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1986

**PUBLIC HEARING**  
before  
**ASSEMBLY STATE GOVERNMENT COMMITTEE**  
on  
**ACR-53**  
(Initiative and Referendum)

February 11, 1986  
Freeholders Chambers  
Hudson County  
Administration Building  
Jersey City, New Jersey

**MEMBERS OF COMMITTEE PRESENT:**

Assemblyman Richard A. Zimmer, Chairman  
Assemblyman Joseph Charles, Jr.

**ALSO PRESENT:**

Donald S. Margeson  
Office of Legislative Services  
Aide, Assembly State Government Committee

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**New Jersey State Library**

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**New Jersey State Library**



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**ASSEMBLYMAN RICHARD A. ZIMMER (Chairman):** This hearing is now called to order. At our meeting on February 5th, the State Government Committee unanimously reported out ACR-53, which would amend the New Jersey Constitution to provide for initiative and referendum. This hearing is a formal hearing held this evening; it's going to be transcribed; it's required by Article 9 of the New Jersey Constitution.

I'd like to introduce my colleague on the Committee, Joe Charles, from Jersey City. I'm Assemblyman Richard Zimmer. We'll try to get as many statements as we can. I hope we can get everybody's statement. If you have a lengthy statement, I would prefer if you would summarize it — if it's available, also, in printed form, so that we can include the printed copy, in full, in the transcript of this hearing.

First I would like to introduce to you, and afford the opportunity to testify, the Assemblyman from this district, Charles Catrillo.

**ASSEMBLYMAN CHARLES J. CATRILLO:** Thank you, Mr. Chairman, Mr. Charles. Before I begin, I just want to say how much we here in Jersey City and Hudson County appreciate your being here tonight. We feel that you do us a great honor by holding your hearings here in Hudson County. I know this is a very important issue, an issue that the entire State is interested in, and your presence here tonight indicates the importance of Hudson County in helping make this decision.

Let me begin by saying that I am firmly in favor of the legislation concerning initiative and referendum. I think it is long overdue. I have been in favor of it for a number of years. It was a campaign issue in my campaign. We've certainly spoken about it a great many times in many, many public forums, and I can say with a great deal of confidence that I would say that most of the people in our district — and when I say most, I mean the overwhelming majority of the people in our district — are in favor of it. Certainly the people I have spoken to and the people that have been contacted concerning this hearing, certainly were almost all in favor of it.

There are, of course, people on the other side who have a legitimate concern, but the rank and file — the people out there in

the streets-- I think they want this. And I am here to testify on their behalf and my own.

Rather than giving a speech tonight, I plan to speak on this matter on the floor when this comes up for a vote in the Assembly chambers. I would rather read into the record a short editorial that appeared in yesterday's Jersey Journal, the Jersey Journal being Hudson County's leading newspaper -- the newspaper with the largest circulation. It's dated February 10th, and it's called, "Initiative."

"A hearing in Jersey City tomorrow night will give the public the opportunity to take the initiative on the question of initiative and referendum. Currently, a measure can be put on the State referendum ballot only if the Legislature gives its prior approval.

"If the Constitution were changed to permit initiative and referendum, people could gather petitions of signatures to place a question on the ballot without legislative support. It's a move that seems an extension of democratic principles, and worth supporting.

"There's no guarantee that a majority of voters on any given referendum question hold ultimate wisdom. But there's no guarantee that the State Legislatures do, either. New Jersey's voters have had a pretty good record these past few years for sound voting on public referendum questions.

"With the endorsement of Governor Thomas Kean, the initiative and referendum concept appears to have its best chance of passage this year. Hudson voters who would welcome the change should try to attend the Assembly State Government Committee hearing on the matter tomorrow at 7:30 p.m. at the Hudson Administration Building. They will be able to show that the power to put some measures into law, bypassing the need for prior legislative approval, is something they really care about having."

That's the end of the editorial. I feel that this editorial summarizes my feelings very succinctly. I think this is good legislation, I think it's good for the people of New Jersey. I would also note for the record that many other states -- I believe 23 other states -- already have initiative and referendum. Some of the catastrophic events that some of the nay-sayers have predicted for New

Jersey if this legislation were passed, certainly has not happened in any of the other states where this measure has been in effect. In some states, by the way, this measure has been in effect since 1905. I believe Wisconsin was the first State to have this, and I believe it was introduced somewhere around 1905-1910, so that it has a long history in the United States, and it is a very worthwhile one. And, again, I support this measure, and I thank the Committee for being here tonight. Thank you.

ASSEMBLYMAN ZIMMER: Thank you very much. Now I have the pleasure of introducing Assemblyman Ronald Dario, from Hudson County.

ASSEMBLYMAN RONALD A. DARIO: I represent the 33rd Legislative District, which incorporates Hoboken, West New York, Union City, Guttenberg, and Jersey City Heights, and Weehawken.

I think what Assemblyman Catrillo stated is fact. As you travel through the community, the response that we've been getting was that in favor of initiative and referendum. In the early part of looking into, do I support or I don't support this type of legislation, I received a tremendous amount of help from the general public. And I think that, at this stage, is going to weigh heavily on my decision. I am, again -- and will not stop -- discussing and talking with my colleagues, the citizenry of Hudson County, all elected officials, in trying to get a response to give us direction, and, hopefully, that we will make the correct decision.

At this stage I am, again, doing some more research, doing some talking, and a lot of listening. And, hopefully, very shortly we'll be able to come up with a decision.

ASSEMBLYMAN ZIMMER: Thank you for joining us. I hope you'll stay and listen to both sides. Joe, if you have any comments or questions as—

ASSEMBLYMAN CHARLES: Yes.

ASSEMBLYMAN ZIMMER: —as we proceed.

ASSEMBLYMAN CHARLES: I'd like just to make a statement. First, to congratulate you, Mr. Chairman, for bringing the discussion of initiative and referendum and taking it out of Trenton, and taking it around the State of New Jersey. For those of you who don't know it,

Chairman Zimmer has held a public hearing -- not the Constitutional hearing but -- another public hearing at Montclair State College. That was held last -- last Tuesday or Wednesday? Last week.

ASSEMBLYMAN ZIMMER: Wednesday.

ASSEMBLYMAN CHARLES: Last Wednesday, and it was at that time that the bill was voted out. He's, in his devotion, I guess, to this legislation-- In his commitment to it, he's taking it around the State of New Jersey, getting the opinions of the people from around the State of New Jersey, and that's why we're here this evening. He's to be commended for that.

I think you, too, here in Hudson County are to be commended for your coming out tonight on an issue such as this. The weather is not that good, but your attendance here shows that there is that support.

The elected officials, I'd like to welcome them here -- the State officials and also the County and the local officials from Jersey City. Good to see you here, and we welcome your testimony.

I see some friends here from Hudson County -- one friend in particular, whose name I won't mention, who has been a champion for initiative and referendum. And everybody-- I won't call his name, and I won't tell what he's done, but everybody probably knows that he's been really, really on it. So much so, that-- So much of an advocate -- an aggressive advocate -- for it that he has no compunctions about coming to someone's house, ringing his bell on a Saturday, and talking about an issue -- even unannounced. That's just how much he believes in the issue. So, it's good to see him and a lot of the other people here. And we await now the testimony from those of you who have signed up and who want to speak on this question.

ASSEMBLYMAN ZIMMER: Before I introduce and give the opportunity to speak to the other elected officials present, I just want to comment that Senator Dorsey, who's the sponsor of initiative and referendum in the Senate and who carried the torch on this for years before I was elected to the Assembly, has submitted a written statement which will be included in the transcript.

I'd like to now introduce William O'Dea, Councilman from Ward B in Jersey City.

**COUNCILMAN WILLIAM O'DEA:** Thank you. The concept of initiative and referendum is probably found as far back as in the U.S. Constitution, which gives the people the right to petition the government for redress of grievances. And no greater redress can be given to the people than that right to have their issue voted on by, in this case, the entire State of New Jersey.

We have local initiative and referendum, and four years ago, a great lesson was learned from that. And that related to rent control laws, and an attempt to put in a vacancy decontrol and a rent decontrol type law. And the people were able, at that time, to speak out, gather signatures, and as a result of it, although it actually never came to a vote -- and it may have been better that it did -- what happened was, learned from that lesson was a process that we spent seven months and had numerous public hearings and committees, to hammer out a more fair and more equitable rent control law that was recently passed last week.

So the need and the right for people to be able to gather petitions and to have an issue ultimately decided by the voters is a right that, I feel, people very strongly have.

There are two particular issues that I feel is important and that I feel that this type of law will address that probably will not be addressed without it. Back when I first, maybe, began getting involved in government and politics, it was as the Chairman of Citizens Against Crime -- I also served as a lobbyist -- and two of the issues that we always spoke about was, one: that prosecutors should be elected, as they are in 46 out of the 50 states in the United States; and two: that some form of a merit selection system should be set up for judges. Not an election of judges, but a merit selection system, which would set up a commission, which would make recommendations to the Governor, who would then select one, who then, upon the completion of their term, would come before the voters to either be approved or disapproved.

Now, it's my opinion that such legislation like this would, in all likelihood, never get passed by a Legislature -- most likely, never passed by the Senate, since currently, the Senate holds such a strong power with senatorial courtesy, to both block judgeships as well as to block appointments as prosecutor.

It is just issues like this; issues like crime, that affect each and every one of us on a day-to-day basis, that a prosecutor -- who may be the most powerful official that a county has -- that right now the public is almost-- Their hands are tied in any way getting these issues addressed. By the passing of this bill, groups such as mine -- people such as those that are in this room -- can choose to go about and collect the signatures necessary to bring this issue before the public to let the public decide whether the selection process for these very important officials that affect their daily lives and the way justice is administered, whether they should have more of a say in it.

So, I just wanted to point those two out. One, a local issue that I, as a Councilman, have to deal with, and that I am ever conscious of the rights of my constituents, and the constituents of Jersey City, to be able to gather petitions to change our rent law, or any law, if they are not happy with the work that we do on it, and as such, try to allow as much input, as much compromise, as much give and take as possible. And also, there are certain State issues that, without initiative and referendum, the public would probably never have an opportunity to even be exposed to.

So, I would just like to thank you for the opportunity, and welcome you, and say, I'm glad that your Committee is here in Jersey City. And I look forward to, as often as possible, having legislative committees from the State come here, so we can let our feelings be known.

ASSEMBLYMAN ZIMMER: Thank you very much.

ASSEMBLYMAN CHARLES: May I ask a couple of questions?

ASSEMBLYMAN ZIMMER: Joe?

ASSEMBLYMAN CHARLES: Bill, excuse me, I'd like to ask you a question. As a local elected official, and one who is right now involved in the budget process for the City of Jersey City, do you have any thought as to whether or not there should be any subject matter exemptions from initiative and referendum? One of the areas that commonly comes up when the subject of subject matter exemption is discussed is the area of taxation and appropriations. There are some

points of view that maybe those types of matters should not be the subject of initiative and referendum. What are your thoughts on that?

COUNCILMAN O'DEA: I can understand the concerns that people would have -- especially legislators -- but I really feel that, if done properly -- and I give the public a lot of credit - that even those matters could and should be subject to such kind of initiative and referendum. What I think having them -- or allowing them -- to be subject to that would just make us and the Governor, in this case -- or in our case, the mayor -- or the legislators, much more accountable and much more conscious of the need to educate and to keep the electoral educated so maybe things that could cause potential problems don't get out of hand.

So, I understand it's a concern. You know, it could cause some problems. But I think we have enough faith in the public to think that if we let them know and let them understand, even if a question gets on a ballot, then it becomes our obligation to let the public know. And I mean, California suffered -- or not suffered, but-- California got through Proposition 13 with some problems, but they were able to survive, and I think that we can survive. The public is a lot more intelligent than a lot of -- not us, but -- that a lot of people give them credit for.

ASSEMBLYMAN ZIMMER: Thank you. One more elected official, and that is Morris Longo, the Hudson County Register.

**MORRIS LONGO:** Thank you very much, Mr. Zimmer. First of all, I want to congratulate you. It took a lot of guts to do what you are doing here tonight, and what you have done.

You know, I feel like I've been in this place before; I feel like I've been at this whole thing before. And I just sort of like to think of a commercial that I've been hearing on TV, when I think of initiative and referendum-- "Jacoby and Meyers: It's about time."  
(laughter)

You know, in 1981, Assemblyman, I was Freeholder Chairman, sitting right where you are, and the entire Freeholder Board voted a resolution and sent it to Trenton, and sent to all the Assemblymen, asking them to support this initiative and referendum. In 1981 and

1980, I took that long trip down to Trenton with the leader of this thing in this area, Ernest Lettieri — he's done a tremendous job. We walked, we demonstrated, and we had a rally. And nothing seemed to have happened. But it took someone like you -- and I've never seen you before -- but you could be as proud of yourself as I'm sure proud of you. And if I ever get a chance and know where you are, if you're ever going to run again, I'll call anybody I know that you have taken the lead to do something that's right. I really mean that.

ASSEMBLYMAN CHARLES: He's down in Hunterdon, down there.

MR. LONGO: I used to summer down there. (laughter)

You know, many people are going to be concerned about this because they're afraid it can get out of hand. And I think, and from what I know about it, I think that you've covered almost every facet of it. You've covered the part that states that just big cities can't run this initiative and referendum. A certain amount of petitions -- a percentage of petitions -- would have to be gathered from throughout the State, and not all of them Hudson County and Essex County. And I think that's a smart move; it's a safeguard. And I think it's also a safeguard to know that sometimes the public does make a mistake. Sometimes the public thinks that something is right, and they go gung-ho, and they put it across. And you have an outlet here for a repeal of something after a certain number of years, and I think that's great. That's really thinking. And that's thinking as an elected official thinks; as he should think.

But I just want to turn it around the other way, and I'm not going to be long. But it's about time the public has something to say of what's going to be put on the ballot. We're leaving them apart too long. They've become disgusted. Yes, it's true. They elect me, they elect other people to be their leaders or elected officials, but many times we're too concerned doing things that only certain people are concerned with-- only things that we think are important.

But the public knows what's important. They know what's needed, and if they make a mistake, you may be sure they're not afraid to admit it.

So let's put the government back into the process of running government. Give them a chance to be heard. You can do this with this bill. I know I'm going to talk to all the Assemblymen and Senators from Hudson County. I know how important it is; I've fought for this a long, long time. And I'm not going to forget Ernie Lettieri -- what he stood for. He doesn't need politics, he doesn't need any of this. But he-- Anybody knows, he's called everybody in this room to get here and make sure they've been followers.

So, please, give it all you have. Get the best part of everything you hear throughout the State. Let's pass this initiative and referendum.

Thank you, and God bless you. Thank you.

ASSEMBLYMAN ZIMMER: Before we hear from Mr. Lettieri, there's a gentleman who has to catch a plane. He came all the way up from Washington to testify, and so I'd like to, now, present David Schmidt, who's the editor of the Initiative News Report.

DAVID D. SCHMIDT: Thank you very much, Assemblyman Zimmer. I have spoken out on initiative and referendum before, last time in June. I am resubmitting that testimony. Today I am going to speak on a little bit different subject: the benefits of initiative and referendum. I am going to try to keep it as short as I can, even though there's a lot of benefits to cover.

They're not just hypothetical benefits. They are proven by the cumulative experience of initiative and referendum politics since 1900 in 23 states -- that's a combined history of over 1600 years in state government.

Voters in these state, since the beginning of the initiative and referendum, have enacted a total of over 500 initiatives. And each one has made state government more accountable to the will of the people, because each one was enacted by the people.

Even before a single ballot is cast, however, on a citizen-initiated proposition, the process opens up tremendous new opportunities for citizen participation, not only on election day, but every day. Throughout the nation in 1982, over half a million citizens participated by circulating petitions to put proposed initiatives on

the ballot. Over 16 million people participated by signing these petitions, and over half the citizens of the whole country got a chance to vote on these initiatives and referendums. And this incentive to participation spills over into other areas as well, including voter turnout on candidate races, as some of the the other people are going to talk about tonight.

Furthermore, initiative and referendum propositions infuse the people in the states that have them with a justifiable pride in themselves, and in their state -- a pride the people get from doing a difficult job themselves, and doing it well. They can say, to paraphrase Frank Sinatra, "We did it our way." Even if the only extent of a citizen's participation was to vote on an initiative, the result builds in that individual civic pride and faith in the processes of government. These individual attitudes, multiplied millions of times over, are the bedrock upon which the whole edifice of democratic government rests.

But in addition to the initiatives that are passed by the voters, there are also benefits from the initiatives that are rejected by the voters. Each campaign, win or lose, raises a lively public debate that raises voter awareness of important issues. Initiatives are like vitamins to the body politic. They add a healthy dose of substance to the style and personality concerns that often dominate modern political campaigns. The result is a noticeably more vibrant political life in the states that provide for initiative and referendum.

Also, initiative campaigns are an important source of policy innovation, and often an early warning to the elected representatives about popular grievances. In the State of Oregon, for example, the voters in 1910 abolished the poll tax; in 1912, gave women the right to vote; in 1914, established the nation's first presidential primary. All by initiative. In North Dakota, in 1932, voters banned corporate takeovers of family farms. In Idaho, in 1954, the voters restricted water pollution. In California, in 1972, the people voted to save the State's magnificent coastline from destructive development. These are all the kind of initiatives that people have passed, and that set their state apart from other states, and make people proud of their state.

At the turn of the century, citizens used the initiative process to propose workmen's compensation, the eight-hour day, restrictions on child labor, pensions for senior citizens. Many of these ideas were initially rejected, but later these reforms became a national standard.

Perhaps the finest examples of policy innovation by initiative in the 1980s are the so-called "motor-voter laws" passed by Arizonans in 1982, and Coloradans in 1984, which register citizens to vote when they get a driver's license or ID card. Both of these States have experienced a dramatic upsurge in voter registration due to these initiatives. The Arizona bill is probably the most effective piece of voting rights legislation since the Federal Voting Rights Act over 20 years ago.

But there are more benefits than this. Even initiatives which never reach the ballot often have the beneficial effect of spurring the legislature to take action on issues of public concern. In 1980, the Arizona Legislature repealed the state sales tax on food, and in 1982 the Legislature, for the first time, appropriated state funds for Medicaid -- both as a result of pressure from initiative petitions. Just two months ago, in Massachusetts, the Legislature eliminated a 10-year-old, quote unquote, "temporary" income tax surcharge, and the same month they enacted an acid rain reduction bill -- both of them in response to initiative petitions before they even got on the ballot. These instances, and many more like them, show how the initiative process makes a responsive legislature even more responsive.

Another important factor is the function of the initiative process as a safety valve that channels popular discontent toward constructive solutions. At a time when some individuals have turned to terrorist acts to vent their grievances, the initiative process provides a legal, nonviolent, yet effective way to resolve public controversies.

Initiative and referendum is also valuable as an insurance against tyranny. Perhaps not the murderous tyranny of foreign dictators, but the nevertheless obnoxious homegrown tyranny of

political machines and bosses. In this century, this kind of tyranny has abrogated the political and economic rights of citizens in many states, including right here in New Jersey. The initiative process ensures that no political machine or boss can ever accumulate, quote, "all powers, legislative, executive, and judiciary, in the same hands..." Which, as James Madison wrote in Federalist Paper #47, "may justly be pronounced the very definition of tyranny."

In conclusion, we must remember that the purpose of representative democracy is to ensure that government policies represent the will of the people. The initiative and referendum strengthens representative democracy by bringing government closer to this ideal. New Jersey citizens who sincerely support representative democracy should support initiative and referendum with no ifs, ands, or buts. No restrictive petition requirements, no restrictions on subject matter. The people of New Jersey are certainly as trustworthy as the people of any of the countless cities, and counties, and 23 states, who routinely exercise their initiative and referendum voting rights. And the people of New Jersey have now waited nearly a century to obtain these rights. Let's not make them wait any longer.

Thank you.

ASSEMBLYMAN ZIMMER: Thank you very much, Mr. Schmidt. I'd just like to publicly thank you for the guidance that you've given me, personally, in shaping this legislation. Many of the provisions that are in the current legislation that I am sponsoring have been included because of the testimony that you gave last June to our Committee, and because of the suggestions that you made to me personally. I think it is a much better package of legislation because of that.

Joe, you've been taking assiduous notes. Did you have some questions?

ASSEMBLYMAN CHARLES: No, just some comments along the lines that you've made. I remember Mr. Schmidt's testimony at other hearings and, like you said, they have been very, very informative to us. He has put a lot of work into it, and his resource information has been very good for us, as you've just said.

One question that I have-- I was looking over ACR-53 again, and it is a kind of a technical question that maybe you could help us with since you have possession of a lot of information and knowledge about this whole issue.

MR. SCHMIDT: I'll try.

ASSEMBLYMAN CHARLES: One of the issues, as you know, that I expressed concern about then -- you know, when you appeared last time and also during the current round of hearings -- has been the number of votes that's required in the general election for passage of an issue -- of a petition. I think ACR provides that it is 50-- It's 30%--

ASSEMBLYMAN ZIMMER: It's a combination--

ASSEMBLYMAN CHARLES: It's a combination. Well, it's 30--

ASSEMBLYMAN ZIMMER: It's a dual requirement. You have to have a majority of the votes cast on the question and also at least 30% of the votes cast in that election.

ASSEMBLYMAN CHARLES: Okay. Right.

ASSEMBLYMAN ZIMMER: That have to be cast in favor.

ASSEMBLYMAN CHARLES: Yes. My question was this: Do you-- Has it been the experience or is there any kind of information which reveals whether or not in those elections some people go out and vote just on the question and not on the candidates? It seems to me that if that happens, then you might have a situation that that 30% is measured against-- You know, when you're talking about whether or not you've achieved the 30% or whatever the percentage is, you're measuring that against, in some instances, a smaller number of people. Am I being clear?

MR. SCHMIDT: I think I can answer that concern by saying that in Massachusetts they have a similar requirement -- I think it's exactly the same -- and the turnout on the initiative versus the turnout on the candidates is close enough so that no initiative has ever failed due to that requirement alone. The average in all the states is that when you have a very high interest candidate campaign -- such as the presidential election -- the turnout on that will be higher than on, for instance, the state legislative races or the city council races, or the smaller races. And with regard to the

initiatives, the initiative is right up there at 93% of the number of people who are casting ballots on the highest office on the ballot — for instance, president or governor -- are also casting ballots for the initiative. It's, generally, a little bit less, but not much.

ASSEMBLYMAN CHARLES: All right, so the vote that you tally on the initiative side is 93% of the candidate votes in a presidential or gubernatorial situation?

MR. SCHMIDT: Yeah. For instance, if you get 100,000 votes cast for the president election--

ASSEMBLYMAN CHARLES: You get 93,000.

MR. SCHMIDT: Ninety-three thousand cast on the initiative.

ASSEMBLYMAN CHARLES: Has there been any study of what kind of comparison or percentages turn out in a non-presidential or non-gubernatorial year? I mean, what is the percentage of those who vote on the question as--

MR. SCHMIDT: Yeah, I've done that too.

ASSEMBLYMAN CHARLES: --opposed to the candidates? Like, sometimes, in the State of New Jersey we have elections where we're talking about the State Legislature or just some other office.

MR. SCHMIDT: Well--

ASSEMBLYMAN CHARLES: Or Congress persons, or senators, or whatever. What's the relationship there between the numbers of votes cast for those candidates and those who vote on the initiative question?

MR. SCHMIDT: Once in a great while, you get more votes cast on an initiative question than on even the highest candidate on the ballot, such as governor. But that's pretty rare. The drop-off -- the amount less-- Initiative votes being less than the amount of presidential votes are pretty close to the same drop-off in, say a gubernatorial election, or a senatorial election. That is, when I say 93%, that's an average. With the statewide races being on the ballot only, you'd have something like a 91%, whereas presidential would be 95%. Anyway, it's pretty close. It's all-- You know, the turnout on initiatives is still pretty close to the turnout on the highest candidate that is on the ballot. And the reason is just simply that

the initiatives are usually on the ballot in a high-turnout election. Most states just work it that way. They make sure the initiatives get on the ballot only on a high-turnout election, which is usually the general election — in the even years.

ASSEMBLYMAN CHARLES: So, you don't have any information or any study which indicates that— Or is there any study which indicates that some people go out and vote just on the question and not all on the candidates. Does any of that happen? Do you have a lot of that going on?

MR. SCHMIDT: No, not very much at all. There's no study on it, but it has never represented a problem, and that's why no one has studied it. It's never been significant.

ASSEMBLYMAN ZIMMER: I'd like to ask a related question. Between the questions that are put on the ballot by initiative and the questions that are put on the ballot by the Legislature, which draw more interest and more activity on the part of the voters?

MR. SCHMIDT: I don't have any exact statistics on that, but in election after election, in state after state, it's the initiatives that get the higher turnout because they're the more controversial issues, and usually the more interesting issues on the ballot. They're the issues that the people want to put on the ballot so, of course, the people are the ones who tend to vote in higher numbers on the questions that they themselves proposed than on the other questions. But still, even there, the difference isn't that great. It's a difference of maybe 10%.

