ORIGINAL

IN THE SUPREME COURT OF FLORIDA

CASE NO: 94,653

DONALD G. RAY, LOUIS P. KALIVODA, SYBIL C. MOBLEY, DAVID W. BOWERS, And CLARENCE FORT,

Appellants,

vs.

SANDRA B. MORTHAM, Florida Secretary of State, in her capacity as Florida's Chief Elections Officer,

Appellee.

_____/

DISTRICT COURT OF APPEAL
FIRST DISTRICT NO. 98-4705

CIRCUIT COURT CASE
NO. 98-1024

BRIEF OF AMICI CURIAE

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PRELIMINARY STATEMENT

The Amici, James T. Hargrett and George G. Kirkpatrick, are citizens of Florida, voters and elected members of the Florida Senate.

If the Amendment that established term limits, Article VI, Section 4 of the Constitution of Florida, is constitutional, the Amici will not be permitted to run for reelection after the expiration of their current term which ends in the year 2000.

The Amici present this brief in support of the position urged by the Appellants and submit an analysis of the issues which is somewhat different.

SUMMARY OF ARGUMENT

The Amici join the Argument of the appellants based on the principles of severability should the court determine that the advice given to the Attorney General by five members of the Court in 1991 is correct. See Advisory Opinion to the Attorney General - Limited Political Terms in Certain Elected Officers, 592 So. 2d 225 (Fla. 1991).

Since the Advisory Opinion is merely advice from the Justices to the Attorney General and not a decision in a litigated case, it does not carry the force of precedent.

The Amici believe that the advice of the five Justices was not correct. However, the advice given by two Justices, Kogan and Overton, was correct and the term limits Amendment offered to the voters addressed multiple subjects in violation of the single subject rule.

The Amendment improperly bundled the issue relating to term limits of federal elected officials, the issue relating to term limits of the state cabinet officers, and the issue relating to term limits of legislators.

Since the proponents of the Amendment advanced this argument relying on the unconstitutional federal term limits provision, U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779 (1995), the voters were improperly enticed to vote for the other features of the Amendment resulting in a situation which Justice Overton characterized as a "fraud" on the voters.

The Court should follow the analysis by Justices Kogan and Overton which is consistent with a subsequent decision by the Nebraska Supreme Court, Duggan v. Beermann, 544 N.W. 2d 68 (Neb. 1966). The Amendment is unconstitutional because it embodies more than one subject.

As to remedy, the Amici recommend that the Court return this issue to the political process but notes that the Court also has the authority to place a properly drafted, single subject term limits ballot measure before the electorate.

ARGUMENT

I.

THE AMENDMENT FAILS THE SINGLE SUBJECT REQUIREMENT.

The Amici James Hargrett and George Kirkpatrick, align themselves with the Appellants but offer an additional approach for resolution of this important case. The Appellants argue that the amendment of article VI, section 4, of the Florida Constitution approved by the voters in 1992 ("Amendment") contains provisions purporting to limit the terms of elected federal officials. These provisions are unconstitutional under well-settled principles of federal constitutional law. See U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779 (1995). They argue that the entire amendment must, therefore, fail when considered under principles of severability.[1]

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[1] See Smith v. Dept. of Insurance, 507 So. 2d 1080, 1085 (Fla. 1987) (declaring, in part, that when part of a statute is declared unconstitutional, the remainder shall stand only if the "legislative purpose expressed in the valid provisions can be accomplished independently of those which are void" and "the good and bad features are not so inseparable in substance that it can be said that the Legislature would have passed one without the other"); Weber v. Smathers 338 So. 2d 819 (Fla. 1976).

A. The Florida Constitution limits initiative amendments to a single subject.

Like the Appellants, the Amici believe that the Amendment was burdened by unconstitutional provisions. The Amici also suggest that the Court focus on the provisions of article XI, section 3, of the Florida Constitution, which requires that an initiative amendment relate to no more than one subject.

The Florida Constitution provides more methods of amendment than any other state constitution. See, e.g., Art. XI, §1, Fla. Const. (by legislative proposal); Art. XI, §2 Fla. Const. (by revision commission); Art. XI, §3 Fla. Const. (by initiative); Art. XI, §4 Fla. Const. (by Constitutional convention), but there are legal requirements which protect these processes. See, e.g., §101.171, Fla. Stat. (1997) (regarding the tabulation of voting).

