the Court expressly distinguished its germaneness standard from a "functional relationship" standard such as Florida's. *See id.*, slip op. at 27. Fourth, the arguments in that case did not address functional differences between the branches of government, which is the core of respondents' argument here and the basis of prior Florida precedents. Fifth, most of the issues in that case were fact-specific, and depended on language substantially different from the language in the proposed amendment under review here. For example, the California proposal was challenged on the basis that it imposes a lifetime prohibition on officeholding, and that it embraced budgetary and pension limitations within its scope. Sixth, that amendment did not limit the terms of federal legislators.

the authorization for casino gambling -- and a matter directly connected therewith -- the disposition of taxes.[22] No such saving connection can be conjured here.

2. The substance of the proposed amendment is not set forth in clear, neutral and unambiguous language.

Without explanation, the Attorney General has advised the Court that, in his opinion, the limited term amendment does not violate the clarity requirements of section 101.161 of the Florida Statutes (Supp. 1990). Americans disagree with that opinion. There are three glaring defects.

Section 101.161(1) provides in relevant part that

> the substance of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot.

Section 101.161 amounts to a "fair notice" requirement, "to assure that the electorate is advised of the true meaning, and ramifications, of an amendment." *Askew v. Firestone*, 421 So.2d 151, 156 (Fla. 1982). Voters have been deprived of "fair notice" not only when a proposal is unclear or misleading on its face, but also when omissions may tend to create a misleading effect. *Id.; see also Evans v. Firestone,* 457 So.2d 1351, 1355 (Fla. 1984). A ballot is void if it fails to specify exactly what is being changed, thereby confusing the voters. *Wadhams v. Board of County Comm'rs*, 567 So.2d 414, 416-17 (Fla. 1990); *see also Kobrin v. Leahy*, 528 So.2d 392 (Fla. 3d DCA), review denied, 523 So.2d 577 (Fla. 1988). A ballot also must be neutral, and it cannot contain editorial material that may unfairly bias the electorate. *See People Against Tax Revenue Mismanagement, Inc. v. County of Leon*, 16 FLW S579, S580 (Fla. Aug. 22, 1991).

(a) Failure to advise of status quo. In *Wadhams,* a proposed amendment informed voters that the Charter Review Board would be permitted to meet once

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22/ *Weber v. Smathers*, 338 So.2d 819 (Fla. 1976), which is analytically more problematic, has been undermined in recent years as regards the broad view it took of the direct-connection requirement. That view was applied in *Floridians,* but it was expressly receded from six years later in *Fine.*

every four years, but the Court struck the ballot because it "failed to inform the public that there was presently no restriction on meetings." *Wadhams*, 567 So.2d at 416. In *Askew*, then-existing law prohibited former officials from lobbying their former government body or agency for two years after leaving office. The proposed amendment would have relaxed that prohibition to allow lobbying if the former officials filed financial disclosure forms. The summary of the proposed amendment failed to advise voters they were being asked to change existing law, however. The Court found this omission to be misleading, and it struck the amendment from the ballot.

In *Kobrin*, a proposed amendment to the Dade County Charter would have eliminated the governing body of the Metro-Dade Fire Rescue Service District. The proposal failed to mention that fact, or the fact that voters were being asked at the very same election to elect persons to the very board that was being eliminated in the charter amendment. The district court found these omissions inappropriate and misleading.

This proposed amendment advises people as to what the constitution will be, but it does not advise them as to what they are changing the constitution from. Nowhere does it say there are presently no limits, yet it could be inferred that the eight year limitation is merely a change from a different time period -- six or twelve years, for example. Nor does it explain that United States Senators will still be authorized to serve not eight, but twelve years, due to their federal constitutional tenure.[23] It suggests that they will serve only eight years hereafter. The burden of informing the public on these matters must not fall to the press and opponents; the ballot itself must contain the necessary information. *See Wadhams*.