ASSEMBLYMAN ZIMMER: Thank you. Any other questions, Joe? (indicates negatively) Thank you very much, Mr. Schmidt. We'll include last year's testimony as well. It was very enlightening when you gave it to us.

MR. SCHMIDT: Thank you very much for this opportunity.

ASSEMBLYMAN ZIMMER: Assemblyman Gargiulo, who also represents this district has just entered the room. I'd like to introduce you, Assemblyman, and if you'd like the opportunity to speak, give you that opportunity.

**ASSEMBLYMAN FRANK J. GARGIULO:** Thank you. Mr. Zimmer, first of all I would like to welcome you down to the 32nd District. It's nice to have you.

The initiative and referendum-- I have to say this about it. I gave it a lot of thought, because there is a lot of controversy with it, and I think there's only one fact of that and one point alone that people have to address. I think it is a legitimate way of giving our voters an opportunity to be heard, and I think by not allowing that, you are disenfranchising the voter to a certain extent. I know there's a lot of groups who have special interests, some of which I am very concerned about, by the way; however, I think none of it overrides the fact that the people have a right to be heard; the people should be heard; and I think I, for one, am going to support the initiative and referendum, and I am going to encourage my colleagues to do the same.

And thank you for giving me the opportunity, sir.

**ASSEMBLYMAN ZIMMER:** Well, thank you very much for your support.

**ASSEMBLYMAN GARGIULO:** Okay. Thank you.

**ASSEMBLYMAN ZIMMER:** Now, I'd like to introduce Ernie Lettieri. He was kind enough to hold off from testifying in Montclair last week, holding his fire until he was in his home territory. Mr. Lettieri, thank you.

**ERNEST LETTIERI:** Thank you, Mr. Chairman. I'm sorry that I have to turn my back on you folks, temporarily, but you know I would never do it intentionally. (laughter)

Mr. Chairman, elected officials, I am happy to come here tonight, and I am happy to be able to state a few of the things that are on my mind. Since 1973, I believe it was, when we put 15,000 people down in Trenton on an income tax protest-- At the time, just before it was "burn baby burn" -- maybe we should have taken a page out of that book and burned the State House. Maybe we would have gotten action then. But we didn't do it; we're civilized people.

Now my learned colleague, Mr. Perelli, last week said he was nervous in speaking before you people. I'm not nervous, but I'm a little anxious and I'm a little apprehensive, because after fighting

for 12 years, and then see your efforts finally come to a successful -- almost successful -- conclusion, I should say, it is very gratifying. It's nice to know that we have Assembly people who are listening to the people. As Joe Charles stated before, many times I would knock on his door, meet him in the hallway, never, never, never letting up, but always being kind. I never got abrasive, did I, Joseph?

ASSEMBLYMAN CHARLES: Never. Never. Except you wrote about me a couple of times -- I'm sorry -- but that wasn't abrasively done. That's okay. (laughter)

MR. LETTIERI: People do know that I can be very obnoxious and very abrasive. And sometimes I don't know whether it's good or bad. But after listening to 12 years of testimony from people more learned than I, more in the public eye, even to a Secretary of State, Don Lan-- When Don Lan, testifying down in Princeton, said, "Isn't it better that we have ballots instead of bullets?" Okay. So, in the interim period I turned that story around a little bit, and Don Lan chastised me. He said, "You know, you took my words out of context." I said, "I did it on purpose. I wouldn't have gotten any publicity if I had quoted you directly."

So, you see, there's a great many things that we can do with initiative and referendum. But I think the most idea that's on the legislators' minds is that we are going to attack taxes. Now, as far as intelligent people are concerned, taxes, they all know, is going to be here. We do suffer for the great amount of taxes that we pay. But that is not the main intent of an initiative and referendum law that I seek. Taxes we're going to have always. So, I would like the legislators to know that this is not the intent of one Ernie Lettieri to attack the tax problem.

I would like to let the legislators know that I would like to have an elected Lieutenant Governor, number one. Because if something should happen to our Governor, I didn't vote for anybody that's going to take his place, and if I didn't vote for him, I don't want him to represent me.

I would like to see you upgrade the pay for the election workers at the boards. That's been in the works. I would like to see you overhaul Title 40, an antiquated law.

I would like to see you revamp Title 19; very ambiguous in certain places. I would like to see you pursue Tocks Island, because sooner or later we are going to need that dam because we're running out of water. Now, without water New Jersey is a dead State. You know it; it's an industrial State. We have to have fresh water.

And lastly, I would like to see done away with is Senatorial courtesy. It ties the hands of our Governor in getting people into office who he thinks is qualified. Regardless of what one Senator may think, he picks the best people that I can think of.

And, before I conclude, I would like to thank all of the newspapers, especially the Jersey Journal, Hudson Dispatch, the Star-Ledger, and, of course, our local TV station for giving us coverage that would turn the people out here tonight. Unfortunately, mother nature didn't see fit to cooperate; and, of course, the legislative committee first advertised it as the 12th and then realized it was a holiday after I had sent out all of my literature, and then I had to make phone calls to different people and say, "Hey, I blew that one; it's the 11th, not the 12th."

So, anything that I can say more in support of initiative and referendum would probably be redundant in light of all the testimony that has been taken before your Committee, before Joe Charles' Committee, before John Dorsey's Committee -- Senator Dorsey. I believe I put 10,000 miles on my car, going back before here in Trenton, and I never got a dime for it. One of these days I'm going to pass the hat; maybe they will throw in a couple of bucks. (laughter)

UNIDENTIFIED SPEAKER: I can throw in a dime. (laughter)

MR. LETTIERI: But, let me say this, and I want to leave you with this thought, for all of you elected officials that are here: I have always kept my fingers on the pulse of the people, and I will always keep my eye on our elected officials. Thank you. (applause)

ASSEMBLYMAN ZIMMER: Ernie? Mr. Lettieri? Joe Charles has something to say.

ASSEMBLYMAN CHARLES: I'd just like to, you know, express publicly my admiration for the way that you have taken to the issue. You've pursued the issue, and you have fought for the issue. I think

that that quality and what you've done in it deserves special mention, and you have it from me.

MR. LETTIERI: Well, I thank you very kindly, sir. Coming from a learned person like yourself, it is more appreciated. Although I know you are on a different level politically than I am, I wish you were on our side; but maybe one day, maybe one day—

ASSEMBLYMAN CHARLES: We aren't on different sides.

MR. LETTIERI: --you may see the light. (laughter)

ASSEMBLYMAN CHARLES: Ernie, we are not on different sides. We are seeing the same light; we're in the same light. (laughter)

MR. LETTIERI: Well, as the great one, Martin Luther, used to say, "I have been to the mountain and I have seen the light," so, who knows? Maybe lightning will strike twice and Joe Charles will become a Republican. (laughter and applause)

ASSEMBLYMAN CHARLES: Charlie Catrillo says I can't. He won't let me do it.

MR. LETTIERI: I know you've seen this before, Mr. Charles. But for your colleagues, I didn't bring this up tonight, but you can read about it.

ASSEMBLYMAN ZIMMER: Thank you, Mr. Lettieri.

MR. LETTIERI: Thank you.

ASSEMBLYMAN ZIMMER: From this point on, I will be going down through the list in the order that people signed up, unless there is a case of hardship or plane departures, which I hope you will pass on to the staff.

Next on the list is Wayne Dibofsky of the New Jersey Education Association. (not present) I assume Mr. Dibofsky will be giving us something in writing.

Susan Covais, the New Jersey Association of Realtors. (not present)

Rob Stuart, New Jersey Public Interest Research Group.

**ROB STUART:** Mr. Chairman, members of the Committee, my name is Rob Stuart. I'm an advocate with the New Jersey Public Interest Research group, which is a group that represents 63,000 citizens around the State on issues of environmental protection, consumer protection, government and corporate accountability.

We're very pleased to be here tonight to support an establishment of initiative and referendum in the State, and we urge the State Legislature to pass Concurrent Resolutions which would put initiative and referendum to the people this November.

I have a position statement of the group, which I will submit to the record, and also some comments to make, going over some of the historical perspective of why we believe initiative and referendum is important for New Jersey. Some of the statistics, certain polls, and voter turnout, which we believe shows that initiative and referendum will be good for the State to increase participation as well as just covering for the record some of our concerns about ways in which the bills could be enhanced such that there would be greater protections and greater openness to the citizens of this State.

First off, I want to state that New Jersey PIRG supports reasonable, but not excessive, signature requirements to qualify citizen petitions. Those requirements, we believe, should be based -- as they are right now in ACR-53 -- on statewide turnout elections. But, they should be set similar to the majority of other I&R states, i.e. they should be set lower than they are now, roughly 5%, which would equal 100,000 signatures rather than 160.

Our perspective is that initiative and referendum is something that should be seen available to all citizens, and that if we set the requirement too high the people won't mobilize and won't take that initiative to start exercising their voices and mobilizing for support of an issue that they are concerned about.

On that same point, we oppose distribution requirements for I&R filing, as well as unreasonable distribution requirements for other regional designations. Again, it's important that every citizen have the right to initiate a petition for the State, so that they can see their own thoughts and their principles in legislation, or at least in promoting legislation. And, thus, we would oppose any move to set requirements for distribution of filing around the State. Right now, when we talk about 150 proponents, we talk about a requirement that's 15 times stronger than any other state. The only two states that require more than one individual are Ohio and Massachusetts, and they require 10 people.

We also support provisions which require organizations contributing or expending \$5000 or more on an I&R campaign, to register increased financial and corporate information with the Election Enforcement Commission. We believe, and other lobby groups have said here, that when these questions get on the ballot, there is opportunity and there's pressure to spend money to try to influence voters. We believe that the way around this is not to try to limit the amount of money -- I think that's unconstitutional; it's been ruled that -- but to make it open to the public, not only how much people are spending but who's spending it and why.

And, thus, we urge the Committee to take a look at provisions which would require increased disclosure information on advertisements, increased financial disclosure in the voter information packet, so when the voter is considering which way to vote on the issue, they also have at their disposal the amount of money spent for a proposal and the amount of money spent against, up to that time, the voter pamphlet was printed. Along with that, when they see advertisements on TV or in newspapers -- as they inevitably will -- that they will know who paid for those advertisements.

So, I'm willing to work on language with the Committee and hope that it's accepted when we're dealing with the implementing legislation.

Along that line, we support provisions which allow for clear identification of groups supporting or opposing initiative and referendum campaigns, and for groups to be identified, as I said, in those advertisements. We often find that groups calling themselves very pleasant sounding names are often groups that are opposing something that really is in the public interest, and would have a pleasant name. We think it's very important that the public is aware of who's supporting and who's against an issue.

I think our support gets down to I&R for its being used, and we believe that in New Jersey we've seen, just in our last primary, that the voters are not turning out in great numbers; that there is some concern that the Legislature is not responding to the issues, the issue that they're concerned about.

There's a concern that lobby groups have an inside track to legislators. It's not, as the lobbyists that have come before you said: That all a citizen needs to do is pick up a phone, because numerous citizens pick up a phone and legislation, such as I&R, sits idle for years because there is just too much political debate-- There's not political debate -- political opposition down in the halls -- and I submit that lobbyists who say that citizens can have an effect on government by just picking up a phone are naive, because if anyone's been in Trenton he can see that when compared to professional lobby groups -- which there are many -- average citizens have a hard time competing on that level. But citizens have organized and citizens continue to organize, and legislation will get through. Initiative and referendum is a complement to the legislation because it gives citizens another avenue and a recourse when the Legislature doesn't.

I want to submit for the record the full Eagleton Poll that was taken in 1984. A number of speakers have referred to it, because it does have a-- The citizens have different opinions about initiative and referendum, but I have graphically drafted the answers to three questions which were in the survey -- the top questions -- that is, they received the most support. And that is, first, citizens were asked whether initiative and referendum would allow the public to decide issues where public officials are hesitant, or fear offending certain groups. Seventy-eight percent of the public agreed with that statement.

They were asked whether or not they thought citizens ought to be able to vote directly on important issues and policies, instead of their representatives voting for them. Seventy-five percent agreed on that.

And, the number one answered question was, if people had a chance to vote on issues, they would become more interested and participate more in government and politics. That received the most support with 80%. Only 18% disagreed.

I think that is proved out in other states, using some of David Smith's research, The Initiative News Report, which graphically listed the turnout in elections of '78, '80, and '82. As you can see,

the blue is on non-initiative states, with the red on top being the initiative states. The calculated difference equals, at the high in 1982, 17.6% more people participating in initiative states than in non-initiative states.

So, with that, I think it's clear that initiative and referendum is wanted by the people. It's going to enlighten and invigorate the body politic in New Jersey, which is something we feel is important to do.

We congratulate the sponsor, Senator Dorsey, for pushing this legislation so long and so hard, and for all of the members of the Committee for voting it out last week.

In conclusion, we have to respond to some things that were said by a speaker who isn't here tonight, but who has been here before, when he said that all the supporters of this legislation want to do is lower taxes at any cost. New Jersey PIRG has never taken such a position in the past. We did not arrive at our current position on initiative and referendum with that motivation behind us. We hope that initiative and referendum will allow various issues to get increased attention and public debate. Undoubtedly, there will be issues that we support, and others that we will not support. We believe that it is important to the civic education to encourage that debate.

To sum up, I want to quote an observation by one of our country's most famous educators. In 1820, Thomas Jefferson said: "I know of no safe repository of the ultimate power of society but the people, and if we think them not enlightened enough, the remedy is not to take power from them but to inform them by education." Thank you.

ASSEMBLYMAN ZIMMER: Thank you very much. (applause) Any comments, Joe?

ASSEMBLYMAN CHARLES: No, thank you.

ASSEMBLYMAN ZIMMER: Thank you. Next on the list is Marie Curtis, League of Women Voters.

MARIE CURTIS: Good evening. I'd like to thank you for the opportunity to be with you and speak this evening. It seems to me we've all been through this before.

ASSEMBLYMAN ZIMMER: In a somewhat different context.

MS. CURTIS: Yeah, just a little. But, I'm here this evening representing the League of Women Voters of New Jersey.

In 1981, the League in Convention voted to study initiative and referendum. Local Leagues all across the State then made a comprehensive analysis of the process. We also contacted the State Leagues in those 23 states that already have initiative and referendum. We had replies -- extensive replies -- from 16 of the 23. All 16 favored the concept in general. The only reservations expressed regarded safeguards, such as the number of signatures required, prohibition of paid signature solicitors, geographical spread, etc. Incidentally, on the number of signatures required, unlike New Jersey PIRG, the League would not like to see the numbers changed. We believe that the numbers -- the 8% and the 12% -- represented in ACR-53 are certainly reasonable and fall within a very good framework for useability in the years ahead. In fact, the highest number, I believe, is Wyoming's 15%, and they even have achieved that. That have an initiative going on the ballot in November with 15% of the voters signing up.

But, these technical protections that we were concerned about are already incorporated in ACR-53, and Assembly Bills 1028 and 1029. We've also learned that the initiative process has been used successfully in some states for 82 years. Citizens in these states have demonstrated a definite ability to differentiate between yes and no on complex issues. They do not hear the cry of lower taxes and automatically vote in favor.

And, another aside: Arkansas is currently gathering signatures on an initiative to increase its state's sales tax by one-eighth of one percent. In fact, only about 39% of the issues put on the ballot over the past 80 years have actually been endorsed by the voters.

There's no reason to believe New Jersey voters are less capable than the citizens of those 23 states that already have I&R. We also learned that all of the initiative states do have a constitutionally balanced budget, as does New Jersey. Thus, the League of Women Voters in New Jersey came to consensus in August, 1982 in

support of an indirect, but not direct, initiative process. Indirect initiative complements the legislative process, and that the citizens petition the Legislature to act on specific proposals. Only when that body fails to act within a given period of time does the measure go to the voters. This indirect method has several advantages:

The Legislature can amend the initiative, thus allowing for compromise and perhaps improved legislation.

The voters have a longer time to consider the proposal.

Legislative debate could help clarify and define the issue, allowing for a better-informed voter if, indeed, it does go on the ballot.

And the cost of an initiative campaign can be saved if the Legislature deals with the proposal first.

The League does not see this as a usurpation of the Legislature's role, but rather as an additional conduit from the people to their representatives. All too frequently citizens become frustrated with what they perceive as government's failure to act on specific measures or issues. This process provides an outlet and an avenue for such groups, and could help diffuse certain emotional issues, while simultaneously avoiding precipitous actions.

We truly believe that the political direction of the 80s, at least here in New Jersey, is towards some form of initiative and referendum. We, in League, would prefer to see a procedure in place early, with appropriate safeguards built into the process, rather than a hasty response to public pressure at some point in the future. The League regards the initiative process as an extension of democratic government. It offers individual voters an additional way to participate and become involved in the governmental decision-making.

The League of Women Voters has always encouraged the informed and active participation of all citizens in government. This process is but one more step in that direction.

Do you have any questions?

ASSEMBLYMAN ZIMMER: I have one question about the Wyoming situation. Do you know how many-- Do you know when Wyoming adopted initiative and referendum? I think it was 1968. Is that correct?

MS. CURTIS: Yeah. I'm not sure. It was fairly recently, and they really have had trouble getting things. The League would not propose 15% in New Jersey certainly. We're happy with eight, but--

ASSEMBLYMAN ZIMMER: Good, because I was under the understanding that since 1968, Wyoming had had no initiatives, and this may be its first.

MS. CURTIS: No, but they have made it this year, yes. And it's on a question of stream flow in protecting fish -- again, a conservation issue.

I know, Mr. Chairman, that you have asked others if they have, indeed, polled their members, and I would just like to mention that the League has a consensus procedure. It is a grass-roots organization. We can do nothing unless directed by our membership at the local level.

And, I must tell you that when we came to our Convention in 1981, we on the State Board were not supporting a proposal to study initiative and referendum. We felt that we already had an overloaded agenda. It was our grass-roots membership that demanded this study. As the study progressed, we had 51 Leagues in the State of New Jersey undertake that independent study and research program. Of the 51, only six could not come to a clear-cut consensus on this question. Of the 45 that were left, 37 Leagues were in favor of overall initiative; 22 supported indirect; four supported direct; 16 supported both of the above. There were no Leagues that said no -- that really openly opposed.

And, we had quite a few questions also as regards requirements. As far as signature requirements went, 28 Leagues supported a percentage of voters in the last gubernatorial turnout, so, there again, you're on target.

We did find that we could not come to any consensus as far as restrictions on the questions were concerned. Our members were somewhat split on that, and unless our membership is overwhelmingly in favor, we do not consider that we have consensus on a question.

As far as general I&R goes though, yes, we had an overwhelming consensus on that question.

ASSEMBLYMAN ZIMMER: Thank you very much. Joe?

MS. CURTIS: I have copies of the statement. (applause)

ASSEMBLYMAN ZIMMER: John Scott? (not present) Lorraine Niemala from Common Cause?

**LORRAINE NIEMALA:** Lorraine Niemala. I'm a researcher for Common Cause. The movement for initiative and referendum originated in New Jersey on March 12th, 1894 in the New Jersey Assembly Chambers, the lobbies and galleries being filled to overflowing. There was a hearing on a direct initiative constitutional amendment proposed by the Honorable William Harrigan of Essex. It was referred to the Judiciary Committee and later defeated by the full Assembly with a close vote of 28 to 32.

The legislation was the result of the research of James W. Sullivan of Montclair -- who I would like to point out was a union printer like my father -- who wrote direct legislation in Switzerland, and State direct legislation League chaired by well-known labor leader of Newark, Henry A. Beckmeyer.

In 1893, the New Jersey delegation was the guiding force in first placing initiative and referendum on the populace party platform. It marked the nationwide beginning of the movement.

Samuel Gompers vigorously encouraged local chapters of the American Federation of Labor to actively lobby their state legislatures for initiative and referendum. As we are here tonight, Samuel Gompers also testified in support of the initiative at the New Jersey Assembly hearing.

Governor Woodrow Wilson strongly supported initiative and referendum.

The initiative is a means of seeing to it that measures that the people want shall be passed when legislatures deny or ignore public opinion.

In 1947, for consideration in the New Jersey Constitution, the Federation of Labor recommended that people should have the right by petition to secure a referendum with respect both to constitutional amendments and to legislative enactments. Without this, democracy is totally lacking in a state government.

Common Cause has been studying initiative and referendum since 1976 when Assemblyman Thomas Kean introduced ACR-181 and 2239. To determine the citizens' support for initiative and referendum, Senator Dorsey encouraged the counties to consider initiative and referendum. Between 1979 and 1981, the voters of Burlington, Cape May, Cumberland, Hunterdon, Morris, Union, and Warren Counties approved advisory ballot questions for initiative and referendum. The Board of Freeholders supported it by resolution in Bergen and Hudson Counties.

In 1981, Common Cause gave its support to Senator Dorsey's legislative I&R proposal, which included major amendments of the Senate Judiciary Committee. The proposal was passed in the New Jersey Senate by the vote of 30 to 0. It passed the Senate again in 1983 by the vote of 33 to 4.

During the last four years, Assemblyman Richard Zimmer has refined the proposal to make ACR-54, A-1028, and A-1029 the most thoroughly researched and well-structured initiative and referendum procedure in the country. It balances the citizens' need for access to government with the State's ability to govern. The proposal has evolved through the legislative process for 10 years.

Examination of the details of ACR-54, A-1028, and A-1029 shows the comprehensive set of safeguards that have been incorporated. And, I have that flow chart that I always have.

The Office of Legislative Services provides aid in drafting the measure and reviews it for technical compliance with New Jersey law. These provisions ensure the measure is well written and legally sound.

The Secretary of State verifies the proponents' signatures, certifies the measure for petitioning, and prepares the title and summary in clear, understandable language to avoid voter confusion.

The Office of Legislative Services prepares a fiscal impact statement to be made public within 60 days. An objective fiscal perspective of the effects of the measure on New Jersey is available at an early stage of the process.

The proponents have one year to collect signatures — 8% for a statute and 12% for a constitutional amendment of voters voting in

the last gubernatorial election, and no more than 10% from any one county. A large-scale grass-roots effort addressing issues of statewide importance is necessary.

The full text of the measure is on the first page of the petition, and the title and summary are on every page of the petition. The petition signer has the opportunity to fully understand the substance of the measure.

Circulators of the petition cannot receive payment. This provision assures widespread grass-roots responsibility for the measure, and prevents the development of a petition-generating industry. Financial disclosure by proponents and opponents begins early in the process, so that all contributions and expenditures are identified for the public.

The Secretary of State verifies the petition signatures within 45 days, and presents the measure to the Legislature. The Legislature has six months to debate and vote on the measure. It serves as a public forum for study of the issue and uses the legislative process to adopt the measure or register its disapproval. If the Legislature approves the measure and the Governor signs it, it becomes law. If the Legislature rejects the measure, it is submitted to the voters at the next general election held more than 120 days after legislative consideration.

A ballot pamphlet with the title and summary, arguments and rebuttals of the proponents and opponents, and a summary of the fiscal impact statement, in clear, understandable, readable language is mailed to every voter household. This provides voters with a concise, responsible source of information on the issue.

The measure must be approved by a majority of the voters -- that is, at least 33% of voters voting in the election. This ensures the issue is of importance to the voters.

The Governor may not veto a measure approved by the voters at a general election. Amendment and repeal of the measure is limited to give the measure the opportunity to work effectively. However, problems can be resolved in the Legislature.

I understand this provision has been changed to just five years of protection. Is that true?

ASSEMBLYMAN ZIMMER: That's correct.

MS. NIEMALA: Common Cause has always felt that the long and arduous process of qualifying a ballot measure, which is up to two years, and the ensuing campaign, which is at least four months, and the final approval of the voters merits the serious legislative consideration that a super majority requires. We would prefer to see it longer.

Appropriation and tax laws are effective the fiscal year next following passage of the measure to enable fiscal adjustment of the government. If the measure is defeated by the voters, it cannot be reintroduced for three years. This provision reduces repetitious use of the ballot process.

ACR-53, A-1028, and A-1029 provide an orderly and deliberate procedure. Government participation is included at many stages of the citizens' effort. The process can take up to two years for a measure to qualify for the ballot if the measure is not approved by the Legislature and signed by the Governor. But, the schedule is specifically designed to flow smoothly without obstacles.

The proponents need statewide support to move their measure through the process, but they can feel confident that their efforts are well-protected.

Common Cause strongly recommends the passage of ACR-53, A-1028, and A-1029. The concept of initiative and referendum is part of the New Jersey political tradition. It should now become part of New Jersey government. After 10 years of careful study, this initiative/referendum proposal is ready for voter consideration.

I want to thank the Committee for their unanimous vote in supporting ACR-53. (applause)

ASSEMBLYMAN ZIMMER: Did you want to discuss this poster that you gave me?

MS. NIEMALA: Well, it just shows where New Jersey would sit — it's the blackened bars — in relationship to other states of petition requirements. You can see, it's considered a little bit, I guess, above average, but it's within the range of many states' experience.