With the initiative amendment procedure, the single subject requirement is of paramount importance. See, e.g., Fine v. Firestone, 448 So. 2d 984, 992-93 (Fla. 1984) (removing an amendment from the 1984 general election ballot for failure to comply with the single-subject requirement).

In considering single subject issues, it is important to keep an eye on the context and the practical alternatives available to the voter.

Because of the great differences between the legislative process and an initiative petition, the law relating to single subject in legislative enactments and single subject in initiative amendments have taken separate paths. See, e.g., Fine, 448 So. 2d at 988-89 (finding that the language "shall embrace but one subject and matter properly connected therewith" in article III, section 6, regarding statutory language by the legislature is broader than the language "shall embrace but one subject and matter directly connected therewith," in article XI, section 3, regarding constitutional change by initiative); see also Smith, 507 So. 2d at 1085 (stating the reason for a broader view of the legislative provision is that the legislative process provides opportunity for legislative debate and public hearing not available under the initiative scheme for constitutional revision and strict construction is necessary for the constitution because it controls basic governmental functions). There are sound reasons for this divergence and one of the most important is

the ability of the legislature to use the amendatory process to unbundle issues and to offer separate bills on more limited subjects. See generally Smith, 507 So. 2d at 1085. In the initiative process, there is no opportunity for the voter to offer alternative measures or to amend the ballot language. See id.

It is quite logical that the restriction on initiative amendments has developed in a way that protects the voters from situations, like the one at hand, where different measures are gathered into a single amendment and the voter is enticed into voting for the whole bundle. This is particularly pernicious where, as here, the enticement to the voter was apparently a measure that could not withstand constitutional scrutiny.

B. The Advisory Opinion process is intended as a check to prevent multiple subject ballot measures.

The procedure for initiative proposals is focused on an attempt to provide guidance on the issue of single subject. See, e.g., Art. IV, §10, Fla. Const.; Art. V, §3, Fla. Const. (directing the attorney general to request the opinion of the

justices of the Supreme Court as to the validity of any initiative petition circulated pursuant to Section 3 of Article XI). In the procedure leading up to the vote on the 1992 Amendment, this Court delivered an advisory opinion. See Advisory Opinion to the Attorney General - Limited Political Terms in Certain Elective Offices, 592 So. 2d 225 (Fla. 1991).

The Appellants accept that opinion (Appellants' Brief, p. 18) and argue that the determination of single subject must now lead to the decision that, since the United States Supreme Court held a portion of the Amendment unconstitutional, the Court should strike the entire section. See U.S. Term Limits, Inc. v. Thornton, 514 U.S. at 837-38; see also Smith, 507 So. 2d at 1085.

The Amici agree that their result logically follows from a decision to recognize the Advisory Opinion as controlling. But the Amici submit that their advice is not controlling and further submit that the justices wrongly decided the Advisory Opinion. Under settled principles, this Court is free to take a fresh look at the issue of single subject.

C. Advisory opinions are not precedental and the doctrine of stare decisis does not foreclose this Court's examination of the single subject issue.

Critical to the argument of the Amici is the principle that advisory opinions are just that - "advisory" and "opinions," not decisions. See, e.g., Collins v. Horten, 111 So. 2d 746, 751 (Fla. 1959) (stating that, under the Florida Constitution, the Supreme Court Justices, not the Court itself, may give their individual opinions to the Governor on questions concerning the interpretation of the Constitution, but such opinions do not have the force of legal precedent and are not binding on the Court). Because advisory opinions are not decisions where real issues and real parties are involved - a "case or controversy" in jurisprudential parlance -- and because they are most often offered at the early stages of any developing controversy, this Court has always held that advisory opinions are not of precedental value in later litigation. See id.; see also Lee v. Dowda, 19 So. 2d 570, 572 (Fla. 1944) (noting that advisory opinions are not binding judicial precedents); Ervin v. City of North Miami Beach, 66 So. 2d 235, 236-37 (Fla. 1953) (stating that a declaratory

judgment is distinguished from an advisory opinion because the former is binding adjudication on the rights of the parties).

This Court has not yet applied the long-standing principle of Florida Constitutional law that advisory opinions carry no precedental weight to the advisory opinion process which the attorney general is allowed to invoke. However, there is simply no argument to support the idea that an advisory opinion to the Attorney General should carry more weight than an advisory opinion to the Governor.

