

**PUBLIC HEARING**

before

**ASSEMBLY STATE GOVERNMENT, CIVIL SERVICE, ELECTIONS, PENSIONS,  
AND VETERANS' AFFAIRS COMMITTEE**

on

Establishment of Initiative and Referendum Procedures

July 2, 1985  
Room 446  
State House Annex  
Trenton, New Jersey

**MEMBERS OF COMMISSION PRESENT:**

Assemblyman Joseph Charles, Jr., Chairman  
Assemblyman Robert D. Franks  
Assemblyman Richard A. Zimmer

**ALSO PRESENT:**

Donald S. Margeson  
Office of Legislative Services  
Aide, Assembly State Government, Civil Service,  
Elections, Pensions, and Veterans' Affairs Committee

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**ASSEMBLYMAN JOSEPH CHARLES, JR. (Chairman):** We are about to convene the public hearing. As you know, we held our first hearing regarding this subject on June 17th. This is the second public hearing we are holding on legislation dealing with the issue of initiative and referendum. We are considering Constitutional Amendments, ACR-1, sponsored by Assemblyman Zimmer; ACR-42, sponsored by Assemblyman Karcher; and, ACR-47, sponsored by Assemblyman Hendrickson. We are also considering Bills A-1, sponsored by Assemblyman Zimmer, and A-150, sponsored by Assemblyman Visotcky.

We used a sign-in procedure prior to the June 17th hearing, and we heard testimony from several witnesses at that time. We have a current speakers' list available today and we will try to follow it when hearing those who wish to give testimony.

For those of you who do not have a list, we will make one available to you, so you will know just where you stand. I intend to go straight down the list, with some minor exceptions, although at this point I am not sure what those exceptions will be. If there is anyone whose name does not appear on the list, and if he has signed in this morning, we will hear from him when all the prescheduled speakers have given their testimony.

For the record, I am Joseph Charles. I am the Chairman of the Committee. I should note for the record that I received word from Assemblymen Tom Long and Harry McEnroe that they are unable to be here this morning. I understand from Mr. Edwards that Assemblyman Zimmer should be here shortly. We are not sure if Assemblyman Franks will be here today.

We will begin with the list we have before us, and we will hear first from Mr. Sam Perelli.

**SAM PERELLI:** Mr. Chairman, absentee Assemblymen, "The public was not well-served by its legislators today. The special interests and slick dollars were much more effective than the public interest." That was a quote from Assemblyman Robert Hollenbeck on June 14th of this year, when the bottle bill legislation he proposed was defeated.

I note with interest that this same Assemblyman created a great dichotomy when his constituents wrote to petition for legislation

which because of procedure, was forced to the floor on June 24th. He voted "no." He voted against citizens' petition rights in this State.

It seems to me that we have quite a few legislators in this State who say one thing in one room and another thing in another room. I wish they could get together so the public would know where it stands. Today, we are surrounded with special interests and slick dollars.

I come here today as the State Chairman of the United Taxpayers of New Jersey. This is not the first time I have been here; this is one of my many, many visits to Trenton to give testimony at many Senate hearings, too numerous to count.

Some years ago, I got involved with the United Taxpayers. It was in the early '70s, when there was talk of a State Income Tax. A number of people and I collected almost one million signatures in opposition to the State Income Tax. Of course, as history shows, we do, in fact, have a State Income Tax. I was shocked when one million signatures did not make a dent on the State Legislature -- not a dent.

As a matter of fact, the Supreme Court Justice at that time, Justice Hughes, characterized people such as me as "snake oil salesmen;" yet, one of the provisions in that State Income Tax was the tax deduction for parents of children who attended parochial school, that had been proven unconstitutional in so many other states. This Chief Justice called us "snake oil salesmen," while he watched a piece of unconstitutional legislation go through. Very shortly thereafter, it was proven that the legislation was unconstitutional, so I wonder who the snake oil salesmen in New Jersey were?

My shock at seeing that so many signatures had no impact in this State shook me from the "norm" of just being involved in a conservative taxpayers' movement. I am here today to talk about strengthening voters' rights in this State. I am here as a second-class voter in this State. I am embarrassed and ashamed, Assemblyman Joseph Charles, that I have to come here and ask you or any other elected State representative to trust me and the four million voters of this State.



How dare you? How dare any legislator in this State not trust the voters of the State? How dare anyone in this State's Legislature listen to the lobbyists who come here and tell you that the public does not understand the issues? We don't understand the issues?