ASSEMBLYMAN ZIMMER: I've been doing a little historical research myself, and in 1894 when the Assembly met as a Committee of the Whole to hear the proponents of initiative and referendum, including Samuel Compers, there was a motion made by an Assemblyman from Hudson County -- from Jersey City -- that that Committee of the Whole report the bill out favorably. Unfortunately, there was a series of clever parliamentary maneuvers which resulted in it being referred to the Judiciary Committee, and ultimately losing the support of the Legislature. But, Hudson County has a long history in connection with initiative and referendum.

You have complimented me on the thoroughness and the balance of this legislation. I want to compliment you on contributing more than any single person to the ultimate shape of this legislation. You started with it when it was a much different and a much less elegant piece of legislation, and through the years, you've been the model of a citizen lobbyist in making sure that this was a piece of legislation that could win support from the majority of the Legislature, but also would work when it became law. And, I want to thank you very much for your help.

MS. NIEMALA: Well, I would like to comment that if it ever passes, it's a pleasure to see something that can become perfected within the legislative system. Thank you. (applause)

ASSEMBLYMAN ZIMMER: John Pecoraro?

JOHN PECORARO: Assemblyman Zimmer, it's so nice to be here today for several reasons. I was speaking to Senator Dorsey on the phone this evening. He called me up to send his regards, and he wishes you well tonight in this whole role and endeavor on behalf of him. In our efforts to try to show the tremendous support that initiative and referendum does have, I have traveled out from Mendham, New Jersey to come out and speak here on behalf of initiative and referendum.

But, I am very proud and always proud to say that I am formally from Jersey City, and I'm very, very happy to be back here to speak on behalf of something I feel very strongly about.

I'm also glad to hear that there are many people in Jersey City that are in favor of initiative and referendum. I've always felt

that I do take with me from Jersey City a street smarts and a respect for the opinion of people. And, I'm glad to see that the people in Jersey City also support something as important as initiative and referendum.

I have been traveling throughout the State of New Jersey speaking to several different organizations and many different groups on behalf of initiative and referendum, and I'd like to report back to you today that this is a very, very popular issue. I'm sure you've seen that in the various meetings that you've had in Montclair and here today. It cuts through all party lines.

I am the Chairman of the New Jersey Conservative Republican Coalition, but this isn't a Democratic issue. This isn't a Republican issue. This is not a conservative issue or a liberal issue. This is an issue that all people throughout the State of New Jersey are getting quite excited about. The only caution I ask you is, please do not make the legislation so complicated that it then becomes impossible to implement, because then that will eventually build in a sense of frustration, because the good feeling is there. The people feel that we are very close now to having something we've wanted for a very long time. Please give us what we want.

Thank you.

ASSEMBLYMAN ZIMMER: Thank you. (applause) Mr. Pecoraro, as far as your concern with the implementing legislation, we have not yet reported that out. I would urge you to study A-1028 and A-1029 and get to us with your comments so that when we do vote on it in the next couple of weeks, we'll be able to do so with your input. Thank you very much.

MR. PECORARO: Fine.

ASSEMBLYMAN ZIMMER: Larry Haverly? (not present) Everitt Warner?

EVERITT WARNER: Well, it-- Can you hear me?

ASSEMBLYMAN ZIMMER: Yes.

MR. WARNER: I am a resident here of Hudson County. I attended your meetings out in Trenton. Naturally, you expect the State Capitol to be the professional lobbyist and the citizens' lobbyist. I am glad you made that differentiation.

I am always making conclusions because I am a laborer; I'm not learned like you people here -- you elected officials and some of the people in this room. But, I hear speakers mention the comment: How many people? One must remember, if you look in history books, it's small numbers that made things possible. It is negative or positive, whether it's your committees, whether it's anything you belong to. So, I don't get hysterical over that, but I'll save Mr. Schmidt's report. The safeguard is there, and with his technical information, your bill has given a lot of safeguards.

Actually, initiative is really something our country was born with. But, your updatment (sic) is making it the tool that we can have now.

Naturally, when I was down in Trenton, I saw-- Naturally, lobbyies are legal, and it's a normal reaction in all governments. It's provided for. The only thing that I did exception-- You had a gentleman there that represented the nine utilities. Now, technically, how is he representing the people? The people that use those utilities or the nine services may have different opinions. So, that is the only thing that left me a little akin there.

And, then I come down to the conclusion to make it short there. I have to agree with Mr. Longo. Of course, the apostle from the peninsula city here in Hudson County, better known as Ernie Lettieri, has been carrying the good fight for years. I have lots of respect. You know, I look around. I see public officials. If you took a poll and ask them who their-- I think a person like Ernie Lettieri should be a public official, and I would-- I have a confidence in coming here to Hudson County out of Trenton and see the turnabout. There's a lot of support for it.

With that conclusion, I thank you for inviting me to speak.

ASSEMBLYMAN ZIMMER: Thank you very much. (applause) Ed Magee?

ED MAGEE: Assemblyman Zimmer and Joe Charles, may I ask you, sir, if there are any other members of the Legislature up there?

ASSEMBLYMAN ZIMMER: No, I'm sorry. I should introduce Greg Edwards, who is a member of the Republican staff, and Donald Margeson, who is a member of the nonpartisan staff.

MR. MAGEE: Thank you very much. I want to thank the Committee for coming to Hudson County and holding the hearing here. I also want to say that I am the Republican executive in Ward B in Jersey City. Now, that might require a little bit of explanation.

In the other party, they call them leaders. (laughter) Since I grew up— Since I was born and grew up in Jersey City, and when I wanted to get to be a teacher where I served in Dickinson High School, which is only a block away, as a teacher for 42 years, I had many and frequent dealings with my leader. So, I was very, very familiar with them, of course.

But, in the Republican party, as I say, we call the leader the executive. I don't know what that means, if it means anything -- anything significant. But, anyhow, that's the way it is.

Now, I want to say that I was born and brought up a Democrat, which I then feel a compulsion to explain because I have many, many friends who are still members of the Democratic party -- my neighbors and good friends of mine -- and it never comes between us. But, I want to say that my being a Republican, I refer to as— There are three reasons that I would like to explain that, not that I feel any necessity to explain my Republicanism. But, simply by saying that the fact that I was a Democrat was an accident of birth -- that it was because I was a native of Jersey City -- and of Irish ancestry -- it was my grandparents that came to this country from the old side -- and the Catholic. As I grew up, I was made aware all the time that people with my background were just naturally Democrats.

So, about 30 years ago, when I decided to switch parties and hurt some of my friends, I worked out this explanation to them so that they wouldn't feel too badly about it.

But, at any rate, I just want to say that we feel strongly— I'm sure that the majority in this County feel strongly about initiative and referendum. I want to thank you members of the Assembly for coming here to hold the hearing, and hope that this matter comes to a successful conclusion in the near future. Thank you very much.

ASSEMBLYMAN ZIMMER: Thank you. (applause) Joe Gonzales?

JOE GONZALES: I'm back there dying from the heat, but I guess this seat is a little bit warmer here.

A few years ago when I graduated from grammar school, I took away from grammar school some things — some thoughts — and they were a love for country, a love for flag, respect for authority, and also a faith in the government. And, also a rule that you never fought City Hall because you always lost. And, I believed it. And, I always thought that the only thing I had to be concerned about was the Federal government.

When I grew up and became a voter, that's all I ever did. I voted for Federal government. I voted for the congressmen, the President, and so forth. But, it was really the wrong thing to do. The real place to be concerned about is where you live, and I never knew that. It wasn't until recent years when I started to suffer -- suffer from high taxes, suffer from the inability to have my voice heard, ring a telephone and call a legislator; he's not there-- I called your office, Mr. Charles, about three or four months ago on an issue concerning AIDS, but I won't get into that. You weren't there. It was just a frustration for me.

About three years ago, I guess, before I was about to explode, there was a knock at the door. It was this guy here with the three-pointed hat, Ernie Lettieri. He's the one that turned my thinking around. I had kind of given up on our government. If you don't have a tool — somewhere that you can express yourself, a channel open to your government -- there is only one avenue left, and that is revolution. And, I'm not a believer in revolution. I always taught my kids to respect authority, respect the police. There was a time when our police were call pigs, and one of my children called one of the policemen a pig. I almost put her through the wall, and she'll never forget it. So, I have respect for authority.

I would like to see initiative and referendum come to pass so that we can have this avenue open, so that people have a way to express themselves without resorting votes. Thank you. (applause)

ASSEMBLYMAN ZIMMER: Thank you. May Gonzales?

MARY GONZALES: It's Mary.

ASSEMBLYMAN ZIMMER: Oh, I'm sorry.

MS. GONZALES: Initiative and referendum is a method of serving people's interest whose time has come. Constitutionally, it is not enough to have elected officials, many of them caring for their own interests, and those of special interest groups. They fall back on the bromide that they are qualified to vote on issues of importance.

Several million voters in New Jersey deserve more than that. They deserve the right first, and the opportunity secondly, to be able to petition for the redress of problems, and also to place the ballot issues of vital concern.

I ask that you bring this message back to your colleagues -- that I&R is a matter deserving their complete support. It is an issue which is not partisan. I ask that you consider it on its merits, and I'm sure that you will vote for it.

ASSEMBLYMAN ZIMMER: Thank you very much. (applause) Tom Murphy?

**TOM MURPHY:** Yes, I want to thank the Committee of two for coming here this evening within three blocks of my home. I've never been to Trenton to lobby for anything because I don't have a car, and I really don't have a whole day to give to go there. Also, I'm not that unhappy with the legislation that comes from Trenton, I guess.

I'm for anything that gives people power. "We the people" is pretty much a joke today. I think this country, and virtually the whole world, has gone fascist. Our representatives do a poor or no job of representing the average person. Man was born free and is everywhere in chains.

I think this law is a small concession, nevertheless a concession. It is for high-rollers. Only a block or efficient organization with a sizeable war chest could implement I or P, requiring 8% of the state's voters. It's tokenism, but I'm for it, and I hope it's an indication that the people's elected representatives -- city, county, State, and Federal -- will be more responsive to our letters, phone calls, and verbal communications.

Someone in the audience remarked before this hearing started that giving the people power to legislate is dangerous. I agree. Democracy is and should be dangerous. I think American government has

become too comfortable, smug, and rich, and almost unanimously out of touch with the majority of its constituents.

Thank you. (applause)

ASSEMBLYMAN ZIMMER: Katherine Pfeiffer?

**KATHERINE PFEIFFER:** Thank you. I want to say, too, how much I appreciate that you're here this evening. I want to say, too, how appreciative I am of all the people, and we are all the people, here this evening.

It was so good this issue raised from an intellectual point of view. What I'm about to say is not from an intellectual point of view — more of an emotional appeal, but nonetheless, I feel it is valid, so I will proceed.

Who pays the bills? The taxpayers. Who builds and strives to improve the quality of life? The taxpayers. In order to form a more perfect union, shouldn't we all have something to say about how our money is spent and on what? Why should this country and its people be guided by politician whim alone? Should there be taxation without representation? The pioneering instinct is waning. It should be born again.

Liberty is an exciting concept that has never been truly realized. Let freedom ring and America sing once more of liberty and justice for all.

Can we fight City Hall? You bet.

AUDIENCE: That's right. (applause)

ASSEMBLYMAN ZIMMER: Ray Azlusa?

**RAY AZLUSA:** Mr. Chairman, I'm Ray Azlusa from Bayonne, a retired police officer. I came here tonight to speak on behalf of myself and express the feelings of my neighbors and friends. All of my neighbors and friends, they're all in favor of initiative and referendum, and they only hope that when it finally comes to passage, that you will pass it with no restrictions, no exclusions, no exceptions. Pass the whole thing, and don't pass it so complicated that nothing can get past the Legislature, and nothing can get on the ballot.

Thank you. (applause)

ASSEMBLYMAN ZIMMER: Leo Zacharow?

**LEO ZACHAROW:** Before I get involved here, I just want to make a remark. Ed Magee said that his birth was an accident. I'm just wondering if he meant that his parents didn't take precautions.

Now, one of the speakers here got involved in something other than initiative and referendum. Is this open to other subject matter, or is this strictly initiative--

**ASSEMBLYMAN ZIMMER:** No, sir, this just about the proposed constitutional amendment.

**MR. ZACHAROW:** Initiative and referendum?

**ASSEMBLYMAN ZIMMER:** That's right.

**MR. ZACHAROW:** Okay, 'cause one spoke on several matters.

Now, I want to address the Assemblyman. I get a little confused-- (addresses Assemblyman Charles) You got two names. I don't know which is the first and which is the-- Is it Joseph Charles?

**ASSEMBLYMAN CHARLES:** That's correct.

**MR. ZACHAROW:** All right. I'm Leo Zacharow. Several years ago, I wrote to you, wrote to the newspapers -- spoke to you over the phone, and you as Chairman of that particular Committee, didn't take any action. Now, do you have a particular objection, and why did you finally decide to--

**ASSEMBLYMAN ZIMMER:** Mr. Zacharow, the appropriate procedure is for you to pose any questions you wish to pose to me as Chair, and if Mr. Charles wishes to respond, he can, but he's not obligated to.

**MR. ZACHAROW:** Oh. All right. I'm sorry, Mr. Chairman. Now, I know the procedure. All right-- I am curious to know why the Assemblyman -- it's Joseph Charles, right? -- took so long to permit this legislation to get on the floor, and if he has any objection to it; and if so, what it is.

**ASSEMBLYMAN ZIMMER:** Joe, it's at your discretion, of course, whether or not you care to answer.

**ASSEMBLYMAN CHARLES:** Well, I will respond. We had hearings on it, Mr. Zacharow, last year. We had public hearings on ACR-1, I guess it, at that point -- ACR-1. We did have extensive public hearings where we discussed the bill.

**UNIDENTIFIED AUDIENCE MEMBER:** (away from microphone) Could you speak a little louder, Mr. Assemblyman?

ASSEMBLYMAN CHARLES: All right. I said, we held-- The State Government Committee, under my Chairmanship, held public hearings on ACR-1, I believe it was at that time, in Trenton, during June -- I believe -- and July of 1985. Was it '85? 1985. And we held discussions, and we -- I think, as a result of some of those discussions, the bill was worked, amendments were made to the bill, some of which were the starting points of ACR-53. I think that further legislative discussions that we've had, under the chairmanship of Mr. Zimmer, have added additional amendments to that bill. I think the bill, under my chairmanship, was improved by virtue of the public hearings, and it's still being improved by virtue of the continuing public hearings on the question.

MR. ZACHAROW: Do I understand from the Assemblyman that he held it up only because he wanted changes made into it which has not satisfied him?

ASSEMBLYMAN ZIMMER: Mr. Zacharow, I really think it's inappropriate--

MR. ZACHAROW: It is? Okay.

ASSEMBLYMAN ZIMMER: --to engage in a dialogue with Mr. Charles. I would just like to say, in defense of Mr. Charles, that he did vote to release ACR-53 from Committee last week. I was as frustrated as anybody with the lack of action on my legislation over the past four years, but during those two days of hearings that we did have last year, Mr. Charles was very constructive and very thoughtful in the questions that he asked, and obviously he gave it a lot of thought and came out in the right position.

MR. ZACHAROW: Okay. That satisfies me. Thank you.

Now, let me get to the next thing here -- bear with me just a minute. Now, I heard Assemblyman Gargiulo speak before, and he seemed to be in favor of the amendment. I'm curious as to what is Assemblyman Catrillo's position is on this.

ASSEMBLYMAN ZIMMER: Mr. Catrillo is a co-sponsor.

MR. ZACHAROW: A co-sponsor; good. So, therefore, both of the Assemblyman are in favor -- Catrillo and Gargiulo? Am I saying it correctly?

ASSEMBLYMAN ZIMMER: Well, Mr. Garguilo spoke for himself. His position's on the record.

MR. ZACHAROW: Now, the-- I'm curious as to the current procedure. Is the Assembly going throughout the State to get the feeling of the public, and then voting on it? And what is the position of the Senate? How does the Senate come into the picture with initiative and referendum?

ASSEMBLYMAN ZIMMER: We have had two hearings in Trenton -- rather, two Committee meetings in Trenton, where we discussed all the proposed initiative and referendum legislation; a third one in Montclair last week, where we voted to approve the proposed constitutional amendment; and this is a formal hearing on the constitutional amendment here in Jersey City. We are going to have another meeting in South Jersey to discuss the companion legislation which would implement the constitutional amendment.

I expect that we'll be voting on them -- that is, the two companion bills -- before the end of this month, and we'll be in a position for a floor vote on initiative and referendum -- that is, the constitutional amendment and both companion bills -- by early March.

MR. ZACHAROW: Then--

ASSEMBLYMAN ZIMMER: And, probably be referred to the State Government Committee of the Senate, whose Chairman is Wynona Lipman. And if it emerges from that Committee, it will be voted on by the full Senate.

MR. ZACHAROW: As I understand it, if the Assembly opposes it, that kills it.

ASSEMBLYMAN ZIMMER: That's right.

MR. ZACHAROW: I see. Thank you.

Now, I'll go to the next thing. Now, we feel that the initiative and referendum is the most democratic process of government, and about half the states now have laws and no state has eventually rejected it, so initiative and referendum must be operative and must be working satisfactorily. Now, two large organization to which I belong -- Common Cause, Federation of New Jersey Taxpayers -- have been lobbying, as the Assembly probably knows, for several years to try to

get this through. They were very strongly in favor of having initiative and referendum.

Now, I understand that the Governor-- Governor Kean, if the bill goes -- is passed by both the Assembly and the Senate, is in favor-- In fact, I understand that as an Assemblyman, or as Senator, that he proposed such a bill, so that we are fortunate to have a Governor who is in favor of it, if only we can get it through the Senate, through the Assembly, and through the Senate.

Let's see if I've covered everything. And that's all I have on that. Now, since one of the speakers made a comment about one other matter, may I just briefly bring it up and mention it? It has to do with Lieutenant Governor.

ASSEMBLYMAN ZIMMER: If it's related-- Well, if it's--

MR. ZACHAROW: Because he brought it up, so can I-- I just want to say that usually I agree with Ernie Lettieri, but I thoroughly disagree with him on that. Lieutenant Governor means just another bureaucrat on the payroll. And we have an elector process; we have the arrangement where who takes over in the event of the Governor not being able to function. That is it, and thank you.

ASSEMBLYMAN ZIMMER: Thank you very much. (applause)

William Connolly?

**WILLIAM CONNOLLY:** I'm pleased to be sitting here before this Committee. My name is Bill Connolly. I'm the -- I guess the Executive Director for the Republican Party of Jersey City.

A quick update, Mr. Magee-- The reason we changed it from leader to executive was, when we had our first few meetings, there was only two or three people in the room, so there was nobody to lead. So, we decided we were executives and we took it from that point. (laughter)

When we--

ASSEMBLYMAN CHARLES: He's an executive who also knows how to be a leader. (laughter)

MR. CONNOLLY: I think an important, significant issue with the Republican Party -- when I was watching -- that I felt strongly that the Republicans were moving with was the initiative and

referendum. When I became the City Chairman, Mr. Lettieri was the first one who approached me with that issue. And I realized— I looked it into a little bit before, and I told Ernie, "It's not time yet." And I told you that when we went up to the last inauguration. And I think the time is now. In fact, the time has been way overdue, but it was — just wasn't going to go anywhere.

I think when we worked hard for Charlie and Frank, a big issue that we brought to the people was that initiative and referendum has been deprived from the voters of Hudson County continuously. And we promised that when we won the Assembly races in the 32nd and the 33rd, we were going to get the initiative and referendum through. And this is really a final step in the process, because of the fine work you've been doing over the past four or five years, Mr. Zimmer. And I think we appreciate it. It'll be respected by the voters of Hudson County. I think it'll bring more voters out. I hope that we won't have any more double negatives in the initiative and referendum questions, like we did in the Sunday shopping laws, because we try to keep things as simple as possible.

An example of the confusion -- which is something we have to be careful about -- that I've been opposed, with the indirect to the direct, is when we had the double negative. On the senior citizen bill that just went through, one paper said, if you wanted it, vote yes; the other paper said, if you wanted it, vote no. And that'll be some of the confusion, so I think it'll be up to the Committees, but I think that it's important that this passes for the people of the State of New Jersey, because it'll bring more voters out and I think everybody will benefit. The politicians will benefit, and the voters will benefit. Thank you. (applause)

ASSEMBLYMAN ZIMMER: That concludes the list of individuals who have signed up to speak. I know that there's some others in the audience who have strong opinions on this, and I'd like to know if there's anyone else who would like to speak? Sam Perelli?

**SAM PERELLI:** Mr. Chairman, Mr. Charles. I never thought I would have the honor of having a cleanup seat, but I guess it's me.

I was impressed in how eloquent the speakers here -- the people, the voice, the pulse of the people -- was here this evening. They weren't professionals, they weren't paid heads of any organizations -- lobbyists and so forth. They were the people-- They were the guts of New Jersey, is what you've heard this evening. United Taxpayers of New Jersey has been involved in this battle for at least 12 years that I know of, and we're proud to add our support to this measure.

I think the most important point that I could bring to your attention is that in your deliberations with this legislation, that you treat it as you would a candidate. Remember that a bond issue is a candidate; and a bond issue can have supporters, a bond issue can have detractors, if you will -- opponents. It can also have, at the polls, challengers. It must also pass the test of the Election Law Enforcement Commission. So, I believe that any test that you put on initiative and referendum should have an equal test on any other political situation in this State -- specifically, with candidacies. If you are going to require a number, a specific number of voters being -- having to vote before an issue can pass, relevant to this ballot fall-off, then I say to you, "Do the same thing for your bond issues."

So, apply the law equally. Whatever you do for initiative and referendum, apply it to a candidate running for office, because it is an idea and an idea is a candidate -- a candidate is an idea. So, I ask-- I urge you to consider that.

I thank everyone who has put a lot of time into this thing -- all the diverse organizations in this State that have come together in a oneness to have the citizens' right to petition almost in our grasp. It's not here yet -- I can feel it. I believe just watching Assemblyman Charles, who knows that we've contacted him so many times-- watching him vote for this issue, I hope he will support it on the Assembly floor, and I hope that many of your colleagues will feel, as we do, that the time is right for initiative and referendum.

And in closing, I noticed that there was a lot of comment about Republicans and Democrats in Hudson County. I think that one of the most interesting statements that I heard a number of years ago,

before a Committee hearing -- it was a Senate Committee, I believe -- that someone introduced themselves as a Republican leader from Hudson County, and there was some laughter, and he said, "Now let's not laugh." He says, "There is a viable, two-party system in Hudson County. It's the Democrats that are in, and the Democrats that are out." (laughter) And I leave you with that, and thank you for your speed in getting this bill through. (applause)

ASSEMBLYMAN ZIMMER: Is there anybody else who would like to address this hearing? (negative response) In that case, I'll declare the hearing closed. Thank you very much for coming this evening.

**(HEARING CONCLUDED)**

**APPENDIX**





STATE OF NEW JERSEY  
OFFICE OF THE GOVERNOR  
CN - 001  
TRENTON  
08625

THOMAS H. KEAN  
GOVERNOR

February 4, 1986

Honorable Richard A. Zimmer  
Chairman, Assembly State  
Government Committee  
63 Main Street  
Flemington, New Jersey 08822

Dear Assemblyman Zimmer:

Thank you for the opportunity to express my support for your bills which would establish the initiative and referendum process in New Jersey.

Initially, I would like to stress that I ardently support the establishment of the initiative and referendum method of making law in New Jersey. I have pushed for a constitutional referendum to authorize initiative and referendum. This process has been shown to be a great benefit to the citizens of the states where it is constitutionally permitted. States with initiative provisions include: Alaska, Arizona, Arkansas, California, Colorado, Idaho, Maine, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Utah, Washington and Wyoming. All these states, as well as Maryland and New Mexico, authorize referenda. The process allows direct and meaningful participation by the public in the law-making process and will go a long way to dispel the current disillusionment with government. The process permits the people to make directly those decisions which they regard as being in their own interest subject, of course, to the constraints of the federal and State Constitution.

In the past, I wholeheartedly supported the enactment of an initiative and referendum system. I first introduced legislation, Assembly Concurrent Resolution No. 81 and Assembly Bill No. 2239, which would allow initiative and referendum to the people of New Jersey in the 1976-1977 legislative session. I backed Senate Concurrent Resolution No. 53 of the 1982-83 legislative session, sponsored by Senator Dorsey, Senate Bill No. 520 of the 1982-83 legislative session, also sponsored by Senator Dorsey, and Assembly Bill No. 972 of the 1982-83 legislative session sponsored by you. As such, I have supported initiative and referendum for many years.

Assembly Concurrent Resolution No. 53 would amend the New Jersey Constitution to establish an "indirect" initiative and referendum procedure in New Jersey. It is my position that such an "indirect" initiative process will complement the legislative process. It will only be after the Legislature failed to respond to a particular issue after six months that the requested legislation will be presented to the voters. This will give the Legislature the opportunity to consider and vote on the initiative measure. If this legislation is passed, it will save the voters the time and expense which would be required to launch a successful petition drive and campaign to enact the proposed legislation.