Freed from the doctrine of stare decisis, this Court is not constrained by the earlier decision and is now obligated to look at the single subject issue in light of all that is now before the Court.

D. The Advisory Opinion of the justices reveals that the single subject issue was not fully briefed or argued, and that substantial doubt was expressed by two of the justices.

The single subject issue is not one that was well briefed in the submission of the case for an advisory opinion. See Advisory Opinion, 592 So. 2d at 231. A careful reading of the opinions of the justices reveals great concern. See id.

While Justice Grimes, writing to give advice from five justices, acknowledged that "the proposed amendment affects officeholders in three different branches of government," he did not deem that sufficient to invalidate the amendment. See id. at 227.

Justices Overton and Kogan had different opinions. See id. at 230-31. Justice Overton, citing a line of authority which questioned the Amendment's restrictions on federal elected officials, worried that the Court's failure to address the United States Constitution would set up a situation where the process "perpetuates a fraud on the voting public." See id. at 230. He called for further briefing, saying:

> The issue of severability of the congressional officeholders from the state officeholders, although mentioned in some of the briefs, has not been fully addressed and, consequently, should be addressed in supplemental briefs.

See id. at 231. It is now apparent that Justice Overton's advice, as well as that of Justice Kogan, was the better advice.

E. The opinions of Overton and Kogan provide the correct analysis of the single subject rule.

With the benefit of subsequent decisions, we now know that the advice of Justices Overton and Kogan was sound. See Advisory Opinion, 592 So. 2d at 231-32; see also Thornton, 514 U.S. at 837-38. The constitutionality of the portions of the Amendment which purport to limit the terms of congressional officials is now settled as Justices Overton and Kogan predicted. See Thornton, 514 U.S. at 837-38. The provisions relating to Congress are unconstitutional. See id.

Since the Court is now facing the issue without the barrier of prior precedent, it is free to look at the single subject issue afresh. See, e.g., Collins, 111 So. 2d at 751.

Justice Kogan took care to spell out his concern and to analyze the consequences of the Court's failure to examine the federal constitutional issue:

> The policy underlying [the single subject] requirement is self-evident. Where reasonable voters may differ, then the voters should not be placed in the position of accepting an all-or-nothing grab-bag initiative. Each discrete issue should be placed separately on the ballot so that voters can exercise their franchise in a meaningful way. No person should be required to vote for

> something repugnant simply because it is attached to something desirable. Nor should any interest group be given the power to "sweeten the pot" by obscuring a divisive issue behind separate matters about which there is widespread agreement.
>
> I believe the present initiative clearly and unmistakably violates these principles, rendering it conclusively defective. Here, the voters of Florida are being asked to approve or disapprove an initiative designed to limit the terms of persons who hold public office at many different levels of government. Under the proposed ballot language, the voter can only decide to limit all, or limit none. Those voters who might desire, for example, to limit the terms of state legislators but not members of Congress have no meaningful way to make this choice, even though there are many valid reasons for taking such a position.
>
> See id. at 232.

Justice Kogan suggests that the bundling of the provisions is improper because the amendment deals with very different government structures and differing voter motivations:

> For example, voters might decide that the advantages outwiegh the disadvantages on the question of term limitations for state legislators. This is because the delegations from all portions of the state will be treated equally in the statehouse. No geographical region would suffer any disadvantage with respect to any other region. The rules of the political game in Tallahassee would be the same for everyone.

> However, a substantial number of reasonable voters might decide that a similar limitation on the congressional delegation should be rejected because it would weaken Florida's effectiveness in Congress. This could occur, for example, if other states refuse to follow Florida's lead in limiting the terms of their congressional delegations. Because of the seniority requirements needed to obtain key committee appointments and chairmanships in Congress, Florida thus could be placed at a gross disadvantage with respect to other states. In effect, Florida would relegate its delegation to a perpetual "junior" status that could deprive Florida of the clout other states would be able to obtain simply by climbing the seniority ladder.
>
> See id. at 232.

Of course, there is the reverse of this idea – voters very well might want to limit federal officials and not state officials yet, to achieve this, they would have to vote to limit both. (See Point I.G., below.)

F. This Court should follow Nebraska's lead and declare the Amendment invalid because the unconstitutional portion renders the entire Amendment defective.