(b) Failure to advise of severability. The ballot summary does not reveal the concern of the amendment's proponents that one or more parts of the amendment may be found to be impermissibly attached to the others. (Presumably, the

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23/ *See* U.S. Const. art. I, § 3.

proponents are concerned about the two federal offices affected by the proposal, since it cautions in the amendment's preamble that the people of Florida are exercising the power to amend the Florida Constitution "to the extent permitted by the Constitution of the United States.") That would be very important information for voters with respect to an initiative petition which blatantly purports to change terms expressed in the United States Constitution.

It is misleading in the extreme not to advise the voting public that severance is possible. Some voters may be primarily desirous of limiting the terms of Congressmen and United States Senators. Their votes in favor of that limitation may be precisely the ones taken from them in a court proceeding, which would leave intact non-federal limitations as to which those voters may have no concern.

(c) Lack of neutrality. Florida law prohibits editorial material in an initiative proposal. Anything more than a minimal lack of neutrality on a ballot could unfairly bias the electorate, and will not be tolerated. *See People Against Tax Revenue Mismanagement, Inc. v. County of Leon*, 16 FLW S579, S580 (Fla., Aug. 22, 1991). In that case, the Court examined a one-cent local sales tax referendum where the campaign slogan was made part of the title: "TAKE CHARGE . . . IT'S YOUR FUTURE (LOCAL GOVERNMENT INFRASTRUCTURE SALES TAX)." The text of the ballot asked voters: "Shall a one-cent local option sales tax for capital improvements be levied in Leon County for a period of 15 years in order to construct critical capital improvements . . . . " Finding the reprinted slogan argumentatively ambiguous, the Court sustained the proposal despite a challenge to the summary's neutrality.

> [T]he use of a campaign slogan and the word "critical" reflect a slight lack of neutrality that should not be encouraged in ballot language. Government should never appear to be "shading" a ballot summary to favor one position or another.
>
> However, the fact that some questionable language appears on the ballot is not itself enough to invalidate the entire referendum. Rather, the reviewing court must look to the totality of the ballot language, as such language would be construed by a reasonable voter. . . .

. . . .

> It is not reasonable to conclude that the voters of Leon County were so easily beguiled by a few arguably non-neutral words, when the remainder of the ballot plainly stated that a "yes" vote meant new taxes would be imposed.

16 FLW at S580 (emphasis in original).

No de minimus defense can save this proposal. It is unabashedly biased, and advocates the proponents' predilections in most militant terms.

> The people of Florida believe that politicians who remain in elective office too long may become preoccupied with re-election and beholden to special interests and bureaucrats, and that present limitations on the President of the United States and Governor of Florida show that term limitations can increase voter participation, citizen involvement in government, and the number of persons who will run for elective office.

The phrases "politicians who remain in office too long," "preoccupied with re-election," and "beholden to special interests and bureaucrats," are packed with innuendo. The assertion that current limits on the chief executive officers of the nation and the state "show that term limitations [on other officeholders] can increase voter participation, citizen involvement in government, and the number of persons who will run for elective office," is both conjecture and demagoguery.

This proposal contains language which places a one-sided argument on the ballot itself, with the goal of persuading voters in the voting booth, not informing them. Florida law requires the Court to preserve of the sanctity of the voting booth, and protect voters from the proponents' bias when ballots are cast. That principle mandates removing this proposal from those voting booths.

3. The proposed amendment is preempted by the supremacy clause of article VI of the United States Constitution because it contravenes the qualifications for federal officeholders established in article I, sections 2 and 3 of the United States Constitution.

In his letter to the Court, the Attorney General recognized that the proposed amendment limiting the terms of federal legislators may violate the supremacy clause

of the United States Constitution.[24] Americans agree that the issue is ripe for present review, and they contend that the proposed amendment is pre-empted by facial conflict with the federal constitution.

(a) The facial conflict is ripe for review.