There is one provision contained in Assembly Concurrent Resolution No. 53 which I would recommend be amended. Section 1b. of the Assembly Concurrent Resolution amends Article II of the Constitution by adding a Section II. Paragraph 2 of that proposal provides that any law proposed by an initiative or referendum question which has been approved by the voters shall not be amended, repealed or reenacted by the Legislature for a period of two years except by a vote of three-fourths of all the members of each House, or for a period of eight years after the two-year period except by a vote of three-fifths of all the members of each House. This creates a total period of ten years. While I agree that the Legislature should not be able to overturn by a simple majority an enactment by the people for several years, I feel that ten years is just too long. Times and circumstances change, and the Legislature must be able to react. As such, I propose limiting the requirement of a super majority of the Legislature to change an enactment by the people to a total of five years, two years by a three-fourths vote and three years by a three-fifths vote.

There are numerous safeguards contained in the enabling legislation, Assembly Bill No. 1028. The signature requirements are difficult but not prohibitive, and the requirement that no more than 15 percent of the petition signatures could come from any one county assures Statewide interest without making the requirements impossible to fulfill. Proponents would have had access to the Office of Legislative Services to assist in the drafting of the proposal, and the Attorney General would have reviewed the measure for compliance with the technical requirements. Payment to petition circulators is prohibited to help reduce fraud, and the proponents and opponents of the measure must file financial disclosure statements. In addition, a voter information sheet will be mailed to every household with at least one registered voter explaining the measure and giving proponents and opponents an opportunity to present their views to the voters.

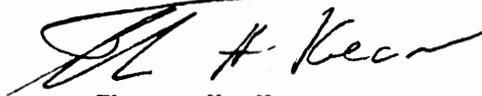
I further believe that your proposed legislation contains the necessary safeguards which insure that frivolous issues will not be placed on the ballot. Under Assembly Concurrent Resolution No. 53 and Assembly Bill No. 1028, in order for a law to change, an initiative or referendum petition must be signed by at least 8 percent of the number of voters in the last gubernatorial election, and no more than 15 percent of these signatures can come from any one county. Petitions for constitutional amendments require a higher number of signatures, thus making changes more difficult. In order to propose a constitutional amendment, an initiative petition must be signed by at least 12 percent of the number of voters in the last gubernatorial election, and no more than 15 percent of these signatures can come from any

one county. This initiative and referendum process is also indirect, in the sense that the Legislature will be given the chance to act on the proposed bill first.

Although some critics oppose the initiative and referendum process and argue that it may result in destructive changes in the existing law that the average citizen may not be able to understand--such as the enactment of unnecessary programs or the elimination of those programs that are much needed--I believe the initiative and referendum process could foster the enactment of desirable laws that have been brought to a standstill by partisan political considerations. Initiative and referendum has proven to be a valuable tool in those states which have adopted it. California's voters, for example, have used their system of initiative and referendum to control the excessive spending of their state legislature and yet, at the same time, have approved expenditures for needed prisons, parks and wildlife habitats. Voters in Missouri agreed to raise their sales tax for education and property tax relief. I have faith in New Jersey's citizens and believe that they will use the power of initiative and referendum wisely to help bring about needed change in New Jersey's government.

Again, thank you for this opportunity and allowing me to express my support of the initiative and referendum process. I would also like to thank you and Senator Dorsey for taking the lead in pressing for the enactment of this important legislation. I believe this system would be a valuable addition to New Jersey government.

Sincerely,

A handwritten signature in black ink, appearing to read "T. H. Kean", written in a cursive style.

Thomas H. Kean  
Governor

STATEMENT BY SENATOR JOHN DORSEY, (R, Dist.25)  
SUBMITTED TO THE ASSEMBLY STATE GOVERNMENT COMMITTEE

Public Hearing on ACR-53 (Zimmer) Initiative and Referendum  
(February 10, 1986)

AS A LONG-TIME SPONSOR OF CONSTITUTIONAL AMENDMENTS TO GIVE THE CITIZENS OF THIS STATE THE POWER OF INITIATIVE AND REFERENDUM, I WISH TO COMMEND CHAIRMAN ZIMMER AND THE OTHER MEMBERS OF THIS COMMITTEE FOR THEIR EXPEDITIOUS AND THOROUGH CONSIDERATION OF THE INITIATIVE AND REFERENDUM LEGISLATION WHICH HAS BEEN INTRODUCED IN THE ASSEMBLY THIS SESSION. I HAVE FOUGHT FOR INITIATIVE AND REFERENDUM FOR EIGHT LONG YEARS AND DURING THAT TIME, DESPITE WIDESPREAD GRASSROOTS SUPPORT, THE VESTED INTERESTS HAVE MANAGED TO PREVENT THE QUESTION FROM BEING PLACED ON THE BALLOT FOR A VOTE BY THE PEOPLE. DESPITE THE FACT THAT WE STILL HAVE A LONG ROUTE TO TRAVEL, I BELIEVE THAT THIS TIME WE ARE GOING TO MAKE IT.

AS I HAVE STATED IN MY EARLIER TESTIMONY BEFORE THIS COMMITTEE THE OPPONENTS OF I & R HAVE NEVER BEEN ABLE TO PROVIDE SATISFACTORY ANSWERS TO THE FOLLOWING CRUCIAL QUESTIONS:

1. WHY IS IT CONTRARY TO THE INTERESTS OF THE CITIZENS OF THE STATE FOR THEM TO BE GIVEN THE POWER OF INITIATIVE AND REFERENDUM ?
2. WHY SHOULDN'T THIS LEGISLATURE PLACE THE I & R QUESTION ON THE BALLOT SO THAT THE PEOPLE OF THIS STATE CAN VOTE ""YEA" OR "NAY" AT THE NEXT GENERAL ELECTION?

LET US LOOK AT SOME OF THE OBJECTIONS THAT HAVE BEEN RAISED BY THE PAID OPPONENTS OF I & R.

THE FOES OF INITIATIVE AND REFERENDUM ARE MOANING AND CRYING THAT EVEN IF BOTH HOUSES OF THE LEGISLATURE VOTE DOWN A PROPOSAL SUBMITTED BY A PETITION OF THE PEOPLE, IT WILL STILL GO ON THE BALLOT.

HORRORS!

THAT IS PRECISELY THE DEFECT IN OUR CURRENT GOVERNMENTAL SET-UP THAT INITIATIVE AND REFERENDUM IS DESIGNED TO ADDRESS! THE LEGISLATURE IS NOT PERFECT! BELIEVE ME, I HAVE BEEN A MEMBER OF THE LEGISLATURE SINCE 1976, AND THERE HAVE BEEN NUMEROUS INSTANCES WHERE THE SENATE AND ASSEMBLY HAVE FAILED TO RESPOND TO THE OBVIOUS DESIRES OF THE PEOPLE.

JUST BECAUSE AN ISSUE IS REJECTED BY THE LEGISLATURE BECAUSE OF PARTISAN POLITICS OR THE INTERVENTION OF INTEREST GROUPS, DOES NOT MEAN THAT THE REJECTION WAS AN ACT OF WISDOM.

INITIATIVE AND REFERENDUM WAS CONCEIVED OF AS AN AFFECTIVE MECHANISM TO SEE THAT THE WILL OF THE PEOPLE WAS NOT FRUSTRATED WHEN THE LEGISLATIVE PROCESS BROKE DOWN. THE LEGISLATIVE PROCESS DOES BREAK DOWN OCCASIONALLY. WHEN IT DOES, I&R WILL BE THERE TO FIX IT.

Point #4 NOT CONTENT TO LIMIT THEIR ATTACKS TO THE PHILOSOPHICAL UNDERPINNINGS OF INITIATIVE AND REFERENDUM, THE FOES OF I&R ARE NOW STARTING TO NITPICK AT VARIOUS ASPECTS OF THE PROPOSED CONSTITUTIONAL AMENDMENTS. A RECENT OBJECTION TO THE I&R PROPOSALS IS THAT THEY LIMIT 15% OF THE PETITION SIGNATURES TO ANY ONE COUNTY. THE FOES OF I&R ARE CATERWAULING THAT UNDER THIS SCENARIO 7 COUNTIES COULD SOMEHOW UNITE TO FORCE AND ISSUE ON THE BALLOT.

MY, MY, MY, AREN'T THEY CLEVER. TWISTING AND DISTORTING THE FACTS IS A TRIED AND TRUE METHOD OF DIVERTING PEOPLE'S ATTENTION. THESE FOES KNOW VERY WELL THAT THE 15% PER COUNTY SIGNATURE LIMIT WAS ADDED TO THE I&R PROPOSAL TO SPECIFICALLY PREVENT A SMALL GROUP OF COUNTIES FROM

TEAMING UP TO PLACE AN ISSUE BEFORE THE LEGISLATURE. EARLIER VERSIONS OF I&R WERE WIDE OPEN MEASURES THAT WOULD HAVE ALLOWED SIGNATURES TO BE GATHERED FROM ONE AREA OF THE STATE.

THIS OPEN-ENDED PROVISION WAS REMOVED AND THE 15% LIMIT IMPOSED IN ORDER TO INSURE THAT THE RESIDENTS OF AT LEAST 7 COUNTIES WOULD HAVE TO SIGN AN INITIATIVE OR REFERENDUM PETITION. THE 15% MAXIMUM SIGNATURE LIMIT WILL GUARANTEE THAT ANY INITIATIVE OR REFERENDUM PROPOSAL HAS WIDESPREAD PUBLIC SUPPORT, AND IS NOT CONFINED TO A PARTICULAR REGION OF THE STATE.

THOSE WHO HAVE OBJECTED TO THE PROPOSAL TO AMEND THE CONSTITUTION TO PERMIT THE PEOPLE THE POWERS OF INITIATIVE AND REFERENDUM HAVE CITED THE STATUS OF THE 1947 CONSTITUTION AS A DOCUMENT HELD IN HIGH REGARD THROUGHOUT THE NATION. TRUE ENOUGH - OUR CONSTITUTION IS A WELL-CRAFTED DOCUMENT - BUT IT IS NEARLY 40 YEARS OLD. A CONSTITUTION IS NOT SACRED SCRIPTURE. AND AS A DOCUMENT CREATED BY HUMANS IT IS CERTAINLY NOT PERFECT. ONE NEED ONLY REFER TO THE ACTION OF THE COURTS IN INTERPRETING THE CONSTITUTION TO JUSTIFY JUDICIAL INTERFERENCE IN MUNICIPAL ZONING TO BE AWARE THAT THE CONSTITUTION DOES, FROM TIME TO TIME, NEED AMENDMENT TO SUPPORT THE BASIC RIGHTS OF THE CITIZENS OF THE STATE. INITIATIVE AND REFERENDUM WILL ONLY GIVE THE CITIZENS OF NEW JERSEY A RIGHT THAT THEY SHOULD HAVE HAD ALL ALONG - THAT IS, THE RIGHT TO ALTER AND REFORM THEIR OWN STATE GOVERNMENT.

THE OBJECTION RAISED BY OPPONENTS THAT I&R WILL RESULT IN "CLUTTERING" THE CONSTITUTION WITH LANGUAGE MORE APPROPRIATE TO THE STATUTES IS SO TRIVIAL AS TO HARDLY REQUIRE AN ANSWER. THE REQUIREMENTS TO PLACE A QUESTION ON THE BALLOT TO AMEND THE CONSTITUTION WILL BE MORE STRINGENT THAN THOSE FOR THE ADOPTION OF A LAW. FURTHERMORE, THE CONCERN FOR

"CLUTTERING" THE CONSTITUTION WITH LANGUAGE BETTER PLACED IN THE STATUTES IS ONE THAT COULD BE EQUALLY APPLIED TO THE LEGISLATURE. THE ARGUMENT AGAINST I&R ON THIS GROUND IS A SPECIOUS ONE. THE POWERS OF INITIATIVE AND REFERENDUM PROPERLY RESTRICTED AND USED CAN ONLY IMPROVE THE DEMOCRATIC PROCESS IN OUR STATE.

OPPONENTS HAVE OBJECTED TO THE APPLICATION OF THE INITIATIVE POWER TO QUESTIONS INVOLVING TAXES AND APPROPRIATIONS. WHY, MIGHT I ASK, SHOULD THE PEOPLE NOT BE GIVEN THE RIGHT TO ADDRESS THESE KINDS OF ISSUES? IS IT BECAUSE CERTAIN INTEREST GROUPS WHICH MAY HAVE CUT "SWEET-HEART DEALS" WITH AGENCIES IN STATE GOVERNMENT ARE NERVOUS ABOUT SUB-JECTING THEIR PROTECTED STATUS IN THE ANNUAL BUDGET TO THE SCRUTINY OF THE PUBLIC? CERTAINLY THE CITIZENS OF THE STATE DESERVE TO HAVE THE CONSTITUTIONAL POWER TO EXERCISE MORE DIRECT CONTROL OVER ACTIONS BY STATE GOVERNMENT WHICH WILL AFFECT THEIR POCKETBOOKS. AS OF LAST NOTICE THE STATE GOVERNMENTS OF CALIFORNIA AND MASSACHUSETTS HAVE NOT COLLAPSED AS THE CALAMITY CRIERS WHO OPPOSE I&R PREDICTED.

THE EMPTINESS OF THIS ARGUMENT AGAINST I&R IS MOST EFFECTIVELY DEMONSTRATED BY THE FACT THAT THE VOTERS OF THE STATE ALREADY EXERCISE THE VOTE ON SENSITIVE AND COMPLICATED PUBLIC QUESTIONS ON FISCAL MATTERS. FOR INSTANCE, THEY HAVE VOTED ON THE DEDICATION OF THE INCOME TAX, THE DEDICATION OF THE FUEL TAX, THE CREATION OF THE TRANSPORTATION TRUST FUND, THE AUTHORIZATION OF THE HOMESTEAD REBATE, AND THE APPROVAL OF MAJOR BOND ISSUES. THE APPLICATION OF I&R TO OTHER FISCAL QUESTIONS IS MERELY A LOGICAL EXTENSION OF THE TRUST WHICH THE CITIZENS OF THE STATE HAVE ALREADY EARNED BY THEIR RESPONSIBLE EXERCISE OF THE VOTE.

OPPONENTS WRING THEIR HANDS IN CONCERN THAT AN INITIATIVE PROPOSAL COULD PASS WITH A SIMPLE MAJORITY VOTE. GOOD HEAVENS!!! WE ELECT A MAN TO THE OFFICE OF GOVERNOR - PERHAPS THE MOST POWERFUL SUCH OFFICE IN THE NATION - BY A SIMPLE MAJORITY VOTE. EVERY ELECTED PUBLIC OFFICIAL GAINS OFFICE BY A SIMPLE MAJORITY VOTE OF THE VOTERS IN HIS DISTRICT. AS NOTED ABOVE BOND ISSUES AND PUBLIC QUESTIONS, AS WELL AS CONSTITUTIONAL AMENDMENTS, PRESENTLY WIN APPROVAL BY A SIMPLE MAJORITY VOTE. TO THOSE WHO OPPOSE I&R I SAY "COME, COME, GENTLEMEN, HOW FAR DOES YOUR DISTRUST OF THE CITIZENS OF THIS STATE GO? PERHAPS YOU EVEN HAVE DOUBTS ABOUT THEIR CAPABILITY TO ELECT A GOVERNOR, OR SENATORS AND ASSEMBLYMEN." REFERENCE HAS BEEN MADE IN THE OPPONENT'S TESTIMONY TO, AND I QUOTE, "'SELF-STYLED TAXPAYER GROUPS.'" WHO, I ASK, HAS A MORE LEGITIMATE RIGHT TO INCREASED PARTICIPATION IN THE DECISION MAKING PROCESS OVER THE ALLOCATION OF RESOURCES THAN THOSE WHO PAY THE COST OF STATE GOVERNMENT? FINALLY, LET ME SAY THIS, I FOR ONE TRUST THE VOTERS OF THE STATE OF NEW JERSEY. I TRUST THE PEOPLE WHO HONORED ME BY CASTING THE VOTES THAT PUT ME INTO PUBLIC OFFICE. I ALSO TRUST THEM TO EXERCISE THE POWER OF INITIATIVE AND REFERENDUM, A POWER PROPERLY ORGANIZED AND DIRECTED, IN A RESPONSIBLE FASHION.

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## WHY NEW JERSEY NEEDS INITIATIVE AND REFERENDUM

Testimony of David D. Schmidt, Executive Director

Initiative Resource Center

before the New Jersey Assembly, February 11, 1986

Good evening. My name is David D. Schmidt, and I'm Executive Director of the Initiative Resource Center, a non-profit educational organization that helps citizens know, defend, and effectively exercise their Initiative and Referendum voting rights. Last year, as editor of the Initiative News Report, I testified before the Assembly State Government Committee. In that testimony I disproved 10 false arguments commonly cited by critics of the Initiative and Referendum process. Since most of you are familiar with that testimony, I will re-submit it in written form, and limit my remarks tonight to the benefits Initiative and Referendum will bring to the state of New Jersey.

These benefits are not just hypothetical. They are proven by the cumulative experience of Initiative and Referendum politics since 1900 in 23 states and the District of Columbia -- a combined history of over 1600 years of state government.

Voters in these states, since the inception of the Initiative and Referendum, have enacted a total of over 500 initiatives, and each one has made state government more accountable to the will of the people.

Even before a single ballot is cast on a citizen-initiated proposition, however, the Initiative and Referendum process opens tremendous new opportunities for citizen participation in government, not only on election day, but every day. Throughout the nation in 1982 over half a million citizens participated in self-government by circulating petitions to put proposed laws, ordinances, or state constitutional amendments on the ballot. Over 16 million people participated by signing these petitions, and over half the citizens in the United States got a chance to vote on these Initiatives and Referendums. Plus, as I mentioned last year, the Initiative and Referendum creates an incentive to participation that spills over into other areas. States with one or more initiatives on the ballot had a higher average turnout than other states in each of the last five consecutive election years.

Furthermore, voter-initiated ballot propositions infuse the people of Initiative and Referendum states with a justifiable pride in themselves and their state -- the pride that people get

from doing a difficult job themselves, and doing it well. They can say, to paraphrase Frank Sinatra, "We did it our way." Even if the extent of a citizen's participation was to vote for or against an initiative, the result builds in that individual civic pride and faith in the processes of government. These individual attitudes, multiplied millions of times over, are the bedrock upon which the whole edifice of democratic government rests.

Apart from the initiatives that are passed by the voters, substantial benefits also accrue from initiatives rejected by them. Each initiative campaign, win or lose, raises a lively public debate that raises voter awareness of important substantive issues. Initiatives are like vitamins to the body politic. They add a healthy dose of substance to the style and personality concerns that often dominate modern political campaigns. The result is a noticeably more vibrant political life in states that provide for Initiative and Referendum, than in states that do not.

Initiative and Referendum campaigns are also an important source of policy innovation, and sometimes, an early warning to elected representatives regarding popular grievances. In the state of Oregon, for example, between the years 1910 and 1914, voters abolished the poll tax, enfranchised women (nine years in advance of the federal suffrage amendment), and established the nation's first Presidential primary -- all by Initiative. In North Dakota, in 1932, the voters banned corporate takeover of family farms; in Idaho, in 1954, the electorate restricted water pollution from dredge mining of riverbeds; in California, in 1972, the people voted to save the state's magnificent coastline from destructive development.

At the turn of the century, citizens also used the Initiative process to propose workmen's compensation, the eight-hour day, restrictions on child labor, and pensions for widows and senior citizens. Many such Initiatives were initially rejected, but later these reforms became standard nationally. More recently, in 1976, voters rejected a series of anti-nuclear power initiatives in seven states, but these debates warned of the impending problems that have since brought the expansion of nuclear power to a halt.

Perhaps the finest examples of policy innovation by initiative in the 1980's are the so-called "Motor Voter" laws passed by Arizonans in 1982 and Coloradans in 1984, which register citizens to vote when they get a driver's license or ID card from the state government. Both states have experienced a dramatic upsurge in voter registration since voters passed these initiatives. The Arizona bill, in particular, is probably the most effective piece of voting rights legislation since the federal Voting Rights Act over twenty years ago.

Even initiatives which never reach the ballot often have the beneficial effect of spurring the legislature to take action

on issues of public concern. For example, in 1980 the Arizona legislature repealed the state sales tax on food, and in 1982 for the first time appropriated state funds for Medicaid -- both as a result of pressure from initiative petitions. Just two months ago, the Massachusetts legislature eliminated a ten-year old "temporary" personal income tax surcharge, and enacted an acid rain reduction bill -- again, in response to initiative petitions. These instances, and many more like them, show indisputably how the initiative process makes a responsive legislature more responsive.

Less quantifiable, but still important, is the function of the initiative process as a "safety valve" that channels popular discontent toward constructive solutions. At a time when some individuals have turned to terrorist acts to vent their grievances, the initiative process provides a legal, non-violent, yet effective way to resolve public controversies.

Also, the Initiative and Referendum are valuable as an insurance against future tyranny -- not the murderous tyranny of foreign dictators, but the nevertheless obnoxious homegrown tyranny of political machines and bosses. Such tyranny has in this century abrogated the political and economic rights of citizens in many states, and no state is immune from it -- as New Jersey's own historical experience indicates. The Initiative and Referendum process insures that no political machine or boss can ever accumulate "all powers, legislative, executive, and judiciary, in the same hands . . ." which, as James Madison wrote in Federalist Paper #47, "may justly be pronounced the very definition of tyranny."

In conclusion, we must remember that the purpose of representative democracy is to ensure that government policies represent the will of the people. The Initiative and Referendum process strengthens representative democracy by bringing government closer to this ideal. New Jersey citizens who sincerely support representative democracy should support Initiative and Referendum, with no ifs, ands or buts -- no restrictive petition requirements, no restrictions on subject matter. The people of New Jersey are certainly as trustworthy as the people of any of the countless cities and counties, and 23 states, who routinely exercise their Initiative and Referendum petition and voting rights. And the people of New Jersey have now waited nearly a century to obtain these rights. Let's not make them wait any longer.

POSITION OF THE NEW JERSEY PUBLIC INTEREST RESEARCH GROUP  
ON INITIATIVE AND REFERENDUM

1. NJPIRG supports establishment of Initiative and Referendum (I&R) and urges the State Legislature to approve resolutions placing an I&R constitutional amendment before the New Jersey electorate in November 1986.
2. NJPIRG supports reasonable but not excessive signature requirements to qualify citizen petitions. Requirements should be based on state-wide elections, and should be set similar to the majority of I&R states, i.e. 3-5%.
3. NJPIRG opposes distribution requirements for I&R filing or signature petitions from legislative districts or other regional designations.
4. NJPIRG supports provisions which would require organizations contributing or expending \$5,000 or more on an I&R campaign to register increased financial and corporate information with Election Enforcement Commission. The registration should include, a statement explaining how the purposes of the organization will be furthered by such contributions or expenditures, and a certified copy of the stockholder or other owner resolution authorizing such contributions or expenditures.
5. NJPIRG supports provisions which will allow for clear identification of groups supporting or opposing I&R campaigns, and for groups to be identified on I&R advertisements if they have contributed to those advertisements.
6. NJPIRG supports the inclusion of I&R campaign contribution and expenditure summaries in the Voter Information packet prepared by the Secretary of State. Summaries should include the amount contributed and expended for and against the question, and a list of those organizations that contributed or expended \$5,000 or more in support or opposition.

The New Jersey Public Interest Research Group (NJPIRG) is a non-partisan, non-profit, public interest organization with 63,000 members state-wide. NJPIRG engages in research, litigation, education, and advocacy on issues of consumer protection, environmental preservation and corporate and governmental accountability.



# LEAGUE OF WOMEN VOTERS OF NEW JERSEY

204 WEST STATE STREET, TRENTON, NEW JERSEY 08608 / TELEPHONE 1-800-792-VOTE / 609-394-3303

## TESTIMONY BEFORE ASSEMBLY STATE GOVERNMENT COMMITTEE ON ACR.53 INITIATIVE AND REFERENDUM February 11, 1986

I am here representing the League of Women Voters of New Jersey. In 1981 the League in convention voted to study initiative and referendum. Local Leagues all across the state then made a comprehensive analysis of this process. We also contacted the state Leagues in those 23 states that already have initiative and referendum. We heard from 16 of the 23.

All 16 favored the concept in general. The only reservations expressed regarded safeguards such as number of signatures required, prohibition of paid signature solicitors, geographical spread, etc. Such technical protections are already incorporated in ACR.53 and Assembly bills 1028 and 1029.

We also learned that the initiative process has been used successfully in some states for 82 years. Citizens in these states have demonstrated a definite ability to differentiate between "yes" and "no" on complex issues. They do not hear the cry of "lower taxes" and automatically vote in favor. In fact, only about 39% of the issues put on the ballot over the past 80 years have actually been endorsed by the voters. There is no reason to believe New Jersey voters are less capable than the citizens of those 23 states that have "I and R." We also learned that all the initiative states have a constitutionally balanced budget as does New Jersey.