Here is something said by someone who is connected with Darby Associates in Atlantic City. This is taken right from one of the major newspapers in this State: "Because we would not fall prey to their strong-arm tactics, Golden Nugget, through its attorney, Martin Greenberg, former State Senator, and former President of the Golden Nugget, approached Senator John Russo to pass special legislation, creating a retroactive law." Who ever heard of a retroactive law for property owners? At no time was the Legislature ever told that this special law was proposed by Golden Nugget until after it passed the Legislature.

How dare you not trust the people of the State of New Jersey? A Senate President gets a special piece of legislation passed for his buddy up in Spring Lake, and the public is not trusted. How dare the New Jersey Legislature not trust the people of this State?

An Assembly Speaker and a Senate President are so powerful that they can even keep legislation from being discussed in this State. How dare you not trust us in this State?

What can I say? What do the people of this State have to do to convince our Legislature that they should be made part of the law-making process? I have heard all kinds of ridiculous arguments in opposition to the rights of citizens to fully participate in State government.

I have been here too many times. One of the things I am sad about this morning is the fact that I am shoveling sand against the tide. There is no physical way we can get this legislation on the ballot this year, unless, of course, we can use the methods the Senate President used to get a bill passed like grease lightning, or the creativity of Assembly Speaker Alan Karcher, when he can put a bill through in 44 minutes. This was bragged about by the former Mayor of Jersey City when he said: "Forget the regular law-making process; one phone call and I can get a bill passed in the New Jersey Legislature in 44 minutes." That is a quote from him.

You must listen carefully to the voices of the opposition. Listen very carefully to them. They will make the best case for the institution of citizen petition rights in this State. They are going to make the best case. Listen to the NJEA, the teachers' union, say that the people in this State are not educated enough. (laughter) This is from the teachers' union. Yet, that same teachers' union will not acknowledge the fact that in Massachusetts the teachers' union has used initiative and referendum in order to place their own public questions on the ballot.

Listen carefully to the New Jersey State Chamber of Commerce when they tell you that people are not intelligent enough to handle public questions. We have passed billions of dollars in bond issues. Yet, the members of that same organization, in the early 1980s, used citizen petition rights on the county level in Essex County, in Passaic County, and in Union County. They paid solicitors to gain signatures in order to put a question on the county ballot overturning the "blue laws." Yet, we are not supposed to be intelligent enough to carry this out on the State level.

How dare the New Jersey State Legislature refuse to put citizen petition rights in as the number one issue this year? I have listened to the proposition that Alan Karcher made. Assembly Speaker Karcher has a piece of legislation. It is an insult to every voter in this State because Mr. Karcher himself would never have been elected if he allowed his electoral process be put to the same test he wants the citizens of this State to act under with his proposed legislation. Alan Karcher is an obstructionist and anyone in the State of New Jersey who agrees with that kind of obstruction does not deserve to serve the people of this State.

Let us not treat a citizen's right to petition in any manner other than called for by the electoral process when an individual is running for office in this State. Let us not impose these restrictions; with these restrictions there is not one bond issue in the State of New Jersey that would have passed. Not one bond issue would have been passed if we used the restrictions put into this legislation by the Assembly Speaker.



Who was it that said, "No man or beast is safe as long as the Legislature is in session?"

The message is loud and clear: Keep the electorate out of the business of making laws, or challenging the laws in this State. What is good for the NJEA is good for New Jersey. What is good for the New Jersey Chamber of Commerce is good for New Jersey.

Mr. Joseph Gonzalez, who is the Executive Director of the New Jersey Business and Industry Association -- and I find this very curious -- was an ally when he was Executive Director of the New Jersey Republican minority group. I sometimes felt as though he was my father confessor; and then, all of a sudden, my father confessor was out in public telling everyone what our strategy was. That is what happens in New Jersey. People move from one room to another room, but the message is the same: The business of running New Jersey is done in small rooms. This is a "lobby street" in Trenton. It is not in the hands of the public.

I am embarrassed to be here today knowing full well that my words are falling on deaf ears. Assemblyman Charles, you know that this legislation isn't going anywhere; yet, you have to do your job. Ultimately, we are going to have this piece of legislation. We will have it.

The statistics you have include thousands of words of technical testimony which says that the public can be trusted. I won't bore you with all those statistics. The only thing I can tell you is that the longer you fight citizens' petition rights in this State, the more you acknowledge the words spoken in the street: "Why get involved, it doesn't pay anyway."

I leave you with one question: What do you have to fear from the voters of this State? Thank you.

ASSEMBLYMAN CHARLES: Thank you, Mr. Perelli.

The next speaker on our list is Maia Padovani. (not present)  
Robert Stuart?