The citizens of Florida "have a right to change, abrogate or modify [the Florida Constitution] in any manner they see fit so long as they keep within the confines of the Federal Constitution." *Weber v. Smathers*, 338 So.2d 819, 821 (Fla. 1976) (emphasis supplied), quoting *Gray v. Golden*, 89 So.2d 785, 790 (Fla. 1956). When a proposed amendment exceeds those confines, the proposal will be stricken from the ballot. *Gray v. Winthrop,* 115 Fla. 721, 156 So. 270 (1934); *Gray v. Moss*, 115 Fla. 701, 156 So. 262 (1934).

Winthrop and *Moss* were companion lawsuits filed to enjoin the secretary of state from putting on the ballot a proposed amendment to the Florida Constitution relating to homestead exemptions, on the ground that, among other things, it violated various provisions of the United States Constitution. The Court held that it would review alleged facial violations of the federal constitution before allowing a proposed amendment to be placed on the ballot.

> If a proposed amendment to the state Constitution by its terms specifically and necessarily violates a command or limitation of the Federal Constitution, a ministerial duty of an administrative officer, that is a part of the prescribed legal procedure for submitting such proposed amendment to the electorate of the state for adoption or rejection, may be enjoined at the suit of property parties in order to avoid the expense of submission, when the amendment, if adopted, would palpably violate the paramount law and would inevitably be futile and nugatory and incapable of being made operative under any conditions or circumstances.

24/ A copy of the Attorney General's petition to the Court is also attached as an appendix to this brief.

Winthrop, 156 So. at 272; *see also Moss,* 156 So. at 264-65.[25] Though arising from a different procedural posture than this case, the *Moss-Winthrop* rule is germane to the Court's review of a limited term amendment under the procedure recently established for pre-vote advisory opinions.

Another case worth noting is *Stack v. Adams*, 315 F. Supp. 1295 (N.D. Fla. 1970). There, the court enjoined the state of Florida from holding an election for the United States House of Representatives because a Florida statute that disqualified incumbent state officeholders from running for federal office conflicted with the qualifications clause of the federal constitution. In a related case, *State ex rel. Davis v. Adams*, 238 So.2d 415 (Fla. 1970), this Court disagreed with *Stack*, but temporarily stayed another congressional election consistent with *Stack* and expressed concerns for comity, equity, and fairness. On application for a stay in the United States Supreme Court, Justice Black reinforced the Court's stay. *Davis v. Adams*, 400 U.S. 1203 (1970). He agreed that Florida's qualification statute violated the federal constitution, and under those circumstances the election should not take place. *Id.* at 1204.

Facial conflict with the federal constitution is alleged here, contrary to the inherent or implicit conflict alleged in *Moss* and *Winthrop*. Review at this time will save proponents and opponents of the amendment, and the citizens of Florida, the considerable expense of holding a futile election. *Moss*; *Winthrop*. Compare *Miami Dolphins, Ltd. v. Metropolitan Dade County* 394 So.2d 981, 986 (Fla. 1981), where the Court determined the constitutionality of a proposed ordinance prior to the referendum because it was a straightforward legal question "involving a matter with reference to which the public interest and public rights may be determined in advance of the ballot, in order to preclude or forestall possible expenditure of substantial sums of public monies in the doing of what could be a vain and useless

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25/ On the facts of those cases, the Court concluded that the proposed amendment did not facially violate the federal constitution.

thing." *Id., quoting Dade County v. Dade County League of Municipalities,* 104 So.2d 512, 514 (1958).

Of course, deciding the issue now obviously serves the interest of judicial economy. At argument, the Court will have been fully briefed on a matter properly before it. Further, a decision by the Court on the issue may be postponed, but in all likelihood not evaded, since this Court will in all probability be asked to resolve the alleged conflict between the state and federal constitutions in any event.