Thus, the League in this state came to consensus in August, 1982, in support of indirect, but not direct, initiative. Indirect initiative complements the

Cont'd. . .

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the legislative process in that the citizens petition the Legislature to act on specific proposals. Only when that body fails to act within a given period of time does the measure go to the voters. This indirect method has several advantages:

- The legislature can amend the initiative, thus allowing for compromise and, perhaps, improved legislation.
- The voters have a longer time to consider the proposal; legislative debate could help clarify and define the issue, allowing for a better-informed voter if it does go on the ballot.
- The cost of an initiative campaign can be saved if the legislature deals with the proposal first.

The League does not see this as a usurpation of the legislature's role, but rather as an additional conduit from the people to their representatives. All too frequently citizens become frustrated with what they perceive as government's failure to act on specific measures or issues. This process provides an outlet and an avenue for such groups and could help defuse certain emotional issues, while simultaneously avoiding precipitous actions.

We truly believe that the political direction of the eighties is toward some form of initiative and referendum. We in League would prefer to see a procedure in place early with appropriate safeguards built into the process, rather than a hasty response to public pressure at some point in the future.

The League regards the initiative process as an extension of democratic government. It offers individual voters an additional way to participate and become involved in governmental decision-making. The League of Women Voters has always encouraged the informed and active participation of all citizens in government. This process is but one more step in that direction.



TESTIMONY

BEFORE N.J. ASSEMBLY STATE GOVERNMENT COMMITTEE  
HEARING ON INITIATIVE & REFERENDUM - 2/11/86  
BY LORRAINE NIEMALA FOR NEW JERSEY COMMON CAUSE

The movement for initiative/referendum originated in New Jersey. On March 12, 1894, in the New Jersey Assembly Chamber, "...the lobbies and galleries being filled to overflowing,..." there was a hearing on a direct initiative constitutional amendment proposed by the Honorable William Harrigan of Essex. It was referred to the Judiciary Committee and later defeated by the full Assembly with a close vote (28-32). The legislation was the result of the research of James W. Sullivan of Montclair who wrote Direct Legislation in Switzerland (1891) and the State Direct Legislation League chaired by "... well known labor leader of Newark, Henry A Beckmeyer."<sup>1</sup>

In 1893, the New Jersey delegation was the guiding force in first placing initiative/referendum on the Populist Party platform. It marked the nationwide beginning of the movement.

Samuel Gompers vigorously encouraged local chapters of the American Federation of Labor to actively lobby their state legislatures for initiative/referendum. As we are here today, Samuel Gompers testified in support of the initiative at the New Jersey Assembly hearing.

Governor Woodrow Wilson strongly supported initiative/referendum: "The Initiative is a means of seeing to it that measures that the people want shall be passed, when legislatures deny or ignore public opinion. "<sup>2</sup>

In 1947, for consideration in the New Jersey Constitution, the Federation of Labor recommended:

The people should have the right, by petition, to secure a referendum with respect both to constitutional amendments and to legislative enactments. Without this, democracy is totally lacking in a state government. 3

Common Cause has been studying initiative/referendum since 1976 when Assemblyman Thomas Kean introduced ACR 181 and 2239. To determine the citizens' support for initiative/referendum, Senator John Dorsey encouraged the counties to consider I/R. Between 1979 and 1981, the voters of Burlington, Cape May, Cumberland, Hunterdon, Morris, Union, and Warren counties approved advisory ballot questions for I/R. The Board of Freeholders supported it by resolution in Bergen and Hudson counties. In 1981, Common Cause gave its support to Senator Dorsey's legislative I/R proposal which included major amendments of the Senate Judiciary Committee. The proposal was passed in the NJ Senate by the vote of 30 - 0. It passed the Senate again in 1983 by the vote of 33 - 4. During the last four years, Assemblyman Richard Zimmer has refined the proposal to make ACR 54, A 1028, and A 1029 the most thoroughly researched and well-structured initiative/referendum procedure in the country: it balances the citizen's need for access to government with the state's responsibility to govern. The proposal has evolved through the legislative process for ten years.

Examination of the details of ACR 54, A 1028, and A 1029 shows the comprehensive set of safeguards that have been incorporated:

- \* The Office of Legislative Services provides aid in drafting the measure and reviews it for technical compliance with New Jersey law. These provisions insure the measure is well written and legally sound.
- \* The Secretary of State verifies the proponents' signatures, certifies the measure for petitioning, and prepares the title and summary in clear, understandable language to avoid voter confusion.
- \* The Office of Legislative Services prepares a fiscal impact statement to be made public within 60 days. An objective fiscal perspective of the effects of the measure on New Jersey is available at an early stage of the process.

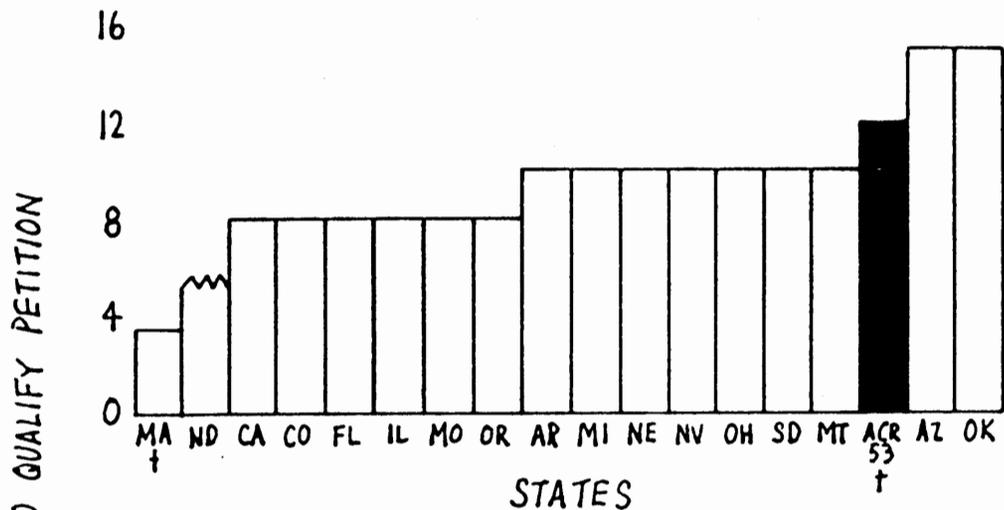
- \* The proponents have one year to collect signatures - 8% for a statute and 12% for a constitutional amendment of voters voting in the last gubernatorial election and no more than 10% from any one county. A large scale grassroots effort addressing issues of statewide importance is necessary.
- \* The full text of the measure is on the first page of the petition and the title and summary are on every page of the petition. The petition signer has the opportunity to fully understand the substance of the measure.
- \* Circulators of the petition cannot receive payment. This provision assures widespread grassroots responsibility for the measure and prevents the development of a petition-generating industry.
- \* Financial disclosure by proponents and opponents begins early in the process so that all contributions and expenditures are identified for the public.
- \* The Secretary of State verifies the petition signatures within 45 days and presents the measure to the legislature
- \* The Legislature has 6 months to debate and vote on the measure. It serves as a public forum for study of the issue and uses the legislative process to adopt the measure or register its disapproval. If the Legislature approves the measure and the Governor signs it, it becomes law. If the Legislature rejects the measure, it is submitted to the voters at the next general election held more than 120 days after legislative consideration.
- \* A ballot pamphlet with the title and summary, arguments and rebuttals of the proponents and opponents, and a summary of the fiscal impact statement in clear, understandable, readable language is mailed to every voter household. This provides voters with a concise responsible source of information on the issue.
- \* The measure must be approved by a majority of the voters that is at least 30% of voters voting in the election. This insures the issue is of importance to the voters.
- \* The Governor may not veto a measure approved by the voters at a general election.
- \* Amendment and repeal of the measure is limited to give the measure the opportunity to work effectively; however, problems can be resolved in the Legislature.
- \* Appropriation and tax laws are effective the fiscal year next following passage of the measure to enable fiscal adjustment of the government.
- \* If the measure is defeated by the voters, it cannot be reintroduced for three years. This provision reduces repetitious use of the ballot process.

ACR 53, A 1028, and A 1029 provide an orderly and deliberative procedure. Government participation is included at many stages of the citizens' effort. The process can take up to two years for a measure to qualify for the ballot (if the measure is not approved by the Legislature and signed by the Governor.) But the schedule is specifically designed to flow smoothly without obstacles. The proponents need statewide support to move their measure through the process, but they can feel confident that their efforts are well protected.

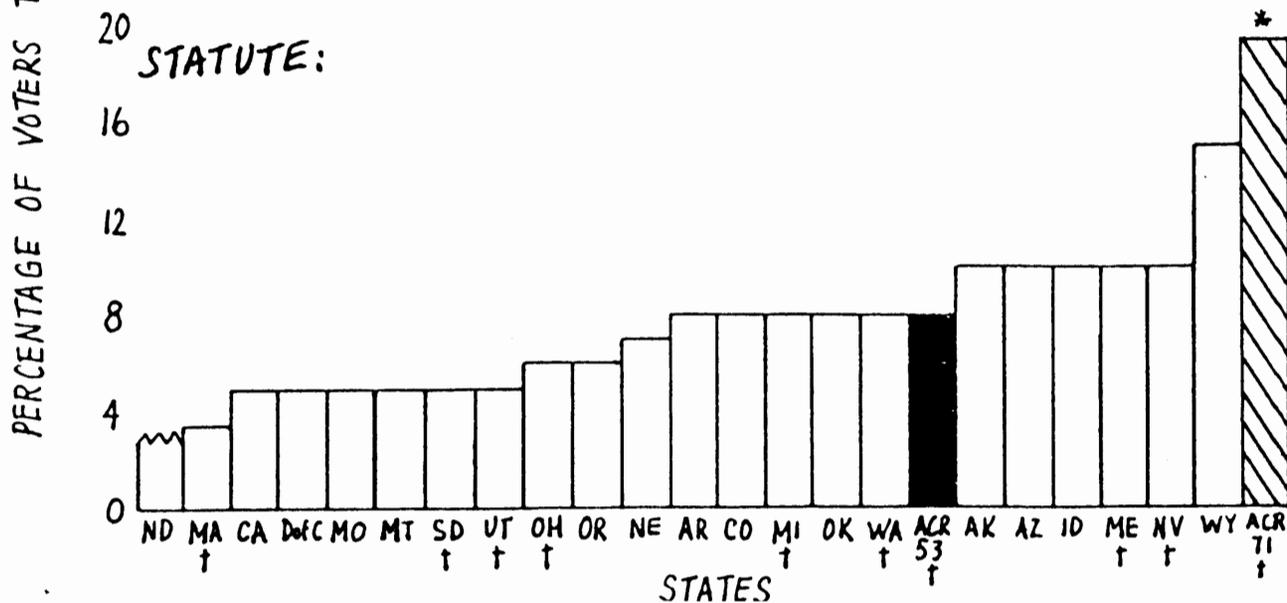
Common Cause strongly recommends the passage of ACR 53, A 1028, and A 1029. The concept of initiative/referendum is part of the New Jersey political tradition; it should now become part of New Jersey Government. After ten years of careful study, this initiative/referendum proposal is ready for voter consideration.

# COMPARISON OF STATE INITIATIVE PETITION REQUIREMENTS

## CONSTITUTIONAL AMENDMENT:



## STATUTE:



† a form of indirect initiative

\* ACR71 uses percentages of the votes cast in a Presidential election. Turnout for the 1984 Presidential election was 60% greater than the 1985 gubernatorial election. This difference is equivalent to 19.2%

27x

# PROCESS OF INITIATIVE/REFERENDUM IN ACR 53, A1028, A1029

## PROponents



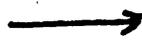
### OFFICE OF LEGISLATIVE SERVICES

- aid in drafting measure
- review for technical compliance with N.J. law



### SECRETARY OF STATE

- verification of signatures
  - title and summary
- ↓ 20 DAYS



### OFFICE OF LEGISLATIVE SERVICE.

- fiscal impact statement

↓ 60 DAYS

### PUBLIC REPORT

## CERTIFICATION -

### PETITION CIRCULATION

- signature requirement - 8% - Statute, 12% - constitutional amendment of voters voting in the last gubernatorial election + no more than 10% / county
  - full text on first page and title and summary on each page of petition
  - no paid circulators of petitions
  - financial disclosure by proponents and opponents
- ↓ 1 YEAR

### SECRETARY OF STATE

- verification of petition signatures
- ↓ 45 DAYS

### LEGISLATURE

- debate and vote

← 6 MONTHS →

### LAW

### BALLOT

- voter pamphlet



### DEFEAT

- cannot be repeated for 3 years

### LAW

- majority at least 30% of voters voting in the election
- no Governor's veto
- amendment and repeal limited
- appropriation and tax laws effective fiscal year next

N.J. Common Cause



New Jersey Education Association • 180 W. State St. • P.O. Box 1211 • Trenton, New Jersey 08607 • Tel: (609) 599-4561

February 13, 1986

The Honorable Richard Zimmer  
State House Annex  
Trenton, New Jersey 08607

Dear Assemblyman Zimmer:

Pursuant to our conversation today, I am enclosing copies for you and your committee members of testimony which would have been presented by our NJEA president, Dennis Giordano, at the public hearing on ACR-53 this past Tuesday evening.

Unfortunately, due to the weather conditions, the key to our testimony was to have been additional testimony by Mr. Jack Flannagan who is the director of Governmental Services for the Massachusetts Teachers Association. Unable to secure a flight out of Logan Airport, we felt we would not take up the committee's time to present similar testimony before you again without Mr. Flannagan's presence. Consequently, the attached testimony should be entered as the official position of our organization's opposition to Initiative and Referendum.

I have taken the liberty of attaching additional commentary sheets for your information which may provide helpful information in your deliberations on the enabling legislation.

I also hope you will afford us the opportunity to bring Mr. Flannagan in to your committee hearing in Haddon Heights on the evening of February 25 to discuss concerns and implementation problems with Proposition 2-1/2 in the State of Massachusetts.

Should your initial discussion with me on the position waiver, please contact my office of this said matter.

Most cordially yours,

*Wayne S. Dibofsky*

Wayne S. Dibofsky  
Associate Director  
Government Relations

/tdp  
Attachments



**TESTIMONY BY DENNIS GIORDANO, PRESIDENT, NEW JERSEY EDUCATION ASSOCIATION, BEFORE THE N.J. ASSEMBLY STATE GOVERNMENT COMMITTEE ON "INITIATIVE AND REFERENDUM," FEBRUARY 11, 1986.**

Thank you, Mister Chairman and members of the Committee. It is NJEA's hope that this public hearing will shed light on the realities of Initiative and Referendum.

Representatives of NJEA have been before the Assembly State Government Committee many times on the issue of Initiative and Referendum. Those representatives have shared with you our concerns about I&R. Let me make some of those points again for the record without being too redundant and, also, make some new ones.

Many who propose Initiative and Referendum talk about serving the will of the people. "Let the people decide," they say, "What's wrong with that?"

Mr. Chairman, the NJEA believes no one should ever deny that the will of the people should be served -- that decisions should be those of the citizens. Our country is founded on that premise.

But, our people should not be compelled to make uneducated decisions. Government should not put before our citizens choices that rightfully deserve in-depth analysis, research and debate.

Think about the complexities of state and local taxation. What about the toxic waste problem and all the other environmental concerns? Consider land use and management ... maintaining our vibrant economy ... improving our schools ... All these issues and many more do not lend themselves to simplistic answers. We do our state and its citizens a real injustice to reduce such complex issues to a few paragraphs requiring a "yes" or "no" answer.

Representative government allows the kind of detailed examination and careful research today's complex issues demand. It allows the give and take that occurs in the committee process and floor debate. It allows time and opportunity -- as this public hearing tonight illustrates -- for members of the public and their representatives to have their voices heard.

Some will say that the measures before you solve that problem because they call for "indirect" Initiative and Referendum which allows the Legislature 6 months to deal with an issue before it is placed on the ballot.

That thinking is fallacious because the proposal you are considering mandates that the Legislature enact legislation achieving the petitioners' goals. You cannot study the issue, decide it lacks merit and defeat the proposal because then it goes on the ballot anyway.

The danger is that "let the people decide" shifts from a cry for more public participation to an excuse for legislative

inaction on controversial issues.

Most of the clamor for "I&R" comes from groups who want lower taxes. We have seen what has happened in those states in which I&R questions have been put before the citizens.

- o States which cut property-tax revenues by initiatives (Proposition 13 or 2-1/2) have merely replaced or shifted the balance with a new array of sales and excise taxes -- typically more regressive. During the years 1981 and 1982, nineteen states using I&R raised general sales tax or levies on alcohol and tobacco.

- o Budget surpluses diminished to almost nothing in those states which had some contingency dollars. Massachusetts saw \$265 million and California some \$5 billion dwindle with I&R.

- o In those states where citizens voted to lower taxes, heavy spending cuts came at the expense of public works, public services, and public schools. The voting public especially the middle class believes that most government services from bus services to schools are irrelevant to their lives. That was evidenced in California, Massachusetts, and Florida. One such example is Chelsea, Massachusetts, a working class city along Boston Harbor, which saw cuts in social services go from \$14.5 million to \$4.4 million, crippling its entire service sector. In Quincy only basic educational services were maintained when the school budget decreased by 33% post Prop. 2-1/2. Major programs were sliced away including a nationally acclaimed dropout prevention program. Today, the district is running with

only 12 of its 21 elementary schools. Overcrowding is the rule -- not the exception.

In California, one-third of all school communities were given hastily passed rescue programs for fear of default by allowing each district to draw an advance on future state aid to pay their debts. We can't risk that. New Jersey already has its Newarks, Trentons, Garfields, and East Oranges.

In an era of federal budget cutbacks and state government retrenchment, we in New Jersey need no further attacks on our tax policies. The growth of government spending in New Jersey is falling. Governor Kean has proposed a 3% increase for FY '87. That is a minimum increase which could easily be gutted by restrictive I&R questions. Our education base and that of other important programs would erode under such action.

Let me make another note of interest at this time.

Twenty-three states have some type of I&R, but only fifteen states currently have I&R for both constitutional and statutory legislation. Since World War II, only four states adopted initiatives. That should tell us something. Certainly there is no ground swell to get into the process of Initiative and Referendum. Certainly, we should take the opportunity to study and learn from the more than 17,000 referenda which appeared on ballots since 1898.

The public lacks understanding of what Initiative and Referendum

really means. In 1979 and again in 1984, New Jerseyans agreed that yes, the job of making laws should be left in the hands of elected representatives. And if people don't like what they do, they should vote them out of office.

Those same people agreed that the legislators were often hesitant to act on controversial issues for fear of offending certain groups and that Initiative and Referendum could help solve that problem.

The reality of Initiative and Referendum is that those issues proposed and supported by monied interests get on the ballot. In state after state, those ballot questions were decided by who had the largest television budget. In sad fact those hurt most by some of those ill-advised ballot questions -- people who lost jobs, communities that lost police and fire protection, school districts forced to declare bankruptcy -- were those who supported the initiatives because they were told that nothing bad would ever happen.

But bad things do happen. With Initiative and Referendum, they could happen here.

With me tonight is Jack Flannagan, director of Government Relations, from the Massachusetts Teachers Association. Listen to this story of what has happened -- and what is currently being proposed -- before you decide if Initiative and Referendum will add to the efficiency or effectiveness of government in New Jersey.

(REMARKS OF JACK FLANNAGAN)

Thank you. Last year, NJEA sponsored a public opinion poll. It showed that New Jersey is not only back, but stronger than ever. Economically, we were compared favorably with the so-called "sun belt." Our citizens are optimistic and proud. They are setting even higher goals and have even higher expectations of what the future might bring.

Members of the Committee, we must not risk that future. As representatives of the people of New Jersey, your duty must be to protect us all from notions -- no matter how noble sounding ... no matter how seductive -- that could lead to the destruction of what we have achieved and what we are still striving to achieve.

Please vote "no" when the question is called on Initiative and Referendum.

Thank you for the opportunity to speak.

dm  
2-13-86



**New Jersey  
Business & Industry  
Association**

P.O. Box 230  
102 West State Street  
Trenton, New Jersey 08602  
609-393-7707

**Comments of Robert Woodford, Vice President  
of the New Jersey Business and Industry Association  
before the Assembly State Government Committee  
January 23, 1986**

**Subject: Initiative and Referendum**

Mister Chairman and members of the Committee, I am Robert Woodford, Vice President of the New Jersey Business and Industry Association. We appreciate the opportunity to address the issues raised by the various initiative and referendum proposals under review today.

Certainly there is great appeal in the general concept of initiative and referendum. In an era when the means of mass communications are pervasive, direct democracy appeals to many as a means of forging responses to problems on which the Legislature seems incapable of reaching agreement.

Despite this appealing aspect of initiative and referendum, they have undesirable consequences which far outweigh their potential benefits. We believe there is no lawmaking process superior to representative democracy, of a deliberative, accessible and open legislative process of lawmaking. The legislative system is not flawless; but, it has undergone significant reforms over the past two decades. Legislative reforms, more than any other factor, account for the fact that no state has adopted initiative and referendum since 1972. In New

Jersey, the era of "smoke filled room" policy making ended with one man-one vote reapportionment, with open public meeting laws, freedom of information acts, better coverage of legislative issues, creation of the legislative LISN LINE, advance posting of committee meeting dates and agendas, open committee meetings with extensive opportunities for public comment, public hearings, professional and personal legislative staffs, as well as campaign contribution and lobbyist reporting acts. The number of citizen groups actively involved in this open process has grown almost geometrically in recent years.

Still there is frustration with what is perceived to be the Legislature's failure to implement some of the quick and sure "solutions" which various activist groups prefer. In fact, legislative responses may be ponderously slow as the issues facing society become increasingly complex, as the volume of legislation grows with each session, and as more citizen groups demand and receive access to the system. An open legislative process can take more time than a closed process.

If more time on task is the vice of the present legislative process, its counterbalancing virtues are many and significant.

Although initiative and referendum are advocated as a means of providing greater citizen access to the lawmaking process, they more often accomplished just the reverse. In the legislative process, any citizen can be heard at committee hearings and through contact with individual legislators. We lament the fact that in place of the present ability of every citizen to be heard -- for the price of a stamp, a phone call or an appearance before a committee of the Legislature -- reaching lawmakers in the initiative process (the millions of N.J. citizens eligible to vote) would be a prohibitively expensive process, geared to glossy media campaigns, beyond the reach of an average citizen.

Only the well-heeled can afford the multi-million dollar, slick public relations campaigns that are typical of the debate over initiative and referendum questions in other states.

The refinement of language in a law proposed by initiative -- and the opportunity of the public to have input into proposed language -- ends with the circulation of an initiative petition. Even an indirect initiative procedure provides little opportunity for refinement since the Legislature's modification of any major element of an initiative could be rejected by those who proposed the initiative. An initiative proposal begins and ends as one group's thinking -- an inflexible, take-it-or-leave-it proposal which precludes compromise or refinement.

We doubt the wisdom of deciding complex questions on the ballot, not because we lack faith in the ability of voters but because the experience in initiative states has shown that most information available to voters has been in the form of oversimplified, distorted, propagandistic advertising which does not provide a balanced and comprehensive picture of the issues.

Initiative and referendum tend to be vehicles for confrontational politics. They move the debate of public issues away from dialogue, compromise and efforts to accommodate diverse interests. They hinder efforts to bring people together -- to forge a consensus -- to deal with complex and difficult public issues. Too often, initiative campaigns pit group against group, each feeling compelled to outshout and outspend an opponent.

We believe it is extremely unlikely that a small group of citizens could draft final statutory language which deals effectively with difficult problems and complex areas of law in a manner fair to all affected citizens -- because the multiple safeguards of the legislative system are lacking to provide citizen input to refine proposed statutory language.

Specific Comments on ACR-53, A-1028, A-1029

1. Initiative and referendum has been termed a safety valve for the public when the Legislature fails to act on controversial issues. However, under the legislation currently before the Assembly, even if both houses unanimously vote down a proposed initiative, the question would still go on the ballot. Furthermore, the legislation permits the proponents of an initiative to reject legislative amendments and force a public vote on the original petition. This can occur whether amendments adopted by the Legislature merely simplify administration and correct defects in language or address more fundamental flaws in a proposal.

If public input during the Legislature's consideration of the issue is to have any real meaning, and if the representative policy-making role of the Legislature is to be preserved, the Legislature's action on an issue raised by initiative should settle the issue. That should be so if either house votes to reject a proposal or if both houses adopt the proposal in original, amended or substitute form.