**ROBERT STUART:** Good morning, Mr. Chairman, members of the Committee and staff.

ASSEMBLYMAN CHARLES: Excuse me, Mr. Stuart. For the record, I would like to note that Assemblymen Zimmer and Franks are present.

MR. STUART: My name is Rob Stuart. I am a staff member of the New Jersey Public Interest Research Group. New Jersey PIRG is a nonpartisan, nonprofit public interest organization, devoted to research, education, and advocacy on consumer and environmental issues. New Jersey PIRG represents 25,000 citizens, and 31,000 student members throughout the State.

I want to be brief this morning. This year, we adopted a position in support of initiative and referendum, and I will present our position through the use of five different points. I will then make some comments.

One, New Jersey PIRG supports initiative and referendum, I&R, and urges the Legislature to place an I&R Constitutional Amendment before the New Jersey electorate in November of 1985.

Two, New Jersey PIRG supports reasonable, but not excessive, signature requirements for proposed ballot questions. Signature requirements should be based on turnout in statewide elections, and should be set similar to the majority of I&R states' requirements, i.e. 3% or 5% to 8%.

Three, New Jersey PIRG supports a provision which would require full public disclosure of all contributions and expenditures in the furtherance of passage, or the defeat, of initiative.

Four, New Jersey PIRG opposes provisions which would limit or exempt any subject matter from the initiative and referendum process.

Five, New Jersey PIRG opposes provision which would require signature distribution from legislative districts, or other regional designations.

We believe that I&R is founded on the principles this country was founded on; it will be a positive force for the State by involving and enlightening New Jersey's citizenry regarding effective and efficient government.

We believe that the power of I&R should be utilized regularly, and that while there should be protection for the power of just a small minority's gain from ballot questions, there should be an I&R process which would allow honest and important debate to take place, not only in the Assembly but in town halls and living rooms across the State.



I&R would allow New Jersey's citizens to partake in lawmaking, not only in the ballot booth but outside the booth also.

There is a need for I&R in New Jersey. Important measures, such as I&R, have sat idle through past legislative sessions. Action was delayed not because of the merit of debate but because of the politics of debate. I&R will not only serve to reduce the frustration of New Jersey's citizenry, but it will be another legislative tool New Jersey's lawmakers will have at their disposal to move bills that have been held up in committee and in the Assembly over the last decade or so.

We don't believe that political delay has not exempted any subject; thus, none should be exempted from the I&R process. We oppose any limitation on the type of question that can be initiated. We believe the quality of the electorate and the educational advancement we have had in this State justify the public's ability to determine what type of question should be placed on the ballot, and what type should be passed. We believe we should have this process, and that the process should be developed as soon as possible. That is why we urge this Committee to act favorably on a provision -- and to move with all haste so that the August 5th deadline can be reached -- so we can have the question put before the citizenry in November. Thank you.

ASSEMBLYMAN CHARLES: Thank you. Are there any questions?  
(no response) Thank you, Mr. Stuart.

Robert Woodford?

**ROBERT WOODFORD:** Thank you, Mr. Chairman and members of the Committee. I am Bob 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.

Let me just interject that from conversations which I have had with Assemblyman Zimmer, I know of his sincerity in advocating initiative and referendum. I think he has an outstanding legislative record, but on this point we are, unfortunately, in disagreement.

Undoubtedly, the general concept of a procedure through which citizens can bypass or override what they consider to be an

unresponsive legislature holds great appeal. Questions as wide ranging as property tax limitation and school busing have been raised through initiative and referendum procedures in other states. In an era when mass communication is pervasive, direct democracy appeals to many as a means of forging responses to problems that the legislature seems incapable of reaching agreement on.

Despite the appealing aspects of initiative and referendum, it has undesirable consequences which far outweigh its potential benefit. We believe there is no lawmaking process superior to representative democracy, a deliberative and open legislative process of law making. The legislative system certainly is not flawless, but it has undergone significant reforms over the past two decades which we think basically account for the fact that no state has chosen to adopt initiative and referendum procedures since 1972.

If I may just reflect personally, when I first became active with the Legislature in 1963, in order to learn about the subjects a committee would consider -- such as this series of bills today -- one had to know someone on the committee who was willing to tell him about it in advance. One was not permitted to attend a meeting of the committee, nor to determine what the committee did at that meeting. Again, one had to know someone on the committee who was willing to share the information regarding what had been accomplished with him. Now, that is certainly not the process in New Jersey today.