The Nebraska Supreme Court considered a similar term limits amendment brought by initiative petition. See Duggan v. Beermann, 544 N.W.2d 68 (Neb. 1996). In Duggan, the court

did not declare the amendment unconstitutional as it related to term limits of state officers. See id. at 71. Rather, it held that, because the portion of the amendment relating to federal elected officials was declared unconstitutional, the entire amendment must be struck down. See id. The court said it must strike the entire amendment because "the unconstitutional amendment was so interwoven with the other amendments that the entire amendment must now fail." See id.

Like the Florida initiative, the Nebraska measure contained a severability clause.[2] In considering severability, the Duggan court said it could save the amendment only if it appears that the unconstitutional part did not constitute an inducement to the passage of the remainder. See id. at 79-80. The court continued:

> We are mindful that we are not trying to determine the intent of the Legislature; rather, we are trying to determine the intent of the term limits voters. There is no meaningful way to determine the intent which motivates voters to sign a petition for the submission of an enactment, nor is there any real

[2]Nebraska's severability clause, much like Florida's, stated: "If any of the provisions hereby adopted shall be held void for any reason, the remaining provisions shall continue in full force and effect." See Duggan, 544 N.W. 2d at 73.

way to determine the intent of those voters who vote for the adoption of an enactment.

See id. at 80.

The court reasoned that the amendment itself was defective because it bundled several levels of officials together. Because of this defect, the court could not know whether it was the unconstitutional limits on federal elected officials or the potentially constitutional limits on other offices which induced the voters' actions.

The Nebraska court decision is consistent with the well-reasoned advisory opinions offered by Justices Kogan and Overton and it should be followed by this Court.

G. The major criticisms of government institutions and their lengthy terms focused on Congress.

Given the context of the events leading to the 1992 election, there is every reason to think that the principal motivation of the term limits campaign was directed to Congress, not to state officials and, particularly, not to the

State Legislature. See, e.g., Ann Groer, Passel of Perks May End Job Security in Congress, Orlando Sentinel, Oct. 11, 1991, at A1. In the State Legislature, the custom is not one of entrenchment, but rather, high turnover in leadership. See, e.g., Martin Dyckman, The Drive for Term Limits Risks Bad Results, St. Pete Times, Sept. 19, 1991, at 17A (noting that, "only 45 of the 120 house members and 10 of the 40 senators have served more than eight consecutive years"). It was Congress, not the State Legislature, which had a tradition of imbedded leadership. See id. Congressional leaders, including committee chairs, had traditionally held office for many, many years. See id.

By contrast, the Florida Legislative leadership is not entrenched. See, e.g., John Kennedy, GOP Wants Jennings in Post Again; Senate President Wins Backing for Second Term in Party Caucus, Orlando Sent., Dec. 3, 1997, at D1 (commenting that Jennings would become the first Senate President designated to serve consecutive two-year terms). With rare exceptions -- Don Tucker in the House and Toni Jennings in the Senate -- the top leadership in both houses changes every two

years and there is no continuing domination of entire areas of committee work as there has been in the Congress. See id.

The history of the term limits movement in Florida is consistent with this federal focus, rather than a state focus. See, e.g., Gary F. Moncrief & Joel A. Thompson, For Whom the Bell Tolls: Term Limits and State Legislature, 17 Legislative Stud. Q. 37, 47 (1992) (finding that term limits took hold due to public frustration with the U.S. Congress, and that advocates went after state legislature largely because they were easier constitutional targets, not because the public was upset with entrenched state legislators.) The leadership in the Florida term limits campaign fell to an Orlando citizen, Phil Handy, whose statements made clear his focus. In an article which appeared in the October 11, 1991, Orlando Sentinel (before the Advisory Opinion), Mr. Handy is clearly looking foremost at the problems of Congress:

> On talk shows and at town meetings, House and Senate members have been put on the defensive the past two weeks about everything from their free parking lots to their cut-rate haircuts.
>
> Winter Park businessman Phil Handy hopes to channel the anger into a ballot victory next year for term limits that would effectively mean no more than

eight straight years in the U.S. House and 12 in the U.S. Senate for lawmakers from Florida.

'They view themselves as the permanent ruling class - in their job,' Handy said.

'The bounced-check scandal and other abuses show that Congress has chosen to live under different rules than American taxpayers. Term limits will replace career politics with citizen government,' he said.

Handy's statewide "Eight is Enough" campaign has 90,000 of the 500,000 signatures needed by next August to get on Florida's November 1992 ballot. He said nearly two-dozen states could have term-limitation votes next year.