(b) The proposed amendment alters the qualifications established for members of Congress in article I, sections 2 and 3 of the United States Constitution, thereby violating the supremacy clause of article VI of the United States Constitution.

Article I of the United States Constitution enumerates the qualifications for service in Congress: a representative must be 25 years of age, have been a U.S. citizen for seven years, and reside in the state he is elected to represent; a senator must be 30 years of age, have been a U.S. citizen for nine years, and reside in the State he is elected to represent. U.S. Const. art. I, sections 2 and 3 ("the qualifications clauses"). The U.S. Supreme Court has squarely held that the qualifications enumerated in article I are exclusive, and cannot be expanded without amending the U.S. Constitution. *Powell v. McCormack*, 395 U.S. 486, 532 (1969). The limited term amendment, of course, would expand this list by adding a "prior service" disqualification.

The *Powell* case involved Adam Clayton Powell, who had been elected to represent New York in Congress. The House of Representatives refused to seat him because a congressional investigation in the previous term concluded that Powell had misrepresented travel expenses, and may have made illegal salary payments to his wife. Powell filed suit charging that Congress lacked the authority to deny him his seat. The Court agreed.

Congress defended its refusal to seat Powell by reference to article I, section 5 of the U.S. Constitution, which empowers each house of Congress to "be the Judge

of the Elections, Returns and Qualifications of its own Members."[26] In particular, Congress argued that section 5 encompassed the authority to exclude an individual on the grounds that his character or past conduct rendered him unfit to serve. 395 U.S. at 521-22.

The Court flatly rejected Congress's interpretation of section 5. After an extensive review of debates during the Constitutional Convention, contemporaneous commentary and prior congressional application of article I, the Court concluded that

> the Constitution leaves the [Congress] without authority to exclude any person who meets all the requirements for membership expressly prescribed in the Constitution.

395 U.S. at 522 (emphasis in original). Powell met the age, citizenship and residency qualifications of article I, and Congress had no choice but to seat him. *Id.* at 550.

In determining that Congress lacks authority to expand the requirements of the qualifications clauses, the Court conducted a searching historical analysis. First, the Court reached back into the mid-1700's to the English Parliament's refusal to seat John Wilkes. Wilkes was expelled from Parliament and incarcerated on the grounds that he had libeled the Crown by criticizing a treaty with France. Nonetheless, he was reelected repeatedly until, in 1782, Parliament relented and permitted him to serve. *Id.* at 527-28. Parliament, the Court observed, itself repudiated the only example of a refusal to seat a member for conduct "not within standing qualifications." *Id.* at 528-29.

The Court next noted that the antipathy to exclusionary qualifications which had been engendered by the Wilkes case carried over to the colonies, and colored debate on our constitution. Both James Madison and Alexander Hamilton manifested strong opposition to variable qualifications designed to exclude potential public officials. Madison argued that:

26/ Congress also argued that its refusal to seat Powell constituted an expulsion rather than an exclusion. The Supreme Court rejected this contention.

> The qualifications of electors and elected were fundamental articles in a Republican Govt. and ought to be fixed by the Constitution. If the Legislature could regulate those of either, it can by degrees subvert the Constitution. A Republic may be converted into an aristocracy or oligarchy as well by limiting the number capable of being elected, as the number authorised to elect.

Id. at 533-34 (citation omitted). Hamilton agreed, and warned that mutable qualifications for office threaten disenfranchisement of the poor or powerless in favor of the rich and powerful. *Id.* at 539. This colloquy, combined with the requirement that expulsion from Congress be supported by a two-thirds vote, convinced the Court that the framers of the Constitution not only sought to limit the qualifications for service in Congress but believed themselves to have done so.[27] *Id.* at 536.