In New Jersey, the era of the smoke-filled room ended with the one-man, one-vote reapportionment, with open public meetings laws, with freedom of information acts, with better coverage of legislative issues, with the creation of the legislative LISN line, with advance posting of committee meeting dates and agendas, with open committee meetings and extensive opportunities for public comment, with public hearings, with professional and personal legislative staffs, and with 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 the frustration with what is perceived to be the Legislature's failure to implement some of the "quick and sure"



solutions which various activist groups proffer. In fact, legislative responses may be ponderously slow as the issues facing society become increasingly complex, as the volume of legislation introduced grow with each session, and as more citizen groups demand and receive access to the system. Clearly, 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.

In the legislative process, as in the initiative process, a proposed law may begin as the product of a single, narrow interest group. The refinement of language in a law proposed by initiative and the opportunity of the public to have input into proposed language end 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 basically begins and ends as one group's thinking; it is an inflexible, take-it or leave-it proposal which precludes compromise or refinement.

By contrast, the introduction of a bill only begins the deliberative processes of representative democracy. The open committee system, the accessibility of legislators, their staffs and committee staffs, repeated in each house of a bi-cameral legislature, frequently produces refinements. A further opportunity presents itself through the Governor's power of conditional veto. The crafted product which emerges reflects the Legislature's efforts to comprehend and balance multiple and divergent interests and to respond to complexities unforeseen in the original proposal.

Although billed as a means of providing citizen access to the law-making process, initiative more often accomplishes just the reverse. The citizen's voice can be heard at legislative committee hearings and through contact with individual legislators. However, unfortunately, only the well-heeled can afford the multi-million-dollar slick public relations campaigns that are typical of the debate over initiative and referendum proposals in other states. High-priced

public relations specialists with their public opinion polls, media consultants, and their direct-mail specialists battle for public favor.

Eugene Lee, Director of the Institute of Governmental Studies, at the University of California, Berkeley, described the character, as he perceived it, of most of the California initiative campaigns. He said, "They represent reliance on sloganeering and emotional appeals, on propaganda, and sixty-second television spots."

Initiative and referendum tends to be a vehicle for confrontational politics. It moves the debate over public issues away from dialogue and deliberation in an effort to accommodate diverse interests. It hinders efforts to bring people together and to forge a consensus when dealing with very complex and difficult public issues. Too often, initiative campaigns pit group against group, each feeling compelled to out shout and out-spend an opponent. The legislative system has the ability to bring people together, to ensure deliberation, accommodation, and a broad public acceptance of reasoned solutions. Initiatives, lacking the give and take of the legislative process, frequently propose statutory or constitutional language which result in new problems or undesired impacts that could have been anticipated and eliminated if the debate had taken place as part of the legislative process.

As a business organization, we have been acutely aware of the experiences of employers in other states, including Ohio and California, which have had initiative and referendum procedures for some time.

Repeatedly, employers in those states have found it necessary to defend themselves against initiatives offering economically unsound actions which threaten the ability of businesses to operate and remain competitive. In their defense, they have been forced to spend substantial sums, even when the proposal's impact on business may be just a side issue, or an unintended consequence.

Instead of circumventing and weakening the legislative process, we urge that you examine ways to open that process still further to involve a greater cross-section of the public. Certainly, there are ways to increase the lead time for committee and public

hearings, to ensure more adequate detail and advanced notice of meeting agendas, to protect against the abuse of emergency procedures, to ensure that important legislation receives a committee review and that it is not moved without adequate opportunity for public comment, and to produce better citizen understanding of the process.

We believe the public will be best served by an inclusive and careful process of law making by elected representatives. Thank you very much.

ASSEMBLYMAN CHARLES: Thank you very much, Mr. Woodford. Are there any questions? Mr. Zimmer?

ASSEMBLYMAN ZIMMER: Mr. Woodford, I appreciate that personal compliment. I have the same personal regard for you, and similarly believe you are incorrect on the substantive issues. You say that the legislative process is pretty good as it is, that it works very well: There is opportunity for input, compromise, and deliberation.

Were you in attendance Thursday night and Friday morning when we had our marathon legislative orgy?

MR. WOODFORD: Indeed I was; much later than I would like to recall.

ASSEMBLYMAN ZIMMER: Do you remember how we voted on sweeping legislation -- there were many bills involved -- that did not have committee consideration? They were scarcely printed by the time we were asked to vote on them.

MR. WOODFORD: Clearly, there were some measures that had not been given the procedures we think the Legislature should provide for all major legislation.

ASSEMBLYMAN ZIMMER: We disregarded our own rule to consider no more than 30 bills per session; I think we voted on 148, if we include the bottle bill.