2. Under the legislation now being considered, State laws enacted through the initiative process could not be amended by the Legislature with less than a 3/4 vote of both houses for two years, or a 3/5 vote for the following eight years. This creation of a class of super laws diminishes the ability of the Legislature to function as a responsible representative lawmaking body when experience under a law indicates the need for revision. There is no justification for placing in the New Jersey Constitution a requirement which expresses so profound a distrust in the Legislature.
3. The constitutional amendment requires signatures from 8% to 12% of the voters in the last gubernatorial election. Earlier legislation used the presidential vote as the criterion. There was a dramatic drop-off from the 1984 presidential vote to last year's gubernatorial election. Lowering the required number of signatures risks cluttering the ballot with issues having less than broad-based public support.
4. A 15% limit is placed on qualifying signatures permitted from any one county. Petitions circulated in only 7 counties could qualify a question for the ballot. Permitting as many as 15 percent of the signatures to come from any one county creates a danger of polarization on issues and the possibility that one section of the state may impose its will on another.
5. ACR-53 permits both amendment of the constitution and amendment or repeal of laws.

New Jersey's 1947 Constitution is viewed as one of the best in the nation. With initiative and referendum, this carefully crafted document could become cluttered with language that should be statutory rather than constitutional. It would be prudent to limit I & R, at least initially, to statutes.

6. As an Assemblyman, Tom Kean's original I & R proposal limited the issues which could be addressed by initiative. Tax and appropriations matters were excluded.

Assemblyman Zimmer's current proposals place no limit on the issues or sections of the constitution or statutes which can be amended through the initiative process. Some observers are alarmed that the principal impetus for I & R has come from self-styled taxpayer groups whose main goal may be to dismantle the state's revenue structure. Long range fiscal planning could be rendered impossible.

7. Enactment of an initiative proposal would require a simple majority of votes cast on the question. The affirmative votes cast could not be less than 30% of the votes cast in the general election. Based on the voter turnout in 1985, slightly over 15 percent of registered voters in New Jersey would have been sufficient to amend the constitution, pass or repeal a law.
8. A-1028 provides the Secretary of State 45 days to verify signatures when a completed petition is filed. Although a procedure is provided to sample 10 percent of signatures, full verification would occur where the sample indicates between 90 percent and 110 percent of necessary signatures have been acquired.

Based on voter participation in the 1985 gubernatorial election, the Secretary of State's office would be required to verify 5,000 signatures per working day if only a single initiative petition is filed to amend the constitution. Two such petitions would require 10,000 verifications per day. The resources and manpower required for verification could be substantial. The greater the pressure of time, the more likely that less effective verification would be accomplished -- increasing the grounds for legal challenges.

Thank you for your kind attention.

# NEW JERSEY UTILITIES ASSOCIATION

130 WEST STATE STREET • TRENTON, NEW JERSEY 08608 • (609) 392-1000

*Working to improve our State's vital services*

## STATEMENT REGARDING INITIATIVE & REFERENDUM

Years from now historians will marvel at the fact that in the 1980's the Republican Party proclaimed the cause of initiative and referendum in New Jersey. They will marvel because they will view today's proceedings in light of another public debate that occurred 200 years earlier -- in the 1780's -- as the framers of our nation's Constitution argued over the form our government should take. Should it be a direct democracy or should it be a republican, that is, representative government? The republicans won.

Article 4, Section 4 of the U. S. Constitution guarantees to every state a republican form of government. The arguments for that form of government are found in The Federalist Papers.

Writing in The Federalist No. 39, James Madison asked "... whether the general form and aspect of the [new] government [should] be strictly republican." His answer was that

"[i]t is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution; or with the honorable determination which animates every votary of freedom, to rest all our political experiments on the capacity of mankind for self-government."

The reasons for Madison's insistence on a republican form of government are found in an earlier writing, The Federalist No. 10, where he demonstrated that only a republic could cure the "mischiefs of faction." Madison defined faction as

"... a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community."

Factions exercise their greatest power and create the greatest mischief in direct or pure democracies, which, in Madison's view,

"... have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property.... Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions and their passions."

A republican form of government avoids the mischiefs of faction because it refines and enlarges the public's views

"... by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations."

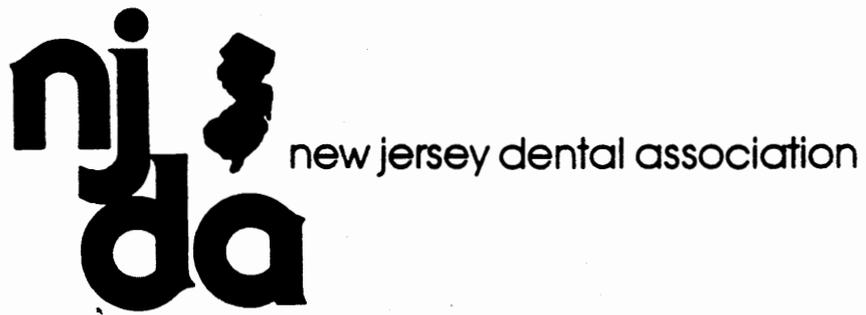
It is argued that the legislation before you does provide for the refinement and enlargement of the public's views, that the legislation provides for indirect initiative and referendum. But look at Section 16 of Assembly Bill 1028. The Legislature is given six months to act on a petition calling for a change in our laws or Constitution. If the Legislature does not act or if it votes down the proposed change, the question will go on the ballot. Even if the Legislature does act, but the new law or amendment is not deemed by the faction which proposed it to be substantially equivalent with the original proposal, the question will still go on the ballot.

This diminished responsibility for the Legislature is echoed in ACR-53, which provides that laws adopted by the I&R process -- which can be adopted by only 30% of the voters -- can be later amended or repealed only by a supermajority of 3/5 to 3/4 of the Legislature. Leaving aside the one man/one vote implications of this provision, one must ask what initiative and referendum says about the role of an elected official.

Let me conclude by offering one view of that role, the view of one of the Chairman's political heroes, Edmund Burke. Burke's distinction between "guides" and "instruments" of the people is well known, but he made a most pertinent statement in his "Speech at the Conclusion of the Poll" upon his election to Parliament from Bristol in 1774.

"Certainly, gentlemen, it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinion, high respect; their business, unremitting attention. It is his duty to sacrifice his repose, his pleasures, his satisfactions, to theirs; and above all, ever, and in all cases, to prefer their interest to his own. But his unbiassed opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure; no, nor from the law and the constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion."

Submitted by Roger M. Schwarz  
Executive Director

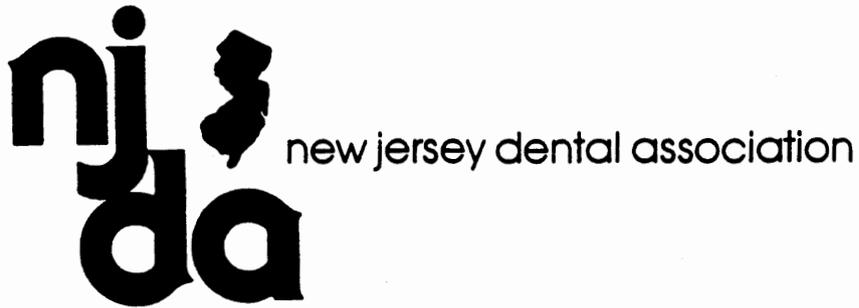


PUBLIC HEARINGS

ON

INITIATIVE AND REFERENDUM

FEBRUARY 11, 1986



MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR THE OPPORTUNITY TO ADDRESS YOU TODAY ON THE ISSUE OF INITIATIVE AND REFERENDUM. I AM ADAM KAUFMAN, DIRECTOR OF GOVERNMENT AND LABOR RELATIONS FOR 5000 CITIZENS OF THIS STATE WHOSE PROFESSION IS DENTISTRY AND WHO ALSO HAPPEN TO BELONG TO THE NEW JERSEY DENTAL ASSOCIATION.

I WANT TO STATE RIGHT UP FRONT, THAT THE CITIZENS WHO BELONG TO THE NEW JERSEY DENTAL ASSOCIATION DO NOT BELIEVE IT IS IN THE PUBLIC INTEREST TO HAVE HEALTH CARE ISSUES DECIDED ON A BALLOT. WE ARE FIRMLY OPPOSED TO ANY I & R LEGISLATION THAT DOES NOT EXEMPT HEALTH CARE ISSUES.

ONE INTERESTING AND EQUALLY DISTRESSING MESSAGE THAT SEEMS TO EMANATE FROM THESE HEARINGS, IS THAT I & R HAS BECOME A LITMUS TEST FOR PATRIOTISM OR CITIZEN RIGHTS. THE CITIZENS I REPRESENT TODAY QUITE FRANKLY, DID'T REALIZE THAT BY OPPOSING I & R, THEY WOULD BE CHASTIZED AS A SELF SERVING SPECIAL INTEREST GROUP.

THE CITIZENS WHO COMPRISE THE NEW JERSEY DENTAL ASSOCIATION OBJECT TO THE INNUENDOES AND CONNOTATIONS THAT HAVE FLOWED FREELY FROM THE ADVOCATES OF I & R.

THE RHETORIC WE CONTINUALLY HEAR SAYS THAT IF YOU DON'T AGREE WITH I & R, THEN YOU ARE AN EVIL SPECIAL INTEREST GROUP. THOSE THAT DARE OPPOSE THIS PROCLAIMED POPULIST INVENTION, ARE LECTURED AND BROW BEATEN, AND TOLD WE ARE ANTI-CITIZEN RIGHTS AND THEREFORE ANTI-PATRIOTIC AND ANTI-DEMOCRATIC, BECAUSE WE DON'T WEAR TRI-CORNERED HATS, WE ARE CHASTIZED FOR OUR UNMITIGATED CHUTZPAH FOR DISAGREEING WITH I & R, AND COLLECTIVELY EXPRESSING THAT DISAGREEMENT.

THE NEW JERSEY DENTAL ASSOCIATION IS NOT A MONOLITHIC STRUCTURE. WE ARE TAXPAYING, LAW ABIDING, FAMILY ORIENTED MEN AND WOMEN. WE ARE BLACK AND WHITE, YOUNG AND OLD CITIZENS, LIVING AND WORKING THROUGHOUT THIS ENTIRE STATE. THESE CITIZENS, THESE PRACTITIONERS OF THE HEALING ARTS DO NOT SUPPORT I & R. THEY DO NOT BELIEVE THEY ARE ANTI-CITIZEN'S RIGHTS, THEY JUST DON'T HAPPEN TO SUBSCRIBE TO A METHOD OF PUBLIC POLICY THAT WE BELIEVE RESEMBLES MOB RULE.

NJDA FINDS IT IRONIC THAT NOBODY CHASTIZED US WHEN WE SUCCESSFULLY WORKED FOR PASSAGE OF THE MEDICALLY NEEDED BILL LAST YEAR, WHICH NOW EXTENDS HEALTH CARE FOR 200,000 ELDERLY, HANDICAPPED AND POOR CITIZENS OF OUR STATE.

NOBODY CHASTIZED US FOR CREATING THE SENIOR-DENT PROGRAM WHICH IS NOW JOINTLY ADMINISTERED BY THIS ASSOCIATION AND THE STATE DIVISION OF AGING.

YET WHEN WE CONCUR WITH THE MANY SPEAKERS WHO HAVE ELOQUENTLY AND ACCURATELY EXPRESSED THE MULTITUDE OF REASONS WHY AND HOW I & R WOULD SUBVERT BOTH OUR DEMOCRATIC AND PUBLIC PROCESSES OF GOVERNMENT, WE ARE ACCUSED OF BEING BAD.

ONE FACT THAT HAS CONSISTENTLY BEEN STATED AT BOTH THESE HEARINGS AND IN THE PRESS, IS THAT COMPLEX ISSUES WITH WIDE RANGING RAMIFICATIONS CANNOT BE DESCRIBED IN A PHAMPLET, AND SHOULD NOT BE DECIDED BY A SIMPLISTIC YES OR NO VOTE. THAT IS NOT TO SAY THE GENERAL PUBLIC IS UNEDUCATED, BUT HOW CAN A PROFESSIONAL METHOD OF HEALTH CARE TREATMENT OR A VARIATION OF THAT BE DESCRIBED WITH ALL THE POTENTIAL AND POSSIBLE RAMIFICATIONS.

YOU ARE NOT JUST DEALING WITH NUMBERS AND YOU SHOULD NOT DEAL IN EMOTIONALISM WHEN IT COMES TO ISSUES OF HEALTH, ISSUES WHERE THE QUALITY AND VERY INTEGRITY OF LIFE ARE AT STAKE.

WE SHUDDER TO THINK THAT BUMPER STICKERS COULD REPLACE COMMITTEE HEARINGS AND THAT FLOOR DEBATES AND CONSTRUCTIVE IN DEPTH EXAMINATION WOULD BE REPLACED BY SLOGANEERING AND 60 SECOND COMMERCIALS. BY ALLOWING HEALTH CARE ISSUES TO BE DECIDED IN A CARNIVAL LIKE ATMOSPHERE, YOU WOULD BE PUTTING IMPORTANT ISSUES ON A ROULETTE WHEEL AND TELLING THE PUBLIC TO TAKE A SPIN AND HOPE FOR THE BEST. NJDA BELIEVES THIS IS NOT IN THE PUBLIC INTEREST AND IS NOT SOUND PUBLIC POLICY.

OUR CONCERN IS THAT SINGLE ISSUE GROUPS WHOSE ISSUES OR CAUSES ARE NOT PRUDENT ENOUGH TO STAND THE SCRUTINY OF THE LEGISLATIVE PROCESS, WOULD USE I & R FOR THEIR OWN MYOPIC GLORIFICATION. WE BELIEVE I & R IS NOT FOR THE DISENFRANCHISED, IT IS FOR THE DISCONTENTED.

TO REITERATE, NJDA STRONGLY BELIEVES THAT BUMPER STICKER DEMOCRACY IS NOT COMPATIBLE WITH ISSUES WHERE THE QUALITY AND INTEGRITY OF HEALTH CARE ARE AT STAKE.

QUITE FRANKLY, NJDA IS PUZZLED. CONSISTENTLY WE ARE TOLD THERE IS A PUBLIC GROUND SWELL FOR I & R. IF I WERE TO LISTEN TO THE PROPONENTS, I WOULD HAVE TO ENVISION CITIZENS AROUND THE STATE ARMED WITH THE CONSTITUTION IN ONE HAND, AND A DEVINE TREATISE ON DEMOCRACY IN THE OTHER, CLAMORING FOR I & R.

IT WAS FRANK HAINES, EXECUTIVE DIRECTOR OF THE NEW JERSEY TAXPAYERS ASSOCIATION, WHO EXPOSED THE MYTH THAT I & R IS A POPULAR INNOVATION OF THE POST WAR PERIOD. HE HAS ASTUTELY POINTED OUT IN PREVIOUS TESTIMONY, THAT ONLY 4 STATES SINCE 1920, HAVE ADOPTED ANY FORM OF I & R, THE LAST BEING IN 1972.

IRONICALLY, IN FLORIDA WHICH WAS THE LAST STATE TO ADOPT I & R APPARENTLY ALL IS NOT WELL. IN AN ARTICLE WHICH APPEARED IN THE WALL STREET JOURNAL IN LATE 1984, PETER BUTZIN, EXECUTIVE DIRECTOR OF COMMON CAUSE, STATED AND I QUOTE, "IF YOU HIRE THE RIGHT PEOPLE AND PUT TOGETHER A VERY POLISHED CAMPAIGN, I'M CONVINCED YOU CAN QUALIFY JUST ABOUT ANTHING FOR THE STATE BALLOT. AND THAT TO ME, IS AN ABUSE OF THE INITIATIVE PROCESS".

NOW LET'S VIEW THE ALLEGED SUPPORT THAT WE KEEP HEARING ABOUT IN NEW JERSEY. I HAVE SEEN, AS I AM SURE EVERYONE ELSE HAS, THE SAME FEW PEOPLE PROTESTING IN FRONT OF THE STATE HOUSE.

IN 1983, I WAS THE LEGISLATIVE AIDE TO A MEMBER OF THE NEW JERSEY GENERAL ASSEMBLY. I DID NOT THEN, AND DO NOT NOW, INTERPRET ONE DOZEN PRE-PRINTED POST CARDS, ALL WITH A MORRIS COUNTY POST MARK, AS A GROUNDSWELL.

IN REVIEWING THE TRANSCRIPT FROM THE JUNE 17, 1985 HEARING BEFORE THIS COMMITTEE, A SMALL ITEM IN THE APPENDIX CAUGHT MY EYE.

BURIED IN A 1985 ISSUE OF INITIATIVE QUARTERLY, PUBLISHED BY THE NATIONAL CENTER FOR INITIATIVE REVIEW WAS A SPOTLIGHT ON NEW JERSEY WHICH STATED AND I QUOTE, "STATE LAW MAKERS THINK THEY SENSE SOME PUBLIC SUPPORT".

NOW I APOLOGIZE FOR THE SEMANTICS, BUT THE OPERATIVE WORD IN THAT STATEMENT IS "SOME"! THAT IS HARDLY REPRESENTATIVE OF THE ALLEGED CITIZENS REVOLT WE KEEP HEARING ABOUT.

FINALLY, I REFER TO THE STAR LEDGER/EAGLETON POLL, CONDUCTED IN EARLY 1984. MR. CHAIRMAN, YOU CONTINUALLY INTERPRET THOSE RESULTS SAYING, "90% THOUGHT I & R WAS GOOD IDEA".

MR. CHAIRMAN, WITH ALL DUE RESPECT, EVERYONE COULD PLAY WITH THOSE NUMBERS AND DEDUCE DIFFERENT THINGS. I DON'T CHALLENGE YOUR INTERPRETATION, BUT I WOULD LIKE TO EXPLORE OTHER AVENUES EXPRESSED BY THE POLL.

....75% OF THOSE POLLED FELT MANY IMPORTANT ISSUES ARE TOO COMPLICATED TO BE DECIDED BY A SIMPLE YES OR NO VOTE.

....67% OF THOSE POLLED FLATLY AGREED THAT THE JOB OF MAKING LAWS SHOULD BE LEFT TO ELECTED REPRESENTATIVES.

DR. CLIFF ZUKIN, THE DIRECTOR OF THE EAGLETON POLL, OFFERED THIS SUCCINCT ASSESSMENT OF THE POLL RESULTS, AND I QUOTE, "THE PUBLIC IS NOT CLAMORING FOR INITIATIVE AND REFERENDUM".

I ALSO FOUND STATE PRESS COVERAGE OF THE POLL RESULTS QUITE FASCINATING. LET ME REVIEW FOR A MOMENT SOME OF THE HEADLINES:

....INITIATIVE AND REFERENDUM HOLDS LITTLE PUBLIC INTEREST,  
FLEMINGTON DEMOCRAT

....VOTERS REJECT INITIATIVE IDEAS, TRENTONIAN

....POLL: VOTERS LACK INITIATIVE ON INITIATIVE, TRENTON TIMES

....POLL: VOTERS DON'T CARE, PATERSON NEWS

....POLL: LET LAWMAKERS ESTABLISH THE LAWS, BURLINGTON COUNTY TIMES

BASED ON THE FOLLOWING OBSERVATIONS, NJDA AGAIN QUESTIONS WHERE THE GRASSROOTS SUPPORT FOR I & R COMES FROM. THE EVIDENCE QUITE FRANKLY, DOES NOT SUPPORT THE PROPONENTS CLAIMS.

IN CLOSING, I WOULD LIKE TO QUOTE FROM A LETTER THAT YOUR COLLEAGUE ASSEMBLYMAN ARTHUR ALBOHN, DISTRICT 25, SENT TO OUR OFFICE DATED APRIL, 1984. HIS COMMENTS WERE IN RESPONSE TO AN NJDA POSITION PAPER ON THIS SUBJECT. NJDA ECHOES ASSEMBLYMAN ALBOHN'S THOUGHTS.

"UNFORTUNATELY, IN THE EYES OF SOME POLITICIANS, ENDORSEMENT OF I & R IS THE ROUTE TO POPULARITY AND RE-ELECTION SINCE IT IS TANTAMOUNT TO MOTHERHOOD. PERSONALLY, I FEEL THAT IT IS A 'SNARE AND DELUSION', CANNOT PRODUCE THE RESULTS THAT IS PROPONENTS CLAIM, CAN READILY PLACE THE GOVERNMENT IN THE HANDS OF SPECIAL PRESSURE GROUPS, AND WOULD FAIL THROUGH ITS INABILITY TO REDUCE COMPLICATED QUESTIONS TO PROPOSALS THAT ARE SIMPLY NOT SUSCEPTIBLE TO 'YES' OR 'NO' ANSWERS."

THANK YOU MR. CHAIRMAN FOR GIVING ME THIS OPPORTUNITY TO  
SPEAK BEFORE YOU.

# *The New Jersey Council of Churches*

116 North Oraton Parkway • East Orange, New Jersey 07017 • (201) 675-8600

176 West State Street • Trenton, New Jersey 08608 • (609) 396-9546

(Rev.) Dudley E. Sarfaty  
Associate General Secretary  
Assembly Committee Testimony  
1.30.86 Respecting Initiative and  
Referendum Constitutional Ammdment.

Speaking for Commission on Government and its Exec. Comm.

OUTLINE: reasons for opposing I & R, a history of our thinking and process,  
a crucial constitutional protection proposed.

Opposition: Fear of single issue pressure groups, damage to  
crucial public services, burden of dealing with more public questions.

Changed mind because of detailed and careful wording of proposed  
I & R process.

Fact that American Constituions area living and growing document.  
cf. Slavery, Women's Suffrage, Separate but Equal, Separation of Church  
and State, Direct Election of Senators, etc. etc.etc.

Fact that there are really four elements in government, Legis-  
lative, Executive, Judicial and The People.

One Proposal: To protect the most sacred part of New Jersey's  
Constitution, our "Bill of Rights", Article One of our present Constitution.  
Carefully established in 1844 and carefully protected in 1947. At the end  
of the proposed ammdment where the I and R process is proposed as a civil  
right in Article One of the N.J. Constitution: "Provided, however that no  
activity authorized by the Initiative and Referendum sections of the New  
Jersey Constitution shall diminish any rights guaranteed by any portion of  
Article One of the New Jersey Constitution or the relevant sections of any  
succeeding New Jersey Constitution."

N.J.C.C. policy. NJCC is non-partisan, never gives money to  
a candidate for public office, directly or through agents and never  
endorses a candidate. Usually limits itself to "justice issues, theologically  
based. cf. "selling the needy for a pair of shoes."etc. etc. The I and R  
issue is a good government issue, a frontier for our involvement, one reason  
we hope we will be taken seriously as this process moves through Assembly  
and Senate. We hope bi-partisan support will develop in both Houses as the  
details are further refined. We cannot see the bill being ammded to non-  
functional insignificance. We hope the discussion will develop the details  
of the draft proposal and get beyond general theorization about the I and R  
concept in vacuo. We have no objection in principle to some of the proposed  
"cleanup" wording, such as disclosure regs. for sponsors, etc. etc.

We want to see New Jersey citizens protected against special  
interest money and power groups as well as demagogues, and hope that  
the present I and R proposals will lead us to a new birth of freedom.

-30-

African Methodist Episcopal Church, New Jersey Conference • African Methodist Episcopal Zion Church, New Jersey Conference •  
American Baptist Churches of New Jersey • Christian Church, Northeastern Area Association • Christian Methodist Episcopal Church,  
Seventh Episcopal District • Episcopal Church, Diocese of Newark, Diocese of New Jersey • General Baptist Convention of New  
Jersey • New Jersey Synod • Lutheran Church in America • Presbyterian Church, U.S.A., Synod of the Northeast • Reformed Church  
in America, Synod of the Mid-Atlantics • Religious Society of Friends, New York Yearly Meeting • The Salvation Army • Union  
American Methodist Episcopal Church • United Church of Christ, Central Atlantic Conference • United Methodist Church, New  
Jersey Area

53 y

# Clark Civic & Taxpayers Committee, Inc.

P. O. Box 744

Clark, New Jersey 07066

January 25, 1986

201-388-9541

"Voice of the People"

Assembly State Government Committee  
c/o Assemblyman Richard Zimmer  
119 Main Street  
Flemington, New Jersey 08822

Gentlemen:

It saddens us greatly that because of employment commitments we will not be represented at the next hearing on Initiative & Referendum, which meeting will probably eventually be written up as part of our history. For this reason we respectfully request that the following be read into the record:

The initiative & referendum process goes far beyond partisan politics as evidenced by the non-binding referendum held in ten counties some years back, passing by a two-to-one plurality. Later the State Senate passed a bill to put I & R on the ballot with only 4 dissenting votes. What is being proposed is equal to freedom itself or the basic civil right to vote.

The affluent have always had political clout. I & R, however, is the one piece of legislation which will allow one person, without two nickles to rub together, to vote right beside a multimillionaire - one vote will be just as valuable as the other. That's equality!

I & R will circumvent a handful of obstructionists, who have usurped the democratic representation of the electorate. Our country was founded on a government of, by and for the people. New Jersey can no longer tolerate a government "in spite of the people"!

Voters are not asking our legislators to pass on I & R, nor are we asking for a prearranged setup to insure our winning our point. All the electorate is asking is that the issue be placed on the ballot where all may decide.