Finally, the Court reviewed Congress's own behavior in those few instances where the seating of a member had come under challenge. Congress first faced the issue of exclusion for reasons beyond the qualifications clauses in 1807, when William McCreery of Maryland was challenged on the ground that he did not meet residency requirements imposed by the State of Maryland. Id. at 542. The House Committee on Elections recommended that McCreery be seated, opining that qualifications of members are determined solely by the Constitution, "without reserving any authority to the State Legislatures to change, add to, or diminish those qualifications . . . ." *Id.*, quoting 17 Annals of Cong. 871 (1807). After a lengthy debate "which tended to center on the more narrow issue of the power of the States to add to the standing qualifications set forth in the Constitution," the House voted overwhelmingly to seat McCreery. *Id.* at 543. Just one year later, the House rejected a similar challenge to a second Maryland Representative. *Id.* at 543 n. 79.

Subsequent attempts to exclude members of the House and Senate met with mixed results. *Id.* at 544-47. Nonetheless, the Court concluded that "a fundamental

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27/ Hamilton, for example, expressly stated that "[t]he qualifications of the persons who may choose or be chosen . . . are defined and fixed in the Constitution and are unalterable by the legislature." *Powell,* 395 U.S. at 539, quoting The Federalist Papers 371 (Mentor ed. 1961) (emphasis deleted).

principle of our representative democracy . . . is undermined as much by limiting whom the people can select as by limiting the franchise itself." *Id.* at 547. Consequently, the Court found that Congress' assertion of "discretionary power" to deny membership could not withstand constitutional scrutiny, *id.* at 548, and that "in judging the qualifications of its members Congress is limited to the standing qualifications prescribed in the Constitution." *Id.* at 550.

The principle that the qualifications clauses are exclusive and cannot be expanded "applies with equal force to the states." *Signorelli v. Evans,* 637 F.2d 853, 858 (2d Cir. 1980); *see also Joyner v. Mofford,* 706 F.2d 1523, 1528 (9th Cir.), cert. denied, 464 U.S. 1002 (1983); *Stack v. Adams*, 315 F. Supp. 1295 (N.D. Fla. 1970); *Exon v. Tiemann*, 279 F. Supp. 609 (D. Neb. 1968); *Lowe v. Fowler,* 240 S.E.2d 70 (Ga. 1977); *State ex rel. Chavez v. Evans*, 446 P.2d 445 (N.M. 1968); *Stockton v. McFarland,* 106 P.2d 328 (Ariz. 1940); *Buckingham v. State* ex *rel. Killoran*, 35 A.2d 903 (Del. 1944).

Indeed, additional historical facts support the Court's *Powell* analysis.

Term limits for members of Congress were rejected outright at the Constitutional Convention of 1787. The Virginia Plan drafted by Edmund Randolph expressly proposed that "the members of the first branch of the National Legislature ought . . . to be incapable of reelection for the space of [blank] after the expiration of their term of service. . . ." 1 Elliot's Debates 143-44 (1983 Ed.). This proposal was stricken by the Committee of the Whole House before the plan was reported for the consideration of the Convention. *Id.* at 172. The limited term amendment in Florida in practical effect would reverse the judgment of the Constitutional Convention to impose a qualification that the Convention rejected.

Finally, it should be noted that the *Adams* case is not an isolated evaluation on the issue. Time and again, state and federal courts have rejected state provisions which would bar one from serving in Congress. *See, e.g., Dillon v. Fiorina*, 340 F. Supp. 729 (D.N.M. 1972) (requirement that candidate have been registered in a political party for at least one year prior to filing date for candidacy); *Exon v.*

Tiemann, 279 F. Supp. 609, 613 (D. Neb. 1968) (requirement that congressional candidate reside in district he seeks to represent); *State ex rel. Chavez v. Evans*, 446 P.2d 445 (1968) (same); *Hellman v. Collier*, 141 A.2d 908 (Md. 1958) (same); *Danielson v. Fitzsimmons*, 44 N.W.2d 484 (Minn. 1950) (provision that convicted felon cannot hold federal office); *Buckingham* (state judge not eligible for federal office until six months after expiration of term).