My point is, you claim the legislative system is just fine, and from my perspective on the floor, I see a lot of flaws in it. It seems to me that it isn't always open; it isn't always accessible. There may be a need to have some kind of a check through another mechanism.

MR. WOODFORD: I began by saying it was not an un-flawed process. There is no question about the fact that there are problems with it. The question really is, if we focus efforts on perfecting and dealing with some of those problems in the legislative process, do we come up with a more deliberative, measured way of dealing with issues than what has largely become major publicity campaigns which oversimplify an issue in an initiative campaign?

ASSEMBLYMAN ZIMMER: I am glad you mentioned major publicity campaigns. A week or two ago, every resident in my district received a direct mailing piece from the Chamber of Commerce in opposition to the bottle bill. My name and the name of my running mate were on that piece of literature, and many of my constituents thought that Karl Weidel and I sent it out.

I am told that many districts were also saturated with this piece of literature. In my opinion it was simplistic, and some of its arguments were distorted. I was taken by that because it arrived in my district just a couple of days after a spokesman from your sister organization, The Chamber of Commerce, claimed that if we had initiative and referendum there would be an enormous amount of spending, and simplistic, distorted communication to the voters.

Do you know how much that campaign cost?

MR. WOODFORD: I have no idea. I was not involved in that.

ASSEMBLYMAN ZIMMER: Are you familiar with what happened?

MR. WOODFORD: I believe I have seen the piece. It was a glossy, pretty piece. (laughter) I don't have a copy of it. I have seen it in someone else's hand, but I haven't--

ASSEMBLYMAN ZIMMER: Do you know how many districts were saturated with this piece?

MR. WOODFORD: I have no idea who they reached with it, nor even who paid for it, frankly.

ASSEMBLYMAN ZIMMER: How would things be any different if we had initiative and referendum? Would that piece of literature have gone into all 40 districts in the State?

MR. WOODFORD: I don't think things would be substantially different from that kind of printed, glossy piece. However, I do



think, reflecting on the legislative procedures, the hearings, and the other considerations given to that issue by the Legislature, the brochures were not the totality of consideration given to that issue. The Legislature had the opportunity, and they took the opportunity, to hear witnesses on both sides of that issue. They heard those who felt their jobs were threatened. They heard those who felt the measure would substantially decrease the flow of waste to landfills, etc.

So, that kind of glossy literature is not done in a vacuum. I haven't read the piece. It may have been a surface treatment of the issue; I am not sure. But, if it was a surface treatment of the issue, it didn't stand alone as the only kind of information available to the public. There was an opportunity given through public hearings -- and, I know many people took the opportunity to be there -- to present one's viewpoint.

It is leaving this kind of an issue to that kind of media campaign that disturbs us. In the absence of normal proceedings, it does take big bucks to argue that kind of an issue; however, it didn't take big bucks for people to be here today in order to testify before you. This can be repeated in two houses of the Legislature, and, to some extent, one can argue the case with the Governor's staff, if there are problems with legislation.

Our concern is that the design of a law should involve more people; it should give more consideration to more than just the initiating group. Largely, the public is shut out of the process once an initiative is signed and filed. Even when the Legislature has the opportunity to consider the issue, that group has the ultimate veto power on what it intended; therefore, there is very little flexibility to deal with the diverse public groups that are affected.

ASSEMBLYMAN ZIMMER: So, you are here to protect the "little guy" against the "big bucks?" (laughter)

MR. WOODFORD: As a matter of fact, a lot of the people we represent are little guys; and, I am sure they are on both sides of this issue. I am here as an advocate for business. Basing our judgments on the experience of businesses in other states, it has been necessary, when laws could have been refined through the legislative

process, to go out and spend big dollars on media campaigns in order to stop something the business community felt was a serious threat.

ASSEMBLYMAN ZIMMER: You referred to California and Ohio. Of course, they have direct initiative. Are you familiar with the nuclear initiative that was on the ballot in California? It was placed there by popular petition. The Legislature formulated a much more moderate program, which was accepted by the voters through referendum, while they rejected the more radical program of the petitioners. Don't you think that sort of thing could happen in New Jersey, especially when we have built an indirect system into the process?

MR. WOODFORD: There is no question that it will be possible for the legislature to respond to something that will not please the advocates of the initiative. The public can then say, "The Legislature has acted; that is sufficient," and vote against the referendum. That is a possibility.

It may well be that, in its best judgment, the Legislature will not be able to find an approach that will be pleasing to the group supporting the initiative, and the concept of the recommendation will be rejected by the Legislature. Then, there will be no alternative. There are many possibilities, and I am not saying that all merit lies on one side of this issue.