When the founders of this great nation included the right to petition in the Constitution, they had enough faith in the American people and trust in each other to allow freedoms found in no other country. People that are no different than us brought us from tin lizzies to space ships in one lifetime. Those that equate this kind of freedom with buzz words like bumper strip democracy degrade the very foundation of this fantastic state. Thank you.

Very truly yours,



BETTY A. SCHROECK, SECRETARY  
CLARK CIVIC & TAXPAYERS COMMITTEE, INC.

RECEIVED JAN 29 1986



TESTIMONY  
OF  
LINDA K. JOSEPH

REGARDING INITIATIVE AND REFERENDUM

FEBRUARY 11, 1986

Atlantic City Electric Company  
1199 Black Horse Pike  
Pleasantville, N.J. 08232  
609-645-4100

Capitol Plaza Hotel  
240 W. State Street  
Trenton, N.J. 08608  
609-393-4044

55x

**TESTIMONY SUBMITTED REGARDING INITIATIVE AND REFERENDUM  
FEBRUARY 11, 1986**

MR. CHAIRMAN: MY NAME IS LINDA K. JOSEPH, MANAGER OF GOVERNMENT AFFAIRS, OF ATLANTIC CITY ELECTRIC COMPANY. ATLANTIC ELECTRIC, AN INVESTOR OWNED PUBLIC UTILITY ORGANIZED UNDER THE LAWS OF NEW JERSEY, PROVIDES FOR THE GENERATION, TRANSMISSION, DISTRIBUTION AND SALE OF ELECTRIC ENERGY TO OVER 400,000 CUSTOMERS IN SOUTHERN NEW JERSEY. ATLANTIC ELECTRIC COVERS A 2700 SQUARE MILE SERVICE TERRITORY REPRESENTING THE SOUTHERN ONE-THIRD OF THE STATE OF NEW JERSEY.

ATLANTIC ELECTRIC OPPOSES THE INITIATIVE AND REFERENDUM PROPOSALS BEFORE THE COMMITTEE TODAY. WE UNDERSTAND THAT IT IS DIFFICULT TO ARGUE WITH THE GENERAL CONCEPT OF INITIATIVE AND REFERENDUM THAT WOULD ALLOW NEW JERSEY CITIZENS TO INITIATE NEW LEGISLATION, OR REPEAL EXISTING LAWS IF THEY WERE DISSATISFIED WITH ACTIONS OR INACTIONS OF THE LEGISLATURE AND THE GOVERNOR. EVIDENCE FROM THE MOST RECENT FAGLETON POLLS SUGGEST THAT MOST CITIZENS SURVEYED AGREE THAT THEY OUGHT TO BE ABLE TO DECIDE ISSUES WHERE PUBLIC OFFICIALS ARE HESITANT TO ACT.

HOWEVER, WE AGREE WITH THE MANY WITNESSES WHO HAVE PREVIOUSLY TESTIFIED OPPOSING INITIATIVE AND REFERENDUM BECAUSE IT WOULD WEAKEN OUR SYSTEM OF REPRESENTATIVE GOVERNMENT. OUR COMPANY HAS TWO MAJOR CONCERNS WITH THE INITIATIVE AND REFERENDUM PROPOSALS BEFORE THE NEW JERSEY LEGISLATURE.

1. THE COMPLEXITY AND COST OF THE ISSUES PLACED ON THE BALLOT AND
2. THE GEOGRAPHIC DISTRIBUTION REQUIREMENTS OF THE INITIATIVE AND REFERENDUM PROPOSALS.

FIRST, WE BELIEVE IT IS DIFFICULT, IF NOT IMPOSSIBLE, TO ADEQUATELY EXPLAIN MANY CHANGES IN THE CONSTITUTION OR NEW LAWS TO VOTERS ON AN ELECTION BALLOT. FOR INSTANCE, IN THE UTILITY AREA, A VARIETY OF TECHNICAL CHANGES TO THE RATE MAKING PROCESS HAVE BEEN PLACED ON ELECTION BALLOTS ACROSS THE COUNTRY. THESE ISSUES ARE EXTREMELY COMPLEX AND TECHNICAL TO UNDERSTAND - LET ALONE EXPLAIN IN A SHORT SUMMARY ON AN ELECTION BALLOT.

MANY HAVE SUGGESTED THAT THE INITIATIVE AND REFERENDUM, AS AN INDIRECT FORM OF GOVERNMENT, HELPS TO INVOLVE INDIVIDUAL VOTERS IN THE DECISION MAKING PROCESS. WE BELIEVE, HOWEVER, THAT A WELL ORGANIZED, WELL FINANCED COMMITTEE, LIKELY TO BE A SPECIAL INTEREST GROUP, WOULD BE NECESSARY TO WORK A PROPOSAL THROUGH TO PASSAGE ON THE ELECTION BALLOT IN NEW JERSEY. OUR VIEW OF THE 37 UTILITY RELATED VOTES ACROSS THE COUNTRY BETWEEN 1972 AND 1984 REVEAL THAT A MINIMUM OF OVER \$130,000 AND UP TO NEARLY \$4.5 MILLION WAS SPENT PER BALLOT QUESTION. THIS POINTS OUT THAT THE NOTION OF INITIATIVE AND REFERENDUM AS THE AVERAGE NEW JERSEY CITIZEN PERCEIVES IT GIVING HIM OR HER CONTROL OVER THE DECISION MAKING PROCESS, IS, IN FACT, NOT THE WAY THE PROCESS WORKS IN REALITY TODAY ACROSS THE UNITED STATES. IT HAS BECOME A BIG BUSINESS WITH MANY POLITICAL CONSULTANTS AND ADVERTISING FIRMS REAPING THE BENEFITS BY INFLUENCING VOTERS' ATTITUDES.

SECOND, WE BELIEVE THAT THE MINIMAL GEOGRAPHIC DISTRIBUTION REQUIREMENTS PROPOSED IN THE INITIATIVE AND REFERENDUM LEGISLATION BEING CONSIDERED WILL SERVE TO WEAKEN OUR CURRENT REPRESENTATIVE GOVERNMENT IN NEW JERSEY. AS A COMPANY REPRESENTING A SPECIFIC GEOGRAPHIC REGION IN THE STATE,

WE ARE CONCERNED ABOUT THE MINIMAL SAFEGUARDS IN CHAIRMAN ZIMMER'S INITIATIVE AND REFERENDUM PROPOSAL. IN OTHER STATES WITHOUT A GEOGRAPHIC DISTRIBUTION REQUIREMENT, URBAN VS. RURAL, NORTH VS. SOUTH, AND/OR REGION VS. REGION HAVE BEEN PITTED AGAINST ONE ANOTHER ON INITIATIVE AND REFERENDUM QUESTIONS.

GIVEN THE RECENT SOUTH JERSEY SECESSIONIST MOVEMENT, ATLANTIC ELECTRIC IS CONCERNED ABOUT QUESTIONS THAT MIGHT IMPACT OUR REGION OF THE STATE. UNDER THE ZIMMER PROPOSAL, AN ISSUE COULD IMPACT ONLY SOUTH JERSEY, (COMMONLY CONSIDERED ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, OCEAN AND SALEM COUNTIES) LIKE STRONGER PINELANDS PROTECTION, NUCLEAR OR HAZARDOUS WASTE SITING IN THE REGION, CASINO GAMING, OR ATLANTIC ELECTRIC RATE MATTERS, AND COULD RECEIVE THE 240,000 SIGNATURES FROM TEN OR MORE COUNTIES OUTSIDE SOUTH JERSEY TO PUT THE QUESTION ON THE BALLOT AND THEN COULD RECEIVE A MAJORITY OF THE VOTES CAST ON THAT QUESTION AS WELL AS THE REQUIRED 30% OF THE TOTAL VOTES CAST IN THE ELECTION WITHOUT RECEIVING ONE SINGLE VOTE FROM THE ENTIRE SOUTH JERSEY VOTER POPULATION.

AS YOU CAN SEE FROM TABLE I, WE HAVE REVIEWED THE LAST THREE GUBERNATORIAL ELECTIONS AND HAVE SHOWN HOW EASILY AN INITIATIVE OR REFERENDUM PROPOSAL COULD REACH THE BALLOT AND BE APPROVED BY THE NEW JERSEY VOTERS WITHOUT ANY SOUTH JERSEY SUPPORT. IN TABLE II WE HAVE REVIEWED THE 1985 ELECTION AND ITS BALLOT QUESTIONS. SINCE MOST NEW JERSEY VOTERS DO VOTE ON PUBLIC QUESTIONS, (68% BEING THE SMALLEST NUMBER TO VOTE ON A BALLOT QUESTION IN 1985) THE MINIMAL 30% REQUIREMENT FOR TOTAL VOTES CAST IN THE ELECTION IS A VERY LOW AND EASY NUMBER TO REACH. IN 1985, EVEN THE CONTROVERSIAL AND FINAL BALLOT QUESTION ON LEGISLATIVE OVERSIGHT RESULTED IN WINNING 42% OF THE

TOTAL 1985 BALLOTS CAST. WE SUGGEST THAT THE PETITION GATHERING AS WELL AS THE ACTUAL ELECTION VOTE REQUIRE BROAD GEOGRAPHIC DISTRIBUTION ACROSS THE STATE. WE BELIEVE AN EQUITABLE GEOGRAPHIC DISTRIBUTION WOULD REQUIRE A CERTAIN PERCENTAGE FROM EACH COUNTY IN THE STATE.

IN SUMMARY, ATLANTIC ELECTRIC'S SUBMITS THAT INITIATIVE AND REFERENDUM -- AN ISSUE THAT AT FIRST GLANCE SEEMS A RIGHT ALL CITIZENS SHOULD ENJOY -- COULD RESULT IN COMPLEX, TECHNICAL QUESTIONS BEING REDUCED TO 500 WORDS ON THE BALLOT, MAKING IT EXTREMELY DIFFICULT FOR THE VOTER TO CAST AN INFORMED VOTE. THE PROCESS INVOLVES MORE THAN SIMPLE CITIZEN ACTION AND, IN FACT, TODAY RESULTS IN QUITE COSTLY, WELL FINANCED, SPECIAL INTEREST QUESTIONS REACHING THE BALLOT. FINALLY, THE GEOGRAPHIC DISTRIBUTION REQUIREMENTS COULD RESULT IN ISSUES BEING DECIDED AT THE EXPENSE OF REGIONS, LIKE SOUTH JERSEY, WHICH ARE LESS POPULATED. ATLANTIC ELECTRIC SUBMITS THAT THE VOTERS OF NEW JERSEY UNDER THE CURRENT SYSTEM OF REPRESENTATIVE GOVERNMENT HAVE INTELLIGENTLY LED US TO A POSITION OF LEADERSHIP AMONG THE STATES. WE ASK THE LEGISLATURE TO CONTINUE THE SYSTEM OF GOVERNING WE HAVE HAD WITH SUCH SUCCESSFUL RESULTS, AND TO OPPOSE THE PRESENT INITIATIVE AND REFERENDUM PROPOSAL.

TABLE I  
ANALYSIS OF PROPOSED INITIATIVE AND REFERENDUM REQUIREMENTS  
HYPOTHETICALLY APPLIED TO THE LAST THREE GUBERNATORIAL ELECTIONS

	<u>1985</u>	<u>1981</u>	<u>1977</u>
Total Ballots Cast	2,005,330	2,367,808	2,174,417
South Jersey Ballots Cast	- 527,252	- 617,028	- 549,353
Non-South Jersey Ballots Cast	1,478,078	1,750,780	1,625,064
<u>Proposed</u>			
<u>Initiative &amp; Referendum</u>			
<u>Requirements:</u>			
A. Petition Signatures Required:			
1. For constitutional amend- ment: 12% of ballots cast, 10% from one county	240,640	284,137	260,930
2. For law: 8% of ballots cast, 10% from one county	160,426	189,425	173,953
	(All could come from non-South Jersey Counties)	(All could come from non-South Jersey Counties)	(All could come from non-South Jersey Counties)
B. Majority Possible with non-South Jersey Ballots Only?	739,040-739,038	875,391-875,389	812,533-812,531
C. At least 30% of the Total Votes Cast?	Yes, 739,040 is 37% of total votes cast	Yes, 875,391 is 37% of total votes cast	Yes, 812,533 is 37% of total votes cast

**TABLE II**  
**ANALYSIS OF PUBLIC QUESTIONS APPEARING ON**  
**1985 BALLOT**

<u>PUBLIC QUESTION</u>	<u>TOTAL BALLOTS CAST ON QUESTION</u>	<u>PERCENT OF TOTAL 1985 BALLOTS CAST</u>	<u>WINNING TOTAL AS PERCENTAGE OF TOTAL 1985 BALLOTS CAST</u>
1	1,475,300	74	52
2	1,477,182	74	53
3	1,462,364	73	46
4	1,419,465	71	47
5	1,574,043	78	52
6	1,517,295	76	47
7	1,362,998	68	42

10/1 X

TESTIMONY  
OF  
H. DANIEL PINCUS  
PRESIDENT  
NEW JERSEY BUILDERS ASSOCIATION  
ON  
INITIATIVE AND REFERENDUM  
(A-1028, A-1029, ACR-53, ACR-71)

FEBRUARY 5, 1986

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. I AM H. DANIEL PINCUS, PRESIDENT OF THE NEW JERSEY BUILDERS ASSOCIATION. THANK YOU FOR PERMITTING ME TO SHARE WITH YOU NJBA'S VIEWS ON THE ISSUE OF INITIATIVE AND REFERENDUM.

IN EXAMINING PROPOSALS TO AUTHORIZE INITIATIVE AND REFERENDUM IN OUR LEGISLATIVE PROCESS, WE SHOULD CONSIDER THE ROLE THAT NEW JERSEY'S CONSTITUTION ASSIGNS TO THE LEGISLATURE. IN THIS CONTEXT, THE LEGISLATURE IS THE POLICY MAKING BODY OF THE STATE. IT IS RESPONSIBLE FOR EXAMINING THE BROAD IMPLICATIONS OF ISSUES; AND, ON THE BASIS OF THIS ANALYSIS, IT IS EXPECTED TO DEVISE SOLUTIONS THAT WILL BALANCE THE MANIFOLD INTERESTS THAT ARE AFFECTED BY OUR LAWS AND REGULATIONS.

THE LEGISLATURE IS COMPOSED OF INDIVIDUALS ELECTED TO REPRESENT THEIR LOCAL DISTRICTS. SEATS ARE APPORTIONED, TO THE MAXIMUM EXTENT POSSIBLE, TO GIVE EQUAL REPRESENTATION TO EVERY CITIZEN OF THE STATE. AS A RESULT, THE LEGISLATURE IS A MICROCOSM OF THE STATE AND REPRESENTS THE BROAD DIVERSITY OF REGION AND INTEREST THAT EXISTS IN NEW JERSEY. YET, THE LEGISLATURE IS SUFFICIENTLY SMALL AS TO PERMIT THE FORMAL DEBATE, THE INSIGHTFUL GIVE-AND-TAKE, THAT IMPROVES LEGISLATIVE PROPOSALS AS THEY WEND THEIR WAY THROUGH BOTH CHAMBERS. IN THIS WAY, OUR REPRESENTATIVE FORM OF GOVERNMENT IS BOTH REPRESENTATIVE OF THE PEOPLE AND EFFICIENT IN ACCOMPLISHING THEIR PURPOSES.

THE LEGISLATURE IS ELECTED TO REPRESENT THE PEOPLE, TO REFLECT THEIR CONCERNS, AND TO ACCOMPLISH THEIR WILL. IF YOU FIND A FLAW IN THE RESPONSIVENESS OF THE STATE'S GOVERNMENT TO THE WILL OF THE PEOPLE, YOU MIGHT BETTER QUESTION THOSE ELECTED TO ACCOMPLISH IT RATHER THAN THE CONSTITUTIONAL TOOLS THAT THESE ELECTED INDIVIDUALS WIELD.

THE STRUCTURE OF OUR GOVERNMENT ANTICIPATES THAT THE LEGISLATURE WILL DEFINE THE PURPOSE AND SCOPE OF THE LAW; AND FURTHER, THAT THE LEGISLATURE WILL MONITOR THE IMPLEMENTATION AND OPERATION OF PROGRAMS AND LAWS TO ASSURE THAT THEY ACHIEVE THESE PURPOSES. THESE PRINCIPLES ARE AT THE HEART OF THE DISTRIBUTION OF AUTHORITY WITHIN OUR STATE'S GOVERNMENT. THEY ARE CRITICAL TO THE CHECKS AND BALANCES ESSENTIAL TO OUR CONSTITUTIONAL FORM OF GOVERNMENT.

OUR SYSTEM OF REPRESENTATIVE GOVERNMENT ADDS STABILITY TO PUBLIC POLICY AND THIS IS ESSENTIAL TO THE LONG TERM PROSPERITY OF OUR CITIZENS. AS A RESULT, THE INDIVIDUAL PRIVATE CITIZEN (AND THE PRIVATE SECTOR GENERALLY) CAN PLAN AND MAKE LONG TERM COMMITMENTS WITH A SENSE THAT PUBLIC POLICY WILL REMAIN STABLE, EVOLVING ONLY INCREMENTALLY AND NOT SHIFTING HAPHAZARDLY.

WHEN OUR LAWS ARE ENACTED ON WHIM, WHEN THEY REFLECT NARROW PURPOSES AND ARE PUSHED THROUGH WITHOUT REGARD TO THE GENERAL

WELFARE, NONE OF US WILL BE ABLE TO ASSESS FUTURE CONDITIONS AND NONE OF US WILL BE ABLE TO MAKE PRUDENT JUDGEMENTS OF EITHER A PERSONAL OR BUSINESS NATURE. BY REDUCING THE ROLE OF THE LEGISLATURE, INITIATIVE AND REFERENDUM REDUCES THE STABILITY OF GOVERNMENTAL POLICY. INITIATIVE AND REFERENDUM WILL INCREASE THE UNCERTAINTY THAT CONFRONTS THOSE WHO MUST PLAN AND WHO MUST ASSESS RISKS. IF THE BUSINESS OF LEGISLATION BECOMES HAPHAZARD, THEN ALL CITIZENS WILL FACE INCREASED UNCERTAINTY, BECOME MORE HESITANT TO MAKE LONG TERM COMMITMENTS, AND IN THE WORST CASE, BECOME PARALYZED AS LAW MAKING BECOMES MORE OF A MEDIA EVENT THAN A DELIBERATIVE PROCESS. IN THAT ENVIRONMENT, IS IT NOT LIKELY THAT BUSINESS WILL LOOK TO LOCATE ELSEWHERE? WON'T OUR CITIZENS' FUTURE WELFARE BE ADVERSELY AFFECTED BY THIS?

INITIATIVE AND REFERENDUM DISRUPTS OUR GOVERNMENTAL STRUCTURE BY INTRODUCING INTO IT A POTENTIALLY SIMPLISTIC LEGISLATIVE PROCESS. IT REDUCES HIGHLY CHARGED AND COMPLEX QUESTIONS TO A SIMPLE VOTE OF "YES" OR "NO"; VOTERS HAVE TWO STARK CHOICES AND CANNOT RELY ON THEIR ELECTED LEADERSHIP TO APPLY ITS POLITICAL SKILLS TO ACHIEVE BALANCED AND RATIONAL COMPROMISES.

THE POTENTIAL OF INITIATIVE AND REFERENDUM TO ALTER OUR POLICY MAKING PROCESS IS SO GREAT THAT YOU CANNOT VIEW IT AS A

SINGLE CONSTITUTIONAL AMENDMENT. ITS IMPACTS WILL BE SUCH THAT IT SHOULD BE VIEWED AS A VERITABLE REWRITING OF OUR CONSTITUTION -- AS IT WILL REDUCE THE LEGISLATIVE BRANCH OF THE GOVERNMENT TO SUCH A DEGREE THAT ITS VERY NECESSITY IS CALLED INTO QUESTION.

WHAT DO WE WANT FOR NEW JERSEY? DO WE WISH TO BE HELD HOSTAGE TO SIMPLISTICALLY STATED (BUT DISRUPTIVE) PROPOSALS FROM SINGLE INTEREST GROUPS? DO WE WANT TO COMMIT OURSELVES TO WAGING EXPENSIVE MEDIA CAMPAIGNS TO STOP PROPOSALS THAT WOULD GUT THE STATE'S REVENUE BASE, DISRUPT ITS ECONOMY, OR PLACE IT OUTSIDE ITS OWN (OR THE FEDERAL) CONSTITUTION? IT IS EASY TO IMAGINE PROPOSALS THAT WOULD DO THESE THINGS, AND OFTEN THEY CAN BE CAST WITH A HIGHLY EMOTIONAL APPEAL.

THE NEW JERSEY LEGISLATURE HAS A NATIONAL REPUTATION OF BEING RESPONSIBLE IN TAKING ACTION ON VERY COMPLEX ISSUES THAT THEN BECOMES MODEL LEGISLATION FOR OTHER STATES. WE SUPPORT THE VIEW THAT ELECTED REPRESENTATIVES OF OUR STATE SHOULD CONTINUE TO HAVE THE RESPONSIBILITY OF STUDYING ALL ASPECTS OF LEGISLATIVE MEASURES AND MAKING INFORMED DECISIONS ON THEM.

THE NEW JERSEY BUILDERS ASSOCIATION IS DEEPLY CONCERNED ABOUT THE ISSUE OF INITIATIVE AND REFERENDUM. WHILE IT MAY BE OFFERED AS A REFORM THAT WILL MAKE GOVERNMENT MORE RESPONSIVE,

IT WILL INEVITABLY BECOME A TOOL THAT WILL ABUSE THE PUBLIC WELFARE AS SPECIAL INTERESTS USE IT TO PROMOTE NARROW OBJECTIVES. INITIATIVE AND REFERENDUM BORDERS THE ABDICATION OF LEGISLATIVE RESPONSIBILITY AND CAN BECOME A MECHANISM FOR CIRCUMVENTING RATIONAL GOVERNMENT.

YOU HAVE BEFORE YOU PROPOSALS THAT WILL ALTER THE VERY FABRIC OF OUR STATE'S GOVERNMENT. THEY HAVE THE POTENTIAL OF TRANSFORMING THE STATE'S LEGISLATIVE PROCESS INTO AN ERRATIC INSTRUMENT OF SPECIAL INTERESTS AND EMOTIONALISM. IN THIS LIGHT, INITIATIVE AND REFERENDUM MUST BE SEEN NOT AS A PROPOSAL TO REFORM OUR GOVERNMENT, BUT RATHER, AS ONE THAT WILL DEFORM IT. FOR THESE REASONS, I ENCOURAGE YOU TO SET ASIDE THESE PROPOSALS.

MR. CHAIRMAN, THANK YOU FOR THIS OPPORTUNITY TO PRESENT MY VIEWS.

"The power to tax involves the power to destroy."—Chief Justice John Marshall

# HUNTERDON COUNTY CITIZENS AND TAXPAYERS ASSOCIATION, INC.

P.O. Box 108 Pittstown N.J. 08867

30  
25 January 1986

JOSEPH F. SHANAHAN, Lambertville, President

RAY BUCH, Pittstown, Treasurer

WILLIAM MACHAUER, Califon, Program Chairman

BEFORE THE ASSEMBLY COMMITTEE  
ON STATE GOVERNMENT

IN SUPPORT OF BILLS ACR 1, A-1 AND A-2 (1984)

## AREA COORDINATORS

North: Mrs. C. Potthoff, Bethlehem

Bethlehem  
Glen Gardner  
Hampton  
High Bridge  
Tewksbury  
Union

Mr. Chairman and Members of the Committee:

I am Joseph F. Shanahan of Lambertville representing the Hunterdon County Citizens and Taxpayers Association, a non-partisan group of working taxpayers whose major interest is to assist in promoting efficiency and economy in government.

East: William Machauer, Califon

Califon  
Clinton Town  
Clinton Township  
Lebanon Boro  
Lebanon Township  
Readington

We have long favored the idea of Initiative and

West: Arlen Besel, Milford

Alexandria  
Bloomsbury  
Frenchtown  
Holland  
Milford

Referendum in order to give reality to that part of our New Jersey Constitution which states that "All political power is inherent in the people."

South: Joseph Shanahan, Lambertville

Delaware  
East Amwell  
Lambertville  
Stockton  
West Amwell

We disagree with our colleagues in the New Jersey Taxpayers Association who, last year, took the viewpoint that financial matters are too complex to be narrowed down to a simple "yes" or "no" situation. On the contrary we think that, for instance, the presenting of a "yes" or "no" question on the ballot whether to have a 10% cut across the board in State spending is simple enough to be understood by all the voters who are paying the bills but, perhaps too complex for a lobby-ridden legislature to vote on objectively.

Central: Ray Buch, Franklin

Flemington  
Franklin  
Kingwood  
Raritan

We believe that, even if never used, the presence of such a reform in our state governmental structure is a peaceful safeguard to the possible encroachment of a tyrannical bureaucracy, an arrogant judiciary and a confused legislature. In this regard I would like to cite one of my political heroes, Abraham Lincoln, who in his first inaugural address said,

" This country, with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing government, they can exercise their constitutional right of amending it, or their revolutionary right to dismember or overthrow it."