Even Vice President Dan Quayle says the controversy over bounced checks and free meals in the House should help build support for a constitutional amendment to limit congressional terms.

'They (members of Congress) feel that they are above the law … They exempt themselves from the laws,' Quayle, who served 11 years in Congress - four in the House and seven in the Senate - said earlier this week.

'It's more than bouncing checks or more than getting free lunches. It goes to the heart of the system itself,' he said. 'Incumbents, especially in the House of Representatives, have almost a lifetime job guarantee.'

See Groer, Supra, "Passel of Perks May End Job Security in Congress" at A1.

It is not surprising that Mr. Handy and the Florida "Eight is Enough" campaign focused on Congress.[3] As Handy and Vice-President Quayle observed, widely-publicized scandals coupled with the power provided to incumbents though the seniority system allowed the argument that Congress was "a permanent ruling class" (Handy) with "almost a lifetime job guarantee" (Quayle). Groer at A1.

Though the press reports of this era are full of scandals and the evils of "career politicians" in Washington, there is no similar public outrage at the Florida Legislature. Congressional scandals blanketed the news in the late 1980s and early 1990s. The 1992 election came on the heels of a bounced check scandal, in which even the chairman of the House Ethics Committee bounced 551 checks on his House bank account; a post office scandal; a $4 trillion debt; and exposure of

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[3] In a October 5, 1992, opinion column published in the Orlando Sentinel, just before the election, Mr. Handy again focused his argument of the abuses by members of Congress: The people know that we have the most experienced Congress in our nation's history and can see the results - runaway deficits, extravagant perks, ridiculous pay raises and the most cynical brand of politics ever witnessed in America. See Phil Handy, Term Limits: Solution to Gridlock? Yes: Give Power to Common People, Not Career Politicians, Orlando Sentinel, Oct. 25, 1992, at G1.

perks ranging from free prescriptions and gym memberships to subsidized meals. Even before the 1992 elections, commentators predicted the "greatest turnover on Capitol Hill in 30 years." See, e.g., James J. Kilpatrick, Congress Still Doesn't Get It, St. Pete Times, April 23, 1992, at 27A. Given the fact that there has been very regular turnover in the Legislature, and especially in the Legislative leadership, the focus on Congress is not surprising. See Dyckman, Supra, The Drive for Term Limits Risks Bad Results, at 17A.

The tragedy is that the 1991 Advisory Opinion failed to separate the distinct issues of term limits as applied to three quite different political institutions, including Congress, where there was substantial public outcry for reform.

The failure to unbundle these types of offices - Congress, the cabinet, and the state legislature - allowed the "Eight is Enough" campaign to bootleg the legislative term limits into the Constitution. The argument for the unconstitutional provisions clearly advanced and buttressed the case for the Amendment.

This is why Justice Overton used such strong language, labeling the Amendment a potential "fraud" on the Florida electorate.

Whether the focus was on the state officeholder, as suggested in the hypothetical put forward by Justice Kogan, or the federal Congress as suggested by the Florida leader of the "Eight is Enough" campaign, the fact is that the bundled issues put before the voters by this initiative campaign was in violation of the single subject rule.

The history of these various offices is diverse. There is no evidence of any public revulsion against the state legislators for lengthy terms and there has not been an abuse in the long-term retention of office by state legislators. Indeed, in Florida, the problem may be the opposite -- the rapid turnover in legislative leadership. Certainly, no one has suggested that there has been any amassing of power by the Florida Legislature through extended terms.

In contrast, criticisms abound that the federal Congress has operated through a rigid seniority system and that a stranglehold of seniority has caused a dysfunctional Congress.

Some of those criticisms now seem remote after the 1992 and 1994 elections and the massive turnover that took place during those elections and in subsequent years. See, e.g., Cox News Service, Anti-incumbent Fervor Sweeps Out House, St. Pete Times, Nov. 4, 1992. At 13A (noting perhaps the biggest congressional turnover since World War II); see also Facts on File, Inc., Republicans Win Control of U.S. House and Senate, World News Digest, Nov. 10, 1994, at A1 (stating Republicans dominate Congress for the first time in 40 years).