In sum, the limited term amendment imposes an additional and impermissible qualification on service in Congress. As such, it contravenes the exclusive qualifications provisions in article I, sections 2 and 3 of the U.S. Constitution.

4. Provisions of the proposed amendment are not severable.

The limited term amendment contains a standard severability clause, designed to preserve portions of the proposed amendment which are valid even if other portions are found to be invalid. The structure of the amendment, with separately numbered paragraphs for the several offices identified, creates a superficial appearance that severance is feasible. However, the Court should not be misled by the simplicity of mechanics, for severance is neither practical nor possible on these facts.

First, severing invalid provisions of a proposed constitutional amendment would be inappropriate in an advisory opinion. There exists no authority which enables the Court to sever provisions in an initiative petition through the advisory process.

Second, prior decisions of the Court addressing the issue of severability in this context do not support severance on the facts presented here. For example, the Court refused to sever disconnected subjects in *Fine* despite a severability clause in the petition containing the amendment. After finding three separate subjects in the proposed amendment, the Court noted the severability clause was not in the amendment itself, but went on to refuse severance because "such [the severability clause] cannot circumvent this Court's responsibility to determine whether the

proposed amendment may constitutionally be placed before the voters." *Fine*, at 448 So.2d at 922.[28]

Should the Court find more than one subject in the limited term amendment, any attempt to sever the remaining subject or subjects would be highly inappropriate. To do so would defeat the intent of the proponents of the amendment (despite their mechanical insertion of a severability clause) and it would disenfranchise the existing signatories to this petition.

As to the proponents, the rhetoric on the petition is directed to <u>all</u> politicians who remain in elective office beyond eight consecutive years, using as examples of a politically preferable model both federal (president) and state (governor) limitations. Giving effect to the severance clause by severing federal offices from state legislative and executive offices (as might be urged) would defeat the very evil in the existing federal system which the proponents have targeted for change.

As to the signatories, severance would place the Court in the impossible position of trying to speculate on which offices were of concern to the petition signers who have made this advisory proceeding possible[29] -- state, federal, legislative, executive, all, or some of the above. In *Fine*, the Court said it would not engage in constitutional construction to sort out conflicts between initiative proposals and existing constitutional provisions. To engage in severability where there are multiple choices would be a far more drastic game of guessing.

<u>28/</u> The Court has never held that a substantive provision can be severed. In *Carroll v. Firestone*, 497 So.2d 1204 (Fla. 1986), and in *In re: Advisory Opinion to the Attorney General, Limitation of Non-Economic Damages in Civil Actions,* 520 So.2d 284 (Fla. 1988), the Court did say that a severance clause in an amendment itself did not constitute a separate subject in violation of the one-subject limitation on initiative petitions.

<u>29/</u> An attachment to the Attorney General's petition shows that 40,478 registered voters have signed petitions to put this proposal on the ballot <u>in this form</u>.

Conclusion

The proponents of reforming state and federal governments by limiting the terms of elected public officials are free to pedal their prescriptions in the marketplace of ideas, but they are not free to mislead, confuse and cajole the voters with a package of diverse subjects that appeal in different ways to different Florida electors -- at least not through Florida's initiative process. Let them offer the people of Florida a series of amendments that each deal with one subject: adding the disqualifying limitation of "prior service" to the legislative branch of state government, or to the executive branch of state government, or to federal lawmakers (if they really think that Florida voters alone have the ability to change existing qualifications for these offices).

For any and all of the reasons expressed, Americans ask the Court to declare the proposed limited term amendment invalid and unseverable, and to direct that it not be allowed to advance toward placement on the ballot.

Respectfully submitted,

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Certificate of Service

I certify that a true copy of this brief was mailed on October 18, 1991, to The Honorable Robert A. Butterworth, Attorney General, The Capitol, Tallahassee, Florida 32301.

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