Clearly, one can make a strong case for the ability to circumvent the Legislature, or to light a fire under the Legislature on an issue. We think, on balance, there is more harm done to the deliberative process of representative legislative action through that procedure than can be justified by the pluses. It is a weighing of the pluses and the minuses. We are not claiming there are no pluses; obviously, there are.

ASSEMBLYMAN ZIMMER: And I will concede there are minuses. Thank you.

ASSEMBLYMAN CHARLES: Are there any other questions? Assemblyman Franks?

ASSEMBLYMAN FRANKS: Apparently, in an effort to indicate that initiative campaigns, particularly in California, tend to lack focus and substance, you drew on someone else's testimony by

characterizing California's initiative campaigns as, "Reliance on sloganeering and emotional appeals, on propaganda, and on 60-second television spots." Can you identify for me how that differs from the way in which we select the President of the United States? (laughter)

MR. WOODFORD: It is essentially the same procedure, I am sure. I am not sure that I am satisfied with that being the case, nor am I sure anyone else is either. However, I know of no other way to select, other than through this process.

ASSEMBLYMAN FRANKS: I am concerned that people are holding us to a double standard. We use one standard, which is considered adequate, to choose our public officials, and we use another standard to determine the level an effective initiative and referendum campaign ought to be waged on. I think both of them have their faults. Both of them could benefit from significant improvement.

I think the bottom line in this process is voter education. I do not think we can characterize the campaign on behalf of initiatives as falling short when all too often the same fundamental attributes we would like to see used are often lacking in our contest for public office.

MR. WOODFORD: Unfortunately, insofar as the races for public office are concerned, we haven't developed a satisfactory alternative. I think the basic question here is, are we talking about initiative and referendum as a supplemental procedure, or as an alternative procedure?

In too many instances, it is viewed as an alternative procedure, and it does not do the job as effectively, nor does it provide the opportunity for input or refinement that the existing representative process does. I wouldn't question for one minute that we need better ways to set forth the issues, and argue the issues, in political campaigns, but we just don't have that alternative. Here, we have a working system which has been significantly improved over the last two decades.

ASSEMBLYMAN FRANKS: Let me focus on you word "alternative." On page four, in your last paragraph, you indicate, "Certainly there are ways," and you enumerate a number of characteristics which have, unfortunately, been part and parcel of legislative action. You say:

"Certainly there are ways to...ensure that important legislation receives a committee review and is not moved without...opportunity for public comment, and to promote better citizen understanding of the process."

Certainly, there are ways; all logic does not reside at this table, nor does all wisdom. I have worked hard for six years to at least try to move important pieces of legislation through the committee hearing process. I have failed time and time again.

You indicate that certainly there are ways to ensure that important legislation receives committee review. Can you elucidate on that comment?

MR. WOODFORD: What we are saying is, there are ways of ensuring that before anything is acted on by the Legislature, it receives such a review. This is not a promise that all significant proposals will be reviewed, although there are states that have adopted procedures -- Connecticut being one -- saying that every bill introduced shall receive a committee hearing.

Obviously, the process here has not stalled; we have been undergoing many different reforms and changes in the legislative process. I don't think we are at the end of that. We would be supportive of changes that produce a more adequate hearing on legislation before it is moved through the legislative process.

ASSEMBLYMAN FRANKS: I just want to say that I like your testimony probably better than you do. (laughter) Certainly, there are ways to ensure that important legislation receives committee review. I couldn't agree with you more. Thank you, Mr. Chairman.

ASSEMBLYMAN CHARLES: Thank you, Mr. Woodford.

John Tomicki? (not present) Tony Pizzutillo? (not present)  
William Cleary?

**WILLIAM CLEARY:** Thank you, Mr. Chairman. My name is Bill Cleary, and I am State Director for the New Jersey Chapter of the National Federation of Independent Businesses. We represent 9,000 small business owners here in New Jersey. In this rare instance, you are going to hear from "the other business community." There is big business, but there is also the far larger small business community.



We are the community who employs 82% of the work force, and who virtually creates most of the new jobs here in New Jersey. We support initiative and referendum.

We agree, for the most part, that the system is working; however, we do not think that anyone who argues the merits of its working or not working really precludes including initiative and referendum as an alternate, or as a supplemental source of governmental interaction to hear views.

Initiative and referendum, much like Assemblyman Zimmer's Regulatory Flexibility Act and Assemblyman Franks' Regulatory Efficiency Commission, is a way through which small business will have an an opportunity to interact with government.