Critics have also attacked the Florida Cabinet System. This public dissatisfaction manifested itself most recently when voters mandated cabinet reorganization adopting the 1998 Constitutional Revision Commission proposal. See, e.g., Bill Rufty, Constitutional Revision, Lakeland Ledger, Oct. 27, 1998, at A9 (recommending that voters support a constitutional amendment reducing the members of the Florida Cabinet from six to four because it would get rid of "excess baggage").

The Amendment casts a large net, bringing in areas where there was substantial evidence of problems through long tenure in office, such as in Congress and, perhaps, the Florida

Cabinet, and an area where there was no public outcry or interest -- the state legislature.

In considering the Advisory Opinion, the Justices should have looked at the different dynamics of these three political institutions -- Congress, the state legislature, and the state cabinet -- and understood that the Amendment dealt with three distinct and different entities. The failure to make this assessment caused most justices to render flawed advice and, in light of subsequent events, it is easy to see how flawed it was.

We now know that the provisions of the Amendment which address elected federal officials are unconstitutional and, therefore, the votes cast by the people who wished to achieve this result were wasted. It is not an exaggeration to use Justice Overton's analysis and say that the Amendment has been a "fraud" on the people. The Amendment dealt with more than one issue. A proper briefing and argument of this issue, as urged by Justice Overton, would likely have produced a different result.

There is no issue of stare decisis but there is a most important issue regarding the integrity of the amendment process and the prevention of log rolling in the initiative process.

This Court should strike down the Amendment.

II.

THE COURT HAS SEVERAL REMEDIES WHICH IT MAY CONSIDER.

The Appellee and the proponents for term limits argue that, even if the matter were placed on the ballot in 1992 as separate questions, the voters would have approved all elements of the measure (Appellee's Reply Brief p.5).

That is possible, but given the insistence of the term limit proponents on an amendment that included all three issues, or we will never know the answer to that question.

What we do know is that, by merging these multiple subjects into one amendment, the voter was not allowed the choices that the single subject rule demands.

The question now presented to the Court is what remedy it should apply.

In seeking a remedy, it is not easy to be sympathetic to the organizations whose overzealous advocacy and overreaching draftsmanship lead to the situation that this Court must now untangle.

However, the Florida voter has been victim of the very fraud that Justice Overton predicted.

This Court may wish to unbundle the two remaining issues in the Amendment - term limits for legislative offices and state cabinet offices -- and order a new ballot on those two separate issues.

As an alternative, the Court may wish to refer this question to the Legislature and offer it the opportunity to provide ballot language on term limits.

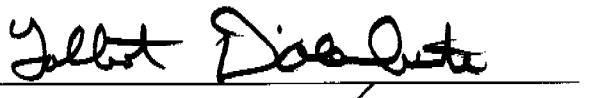
If there is any real public interest on term limits, the political process will work as it did in 1991.

The Amici respectfully recommend the second alternative. If the legislature does not act to offer amendments, the people still have the right to offer a properly drafted single subject initiative proposal. Given the lessons of our recent history, it is not at all certain that term limits is a significant issue for Florida's electorate.[4]

[4] Even the Congress has made substantial changes and the House of Representatives has adopted a rule limiting the terms of committee chairs to six years. See article, "Term Limits on Chairman Shake Up House," The Washington Post, Monday, March 22, 1999, page 4A. There has also been a massive change in the composition of Congress with many long-time Congressmen leaving office through resignation or through the electoral process, particularly in the 1992 and 1994 elections. See, e.g., Cox News Service, supra, Anti-incumbent Fervor Sweeps Out House at 13A.

CONCLUSION

The Court should strike Article V, Section 4, Florida Constitution, and refer further activity on the subject of term limits to the political process.



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*Counsel acknowledges the assistance of Natalie Futch, a law student, in the preparation of this brief.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to George Waas, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; to Daniel Walker, 221 East Seventh Avenue, Tallahassee, Florida 32303; to Stephen Safranek, 651 East Jefferson Street, Detroit, Michigan 48226; to John H. Findley, Pacific Legal Foundation, 10360 Old Placerville Road, Suite 100, Sacramento, California 95827; to Frank A. Shepherd, Pacific Legal Foundation, P. O. Box 522188, Miami, Florida 33152-2188; and to Robert J. Boyd and Laura Boyd Pearce, Macfarlane Ferguson & McMullen, 106 East College Avenue, Suite 900, Tallahassee, Florida 32301, this 29th day of March, 1999.

TALBOT D'ALEMBERTE