And the group I represent is growing weary of this State's excessive spending policy and would like to be able to assert that constitutional right to amend it. We see the initiative and referendum as being the answer and we want it.

Thank you for giving us the opportunity to state our viewpoint on the subject.



609-397-3158

JOSEPH F. SHANAHAN  
R.D. 2 - BOX 105  
LAMBERTVILLE, N.J. 08530



**NFIB** National Federation  
of Independent Business

The Guardian of Small Business

SUPPORT FOR INITIATIVE AND REFERENDUM

STATEMENT BY:

WILLIAM J. CLEARY,

STATE DIRECTOR, NFIB/NJ

BEFORE ASSEMBLY STATE GOVERNMENT COMMITTEE

CHAired BY: ASSEMBLYMAN RICHARD ZIMMER

New Jersey small business owners want to participate in the law-making process, and they think the first step is an amendment to the state constitution allowing for public initiative and referendum.

A recent National Federation of Independent Business survey of the organization's 8,000 New Jersey members found a majority of the respondents favor a measure to permit voters to initiate new laws and reform existing ones.

The members of NFIB/NJ supports Assemblyman Zimmer's bills A-1028, A-1029 and ACR-53. We support the passage of these bills.

Initiative and referendum allows direct and meaningful participation by the public in the law-making process, and will go a long way to dispel the current disillusion with government.

Small business owners, in particular, want to participate in decisions that affect them.

We view Initiative and Referendum as a prudent and thoughtful supplement to our legislative process and not as a substitute.

NFIB believes that where the Legislature does not adequately respond to public sentiment; where citizens, consumers and workers are demanding and getting a greater voice in government, business, and the market place; where public opinion is strongly in favor of the proposition that ordinary people must be a vital part of the process of arriving at decisions which affect their lives, then the issue becomes a strong argument for the need to make these rights available.

NFIB/New Jersey would like to see Initiative and Referendum passed in New Jersey, it is something that's been long overdue.



# NEW JERSEY ASSOCIATION OF REALTORS®

EXECUTIVE OFFICE: 295 PIERSON AVENUE (201)494-5616  
MAILING ADDRESS: P.O. BOX 2098, EDISON, N.J. 08818

To: Members of the Assembly State Government  
Committee

From: Susan Covais, Director of Government Affairs,  
New Jersey Association of REALTORS

DATE: February 11, 1986

On behalf of the 32,000 member New Jersey Association of REALTORS, I would like to make a few statements concerning Assembly Bills 1028 and 1029 and Assembly Concurrent Resolutions 53 and 71. NJAR has not taken a formal position on these particular bills. However, we are presently reviewing these bills and discussing them among our membership. In the meantime, I would like to take this opportunity to express some of our concerns with the concept of initiative and referendum.

While the "I & R" issue has been getting a lot of attention in the press lately, I was surprised to learn that only 4 states since 1920 have adopted such amendments to their constitutions. I believe that this fact is significant in demonstrating that while initiative and referendum may have been a political outlet for disgruntled populist movements in the late 19th century, it may not be an appropriate way to govern in the 1980's.

Last year, an article in the GARDEN STATE REPORT discussed the modernization of the New Jersey State Legislature - the use of computer technology, the increase in professional partisan and non-partisan staff - leading toward a more professional state government to handle the complex issues of today's changing society in New Jersey. The increasing complexity of New Jersey's economic and political life requires Legislators to be well informed and to have professional staff help them address important issues.

Every day, new commissions are set up by the Legislature and the Governor to address issues that need less political debates and more expert testimony like providing affordable housing, hazardous waste disposal sites, high property taxes, thorough and efficient education, and state-wide planning.

NJAR'S Statement on "I & R"

Yet today this committee is going to discuss a procedure, namely "I & R", that will, in effect, bypass professional staff in the Office of Legislative Services, public members on commissions, technical experts from state agencies, and the committee system itself, to reduce such complex and controversial issues stated above into simple "yes" or "no" votes on a ballot.

Even with the provision that gives the Legislature six months to act on a proposed referendum question, "I & R" still overrides the committee system that many Legislators, government officials and members of the general public have sought to create and have supported throughout New Jersey's history.

There are so few issues that can be reduced to a "yes" or "no" vote. In California, for example, a proposal was on the ballot which extended the type of crimes punishable by death or confinement without parole. Another Californian referendum proposed provisions for the filing of charges against teachers and other education personnel for homosexual activity. In Oregon, one initiative sought to repeal the state land use planning goals and require local governments to adopt comprehensive plans. A referendum in Massachusetts sought to limit taxes and increase local education aid. In North Dakota, reducing personal income taxes and increasing corporate taxes was proposed. In Ohio, restructuring business and personal taxation was attempted through a referendum.

An initiative that never got on the ballot in Illinois would've required state officials with conflicts of interest relating to a bill to disclose them and not to vote. In addition, it prohibited legislators from being paid by other government entities. It was declared unconstitutional according to the Illinois State Constitution.

The point of this list is not to say that these were good or bad issues. Rather, is it to illustrate the complex and controversial nature of issues that have gone on the ballot in other states. Looking at them briefly, one can see that these are not "yes" or "no" issues.

"I & R" took hold in western states when they first achieved statehood and before traditional political institutions had time to develop. This is probably one of the reasons that only 5 states east of the Mississippi have enacted initiative and referendum amendments to their state constitutions.

NJAR'S Statement on "I & R"

Our Association believes that New Jersey's political system is working. We feel that the New Jersey State Legislature is a respected and professional body. We need to look forward to an increase in technology and expanding the committee system to get information to Legislators and members of the public to increase participation in government.

At this point, our Association does not see the advantages of having initiative and referendum in New Jersey. We feel that New Jersey should be looking for ways to improve the representative and deliberative process by which our state laws and constitutional amendments are developed and not find ways to bypass this system. New Jersey should not look toward policies of the 19th century, but should look to new ideas for the 21st.

Thank you.

**ADVOCATING  
GOOD  
GOVERNMENT  
SINCE 1930**



**NEW JERSEY  
TAXPAYERS  
ASSOCIATION**

200 WEST STATE ST. • TRENTON, N.J. 08608 • TELEPHONE. 609-394-3116

**STATEMENT BY  
DAVID KEHLER  
EXECUTIVE DIRECTOR  
NEW JERSEY TAXPAYERS ASSOCIATION**

Mr. Chairman, Madame Vice Chairman, and members of the committee, my name is David Kehler, and I am executive director of the New Jersey Taxpayers Association. The Taxpayers Association is a nonpartisan membership organization concerned with state and local government fiscal and public administration issues. I appreciate this opportunity to discuss with you some selected aspects of proposals for the adoption of initiative and referendum procedures in New Jersey.

I am very new to this state, having assumed my present position just last month. Consequently, I will avoid discussions of the theory of New Jersey state government or the performance quality of the legislative process here.

I want to take a different approach. From 1981 until late last year, I was president of the Washington Research Council in Olympia, Washington. The Research Council is a public policy analysis organization of some sophistication concerned with a wide range of issues. There is presently no organization quite like it in New Jersey. My work in Washington state enabled me to observe at very close range that state's initiative and referendum approach. While I do not want to misrepresent myself as an expert on initiative and referendum matters in the other Pacific Coast states, at one time or another, I was interviewed by most of the major California and Oregon newspapers on initiative questions in

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those states. I will comment a bit on California and Oregon based on my knowledge as an interested observer. In Washington, I was an involved participant on three separate occasions, twice on proposed initiatives and once on a question which actually reached the ballot. What I'd like to do today is to share with you my observations of how these mechanisms actually work and to raise some questions about the measures before you.

This is an issue area where a real world perspective can be developed by a close observation of those states with some form of initiative and/or referendum. It seems to me that such a perspective can be gained by looking at what policy is developed and how is it developed through initiatives in various states, rather than merely by focusing on the formal legal procedures governing the initiative processes elsewhere. I would encourage members of the committee to be alert for possible unintended consequences in all legislation designed to alter the policy process. I also would encourage the committee to take maximum advantage of other state's actual experiences as you consider these proposals.

Based on my experience on the West Coast, it is clear to me that the initiative process is a potent vehicle. It appeared to be especially so for a group or an organization with a very specific focus. During my four plus years in Washington, no issue came to the ballot which the legislative process was inherently incapable of addressing. A typical initiative scenario in Washington from 1984 will give you a flavor of the way in which a ballot question can be used by an organization to achieve a specific objective.

The Washington automobile dealers wanted to boost auto sales, and they seized upon the initiative process as the method for doing so.

The auto dealers sponsored an initiative which qualified for the ballot and, ultimately, was approved by the voters. The initiative eliminated the retail sales tax on the trade in value of a car when a purchaser used a trade in to cover, in part, the purchase price of another automobile. The intention was to stimulate sales by reducing the cost of car purchases when a trade in was part of the deal. The auto dealers were on target with their initiative. Following passage of the ballot measure, car sales increased.

Now I'm not completely familiar with the New Jersey tax system, but I believe that the initiative in question brought Washington policy in line with the New Jersey approach, at least on the surface. However, let's look a little deeper. A sales tax preference in Washington is of greater magnitude in the overall fiscal picture of state government than a similar preference in New Jersey, because Washington's state government tax structure is much narrower. For example, a key difference is that there is no income taxation in Washington.

Many Washington policy analysts felt that the Evergreen State's fiscal crisis in the early 1980's was caused in part by a series of initiatives that successively narrowed the tax base. I felt there was a bit of truth there.

In this context, the auto dealers' initiative appeared to be something of a specific benefit, rather than an element of a fiscal reform of broad design.

I want to stress that this is hardly an isolated, atypical example. Last year, both Oregon and California began state government-operated lotteries. In both states, the lotteries were created by the initiative process. In both Oregon and California, the initiative language was quite specific on how lottery operations would be conducted. In fact, in both states, under the provisions of their respective initiatives, only one existing company was able to qualify

as vendor of the major operative lottery services to the state governments. And, of course, it is not surprising that that very company was the principal proponent of both the Oregon and California lottery initiatives.

For those whose objectives are so specific that they believe that the legislative process will not provide satisfaction, the initiative process is, on the West Coast, a powerful alternative.

Of course, some ballot questions -- such as certain fiscal measures -- are broad gauge by anyone's standards. And when approved, they can have a major impact. The examples I've just cited, though, appear to me to be an emerging trend.

I'd like to spend a few moments to share with you some observations on how some initiatives were drafted in Washington. Both of these examples will focus on initiatives related to taxation and expenditures.

On two occasions, I was asked to assist in drafting state government fiscal limitation measures. My Washington organization did not endorse or oppose the mechanical fiscal limitation approach in principle, but we were widely known for our fiscal expertise and we helped all groups -- of whatever persuasion -- when asked. And so it was, in 1982 and 1983, that reputable people asked for my help in drafting initiatives. On both occasions, I ultimately withdrew from the projects. I had the same reason for withdrawing on both occasions: the initiatives' sponsors were interested only in very simplistic limitation measures that could be quickly understood by voters, rather than taking the more complex route of proposing the most effective limitation possible. I was uncomfortable with the proponents arbitrary decisions about key aspects of

the measures, and their strong push to simplify what is inherently not simplistic. Incidentally, neither of these groups developed an adequate strategy for gathering signatures -- their polling results were so encouraging that they didn't bother to address the logistical question -- and neither qualified for the ballot, much to the surprise of informed observers.

It was a curious turn of events that serious consideration was given to a fiscal limitation of state government in Washington in 1982 and 1983, as, just a few years before, Washington voters had approved a tax limitation initiative -- a ballot measure written by a nationally recognized fiscal expert who later became the state government's revenue commissioner. The fact of the matter was that the voters in 1979 had approved a ballot measure which was critically flawed, as the limitation formula was so defective that it did not prevent Washington from experiencing the greatest percentage increase in the nation in state government tax collections between 1982 and 1983. In this instance, the approved initiative not only did not protect the interest of taxpayers, its passage gave them an unwarranted sense of security.

I strongly suggest that the committee examine how initiative campaigns actually are conducted and the interrelationship between ballot question campaigns and campaigns for office. Again, permit me to draw upon my observations of Washington's process.

Ballot question campaigns sometimes overshadow campaigns for office -- indeed they are occasionally intended to do so. In 1982, control of both houses of the Washington legislature changed partisan hands at least partly because leaders of one party sponsored an initiative designed to draw campaign funds

and attention away from candidates of the other party. While this particular initiative was rejected by the voters, its hidden agenda -- changing the legislative majorities -- was accomplished. Incidentally, leaders of both political parties attempted to use the initiative process in this fashion during my stay in Washington.

One major difference between initiative campaigns and campaigns for office is that most offices are generally contested, while some ballot questions have no opposition. The Washington auto dealers' initiative which I mentioned earlier was unopposed. It was unopposed because no one's particular ox was being gored enough to mount a campaign.

Of greater concern to me was outright deception in ballot question campaigns and the inability to hold anyone specifically accountable for the disingenuousness. Let me give two specific examples, one from Washington and one from Oregon. In both instances, those perpetrating a deception were victorious on election day.

In Washington, Initiative 435 would have made a number of changes in the state government tax structure, including repealing a temporary sales tax on retail food purchases. This tax was, by existing law, to expire the following June, but the initiative would have eliminated the tax six months earlier. Opposing the initiative was a coalition of business groups, which purchased billboard advertising all over the state which said "End the Food Tax in June -- Kill 435 Now". The initiative was defeated, in part because these ads suggested that to vote no on 435 was to vote against the food tax.

My second example comes from a referendum in 1984 in Portland, Oregon, on a proposed property tax increase. In this instance, school district personnel deliberately issued false fiscal information to support the tax increase. The

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tax hike was approved. Shortly after the election, Oregon's major newspaper exposed and denounced the deception. I want to stress two aspects of this. First, the press flagged the misinformation after the election, and, second, the bureaucrats who provided the questionable information were not held accountable in any tangible way.

Please don't misunderstand me. I don't question the wisdom of the electorate at the ballot box -- when key aspects of issues have been presented to them honestly. When the facts are twisted or deceptive slogans are used, well, that's another matter. The question in my mind, based on my observations, is how can this problem of deception be avoided in ballot question campaigns?

Let me say a few words about the bills now before you. I recognize that it is not easy to craft responsible legislation on this subject, and I compliment the sponsors on their efforts. ACR 71 is very general and defies the sort of analysis that I want to give to Assembly 1028 and ACR 53. I realize that the latter two have been revised very recently and may be slated for additional revision.

Here are a few questions and comments on Assembly 1028. This is my attempt to flag for you some details the committee may want to address.

In Section 4.B., who is to determine if a ballot question embraces only one object, and what guidelines will be employed?

In Section 5.F., no provision contemplates a policy to resolve a situation where the legislature addresses an issue which is also addressed in a proposed ballot question for which signatures are being gathered. Would the legislative action be preemptive?

Regarding Section 6, Washington state government officials had serious difficulties estimating the potential fiscal impact of ballot questions. If the bill before us becomes law, I hope that the fiscal forecasters are more accurate in the Garden State than they were in the Evergreen State.

In Section 7, it is not certain what defines a valid signature. For example, must names be signed exactly as they appear on county voter registration records?

In Section 9, a greater protection against abuse in the signature gathering process would be provided if it were required that the complete text of a ballot question appeared on every sheet being circulated for signatures.

The protections contained in Section 11. A. (3) and (4) on the work of the petition circulator may not be easily enforced.

In Section 11. C., no stipulation is made on who specifically must file the petition signatures with the Secretary of State.

In Section 16. B., it is unclear to me which submission is being referenced.

On ACR 53, in Section 11, regarding the signature requirement, no distinction is made between valid and invalid signatures.

You may or may not regard these points as interesting, and perhaps you are satisfied that these matters are addressed adequately in ways too subtle for me to grasp.

I would be happy to work with the sponsors and staff on these points.

One final point. I believe that this legislation will provide substantial access to the New Jersey ballot. It is important to remember that, apart from voters' perception of the merit of a proposed initiative, there is the matter of

the logistics of collecting the necessary valid signatures to qualify a question for the ballot. The New Jersey logistics are favorable.

To illustrate my point, let's contrast Washington and New Jersey, first in terms of the statutory provisions of Washington's initiative process and the stipulations of Assembly 1028 and then the demographics of the two states.

For the statutory type of initiative, both Washington law and Assembly 1028 require, for qualification for the ballot, valid signatures equal to at least 8% of the votes cast in the preceding gubernatorial election. Both Washington and Assembly 1028 prohibit paid petition circulators. In Washington, there is a ten month window for gathering signatures. Under Assembly 1028, that window is open wider -- a year is provided. Assembly 1028 has a provision absent in Washington, no more than 15% of the requisite valid signatures may come from any one county. On the surface, these key provisions appear to be rather equal.

Now, let's look below the surface. Washington gubernatorial elections are held every four years on the same date as presidential elections. New Jersey gubernatorial elections are held the November following a presidential election year.

The implications of the difference are exceptionally significant. Let's look at some recent New Jersey voter turnout figures:

<u>Year</u>	<u>Ballots Cast</u>	<u>Turnout as % of Registrations</u>
1980	3.0 million	79.8%
1981	2.4 million	64.2%
1984	3.2 million	79.0%
1985	2.0 million	52.0%

A related point is that voters in Washington have higher registration and turnout rates than do voters in New Jersey. Let's look at the 1980 presidential election:

<u>State</u>	<u>% of Eligibles Registered</u>	<u>% of Eligibles Voting</u>
Wash.	74%	57%
N.J.	69%	55%

Let's look at demographics.

In terms of circulating petitions, population density can be a factor. Washington is sparsely populated, with only 65 people per square mile. New Jersey is densely populated, with 1006 people per square mile. Let me sharpen this point: the most populous and densely populated county in Washington has 615 people per square mile, much lower than the figure for the entire state of New Jersey. Because signature gathering is a person to person activity, the population density of a state is an important logistical factor.

How accessible will the ballot be under 1028?

Let's assume that an organization has branches in all of New Jersey's 21 counties and that it has a 12 month signature gathering effort. For the statute type initiative, in order to qualify, based on the 1985 gubernatorial vote they

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would need to collect a bit less than 650 valid signatures per county per month for the one year long petition drive.

Here is another way of viewing this point: Assembly 1028 would require roughly 20,000 more valid signatures than Washington does for a statutory type initiative to qualify for the ballot. Yet, the population of New Jersey is about 7.5 million, while the population of Washington is 4.3 million.

I would encourage the committee to examine these issues as you consider the legislation before you.

**FRANK W. HAINES, JR.**  
*Governmental Research & Public Affairs Consultant*  
16 Kinney Drive  
Trenton, New Jersey 08618  
1-609-882-8979

February 19, 1986

STATEMENT OF FRANK W. HAINES, JR.

RE: ACR NO. 53 OCR, A CONSTITUTIONAL AMENDMENT TO  
PROVIDE INDIRECT INITIATIVE FOR BOTH CONSTITUTIONAL  
AMENDMENT AND LAW AND REFERENDUM FOR LAW.

This statement is presented as a private citizen and taxpayer  
of New Jersey, and not in behalf of any organized group.

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At the outset, I wish to state my dismay that the required  
constitutional public hearing on this all-important measure was  
held outside the State Capital on the evening of a stormy day  
in which many private and public activities around the State were  
cancelled or postponed because of inclement weather and hazardous  
travelling. Such action, in my opinion, does little to instill  
public confidence in our representative system of government about  
which the principal sponsor of this constitutional amendment has  
so frequently expressed concern and which he has stated is among  
the reasons the State should have initiative and referendum.

I am opposed to unlimited indirect initiative for both  
statute and constitutional amendment and for referendum for  
statute as proposed by ACR No. 53 OCR.

I believe it would be a serious mistake to adopt the  
amendment in the form proposed. In my opinion, it would put  
New Jersey back to the Progressive period of the pre-1920's,

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the time in which a majority of states with initiative and referendum adopted those powers.

Representative government has made great strides over the past six or more decades and particularly in New Jersey State Government over the past twenty years. Accordingly, I do not view initiative and referendum as an essential and constructive improvement in this State's government. Moreover, my concern is primarily over the high cost of promoting or defending initiative or referendum questions and diversion of the regular business of government to I & R ballot campaigns which may also have an adverse impact on soundly-developed in-place governmental programs.

As the result of my observation of the principal sponsor's efforts to promote these reserved powers, I have identified several points which I do not consider have been brought out. Thus, I see the I & R effort as tending to mislead voters.

1. Initiative and referendum powers are not unlimited.

I do not believe that the powers of initiative and referendum are unlimited, but no one has so stated, nor does the language of the proposed amendment so reflect the fact. I do not consider that the Legislature has the power to grant to voters powers which the Constitution does not give to the Legislature itself. Accordingly, I strongly recommend that the amendment under consideration provide clarification of powers which the Legislature itself does not possess, and which it therefore cannot and should not presume to grant to the people.

Several state constitutions which authorize the powers of initiative and referendum specifically declare that initiative cannot be used for purposes prohibited by the constitution, or that the power extends only to laws which the Legislature may enact under the constitution. Other constitutions specify that questions must be limited to one subject; still others deny use of initiative to amend the constitution's bill of rights. The lack of recognition of such limitations in the proposed constitutional amendment leads me to conclude that the amendment is inadequate and misleading.

2. Allocation of Proposed Constitutional Amendment.

I further consider that the proposed amendment has another technical flaw.

Initially the proposed amendment applied only to Article I, better known as the "Bill of Rights". As the proposed language was expanded, decision was made not to clutter up the "Bill of Rights", but to move much of the detail into a new Section II of Article II, Elections and Suffrage.

I suggest that inadequate study has been given the appropriate allocation of the proposed language to the Constitution. It appears that Article IX, the Amendment section, has been overlooked, whether intentionally, or unintentionally. In my opinion, it is logical to amend Article IX to recognize amendment by initiative, thus

separating initiative and referendum for law from initiative for constitutional amendment and the existing legislative referendum for constitutional amendment. The separation appears logical since there is duplication of language in the proposed amendment of Article II and that of Article IX which should be avoided.

Constitutions of several states with initiative for Constitutional amendment include initiative in the Amendment section.

3. Time Prohibition on Amendment of Statutory Initiative and Referendum.

The sponsor is to be congratulated for shortening the prohibitive action period in Article II, Section II, par. 2, for a statute approved by initiative or referendum from 8 years to 3 years after a two-year period, except by extraordinary vote of the Legislature. I believe that the 3 additional years is unreasonable, particularly if the record of other states is considered. Further, I see no reason for giving initiated or referendum statutes a longer time freeze than a constitutional amendment as would be required by the proposed language.

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There are several other points that I think merit consideration. The proposal for unlimited initiative and referendum as the

appropriate course for New Jersey in following the course of action of many states completely disregards the historical record of those states which were the early adopters of I & R as well as the more recent additions to the list.

The record should reflect the tendency of promoters of I & R to oversimplify the powers by using a total of twenty-five states which have some form of initiative and/or referendum. In depth analysis indicates extensive variations in I & R among the fewer than half the states which have adopted one or more of the powers. There has been inadequate recognition of the differences and the variety of limitations among the states. Proponents who argue that New Jersey voters should be given the powers if I & R granted voters in other states fail to recognize the lack of uniformity.

For example:

23 states have some type of state initiative.

21 states have initiative only for state legislation.

17 states have initiative only for State Constitutional amendment.

15 states have initiative for both constitutional amendment and legislation (being proposed for New Jersey).

Of these 15 states, only 3 do not have some type of subject limitation. Limitations apply more commonly to referendum, but some are on both initiative and referendum. No more than 25 states have state referendum.

I want to emphasize that since the 19 states which adopted some form of initiative, statutory and/or constitutional in the

period between 1898 and 1918, there have been only four additions to the initiative list of states and <sup>in</sup> each of those power was limited:

Alaska - 1959 (New state constitution) Statutory initiative and referendum with constitutional restrictions on each, including dedication of revenues, appropriations, creation of courts, special or local legislation, laws necessary for preservation of the public peace, health and safety.

Wyoming - 1968. Statutory initiative and referendum with constitutional restrictions almost identical to those of Alaska.

Florida - 1968, amended 1972. Constitutional amendment only.

Illinois - 1970. Constitutional amendment only for the legislative article.

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In view of the historical record of initiative and referendum, in my view, if New Jersey is to have I & R in any form, it should be limited. Restrictions should be as follows:

For initiative: dedication of revenues, make or repeal appropriations, create courts and define their jurisdiction, enact special or local legislation, enact anything prohibited by the Constitution for enactment by the legislature.

For referendum: dedication of revenues, appropriations,  
local or special legislation, laws necessary for the  
immediate preservation of the public health or safety.

The amending process of the New Jersey Constitution has not  
resulted in drastic totally unreasonable changes since 1947.  
Instead of passing I & R, the Legislature might better consider  
a Constitutional Convention to review the entire charter preceded  
by a Constitutional Convention Commission charged with developing  
a working agenda for Convention Consideration.

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