For the most part, the system works. The first speaker seemed to argue about the "evil lobbyists." I guess he didn't realize that he is one himself. Lobbyists work very closely with the Legislature and with legislators. We enjoy a good working relationship because we provide a great deal of knowledge and information which would otherwise not be available, given the vast majority of issues you work on.

I think initiative and referendum can only supplement the current process; and, for that reason, small business very strongly supports the concept, and will work very closely with the Legislature to see that it is enacted. Thank you.

ASSEMBLYMAN CHARLES: Thank you, Mr. Cleary.

Charles Lehman?

**CHARLES A. LEHMAN:** Number one, I would like to congratulate the Committee. If flattery will get you somewhere, I am seeking it.

I thought the people in attendance at the hearing held on the 17th were attentive. I didn't see anyone get up to leave the room to go to the "potty," nor to satisfy any other physiological need, and I was impressed.

I hope you did not really feel Sam Perelli was correct when he said, "My plea is falling on deaf ears."

I would like to think that our legislators are not strictly political beings. Maybe they are making an attempt at being statesmen

instead of politicians. I think the author of one of these bills is moving in that direction. I am proud to play a part by supporting some of his legislation.

I listened attentively to the June 16th television discussion between Assemblyman Alan Karcher and Assemblyman Zimmer on initiative and referendum. I was impressed by the manner in which Assemblyman Zimmer conducted himself. How many of us would sit beside our bosses -- bosses in the sense that he can control the legislation that goes on the board -- and argue, debate, or discuss with him the virtues of his bill as opposed to the virtues of his so-called political boss/adversary? That is a degree of statesmanship I think every legislator ought to attempt to secure.

Assemblyman Karcher said something to the effect that there wasn't a major issue the Legislature had not attacked in the past 10 years, and Assemblyman Zimmer said, "They haven't taken on initiative and referendum."

After those preliminary remarks, I will confine my remarks to my prepared statement.

My name is Charles Lehman, a past president of the New Jersey Coordinating Council of Organized Older Citizens, and I am testifying on behalf of said organization. What we attempt to do is to coordinate the efforts of senior citizen groups on a statewide basis. We have representation from Bergen County, which is one of the largest populated counties in the State, and we have representation from Ocean County and Cape May County, two of the largest senior citizen group counties in the State of New Jersey. We discuss, debate, and pursue legislation.

This Council has supported proposed legislation dealing with initiative and referendum over the past several years, and it has testified at public hearings regarding this legislation.

In 1980, we testified in support of bill ACR-38, introduced at that time by Assemblyman Walter Kern. Again, in 1983, we testified in support of SCR-53, and we were pleased when that bill was released from committee and passed in the Senate. I think the vote was 33 to 4. However, it was never acted upon in the Assembly. Consequently, we have no referendum.

Here we are in 1985 and we are very desirous of having a referendum, and the solicitation of the voters of New Jersey as to their "yes" or "no" vote on this basic democratic privilege. I just wonder what is wrong with asking voters' opinions? I can't see the great objection some members of the Legislature have to that position.

We are submitting, along with this testimony, a newspaper article, taken from The Philadelphia Inquirer, Monday, June 13, 1983, which deplored the power of the chairmen on the various committees in the Assembly and the Senate. The control exercised by these chairmen, the Speaker of the Assembly, and the President of the Senate hardly fits the concept of democracy and the governmental principle of "government of the people, by the people, and for the people."

It is interesting to note that one of the smallest countries in the world, made up of Germans, French, and Italians, speaking three different languages and a fourth dialect, practicing significant religious diversities rather successfully, is a form of democracy which solicits the vote of the people to enact legislation. Yes, and this form of democracy has successfully avoided two major world wars in the last 70 years. Initiative and referendum, as a means of government, originated in Switzerland.

Secretary of State Burgio referred to her experience in the State of Vermont. I might say I had a similar experience with a superintendent of schools in the State of Vermont, who talked to me about how they worked the system there. He was very pleased with it. He could state the needs of the school system and exercise some influence on the local governing body.

In my preliminary remarks, I mentioned Assemblyman Zimmer's challenge to Assemblyman Karcher. We are submitting an editorial that appeared in The Burlington County Times, dated Sunday, June 2, 1985, condemning the automobile insurance problem in the State of New Jersey. We shall leave the details of the editorial to the Committee for further reading, but let's quote a significant part of that editorial: "In 1973, the State Legislature passed a law that didn't work. Under the gun of public outrage, it has amended the law several times, but the 'reform' only made things worse."

"The Legislature, pressured by its powerful accomplices, the insurance industry and lawyer's lobbies, is the culprit. New Jersey's no-fault is the kind of scandal that makes an initiative and referendum look very good. Under I&R the people can propose legislation and the Legislature must consider it. If lawmakers fail to repeal the no-fault law in this session, it is time to put the matter into citizens' hands."

We are of the opinion that the last time automobile insurance was considered by the Legislature, it became a political football; it was not a sincere effort to resolve a complex problem. Yes, the Legislature faced the issue, but it did little to resolve it.

The time has come for a sincere, nonpolitical attempt to enable the voters of the State of New Jersey to play a more active role in the enactment of legislation, and to reform governmental procedures that are contrary to the needs of the governed.

The Coordinating Council, being a nonpartisan organization, is looking to the day when political affiliation is a thing of the past and statesmanship is the call for those elected to positions of legislative importance.

Accompanying this testimony, we have included a map of the State of New Jersey and the results of voting that took place in nine counties, relative to the initiative and referendum popular vote. The initiative and referendum issue was placed on the ballot in nine counties, in a non-binding referendum, to determine the opinion of the voters. The total vote was 416,200, of which 247,737 voted for I&R and 168,463 voted against it. Roughly 60% were in favor, and 40% were against initiative and referendum.

Two other counties' Boards of Freeholders passed resolutions in favor of I&R in the State. It seems unbelievable that the State Legislature avoids an issue which appeared to be desirable to 60% of the voters in a statistically significant sampling. I don't think the Gallup poll, or any of the other national polls, takes that kind of sampling when reaching a conclusion. It is highly, statistically significant.



There does appear to be a significant correlation between organizations which have political action committees and their opposition to initiative and referendum. Here again, we see the influence of campaign funds and political favors, contrary to the concept of statesmanship, or actions taken for the best welfare of the people of our great State.

The New Jersey Coordinating Council of Older Citizens, Inc. is a nonpartisan organization with no P.A.C. funds; however, we will continue to work for issues that are in the best interest of our State's citizens.

The Coordinating Council is appreciative of the opportunity to offer opinions to the Committee at this public hearing. We are in favor of ACR-1 and A-1. We feel the other ACR is an insult to the intelligence of the voters, in spite of Dennis Giordano's comment that voters of the State of New Jersey are not well-educated. If that isn't the fault of the education community, then whose fault is it?

Again, I wish to comment on the fact that this is the most impressionable hearing I have ever attended. I thought Susan Thomas did a fantastic job, with no bias; she merely stated the criteria of a good initiative and pointed out Assemblyman Zimmer's bill was far superior.

Also, David Schmidt destroyed the myth associated with initiative and referendum. Sam Perelli has my vote any day. Thank you very much for this opportunity.

ASSEMBLYMAN CHARLES: Thank you, Mr. Lehman.

James Grogan? (not present) Commissioner Horn?

**JOHN HORN:** Mr. Chairman, Mr. Grogan was detained at a meeting in North Jersey today, and he has asked me, as his legislative representative, to read this letter regarding his position relative to initiative and referendum. I will now read the letter, prepared by Mr. Grogan:

"Good morning, Assemblyman Charles and members of the Committee. My name is James A. Grogan. I am President of the New Jersey State Building Trades Council, AFL-CIO, representing 125,000 members in this State.

"The New Jersey State Building Construction Trades Council

supports the representative system of government. We presently have, and believe that one-man, one-vote allows each and every voter in New Jersey ample opportunity for expression through the legislative system as it exists today.

"The existing system has proven itself to the citizens of New Jersey. We have confidence in a form of government that allows freedom of expression and provides opportunity to change or introduce legislation that protects the interest of all people, and fits the times.

"Every arm of the media occupies in-house State-House residency. All meetings and hearings are covered and reported upon by the media. The public is better informed today than ever before. If the need arises, the voters themselves will sound the alarm loud and clear to make their wishes known.

"The Constitution provides the Legislature with the power to handle all legislative matters, and because it has worked well for us," and I might say that time is against us, "we hesitate to consider alternatives to a proven system.

"Educating the citizenry on initiative and referendum so that they can evaluate fairly and honestly in order to make astute judgments, will result in an unnecessary costly effort in time and money.

"We believe the citizens of New Jersey can be best served by the present process that now exists. We encourage the Committee to adjudicate against any change in the legislative process at this time."

Thank you.

ASSEMBLYMAN CHARLES: Thank you, Mr. Horn.

Jon Spinnanger?

**JON SPINNANGER:** Good morning, Mr. Chairman and members of the Committee, my name is Jon Spinnanger, President of the New Jersey Society for Environmental, Economic Development -- SEED. I appreciate the opportunity to share with you our views on the proposals to establish initiative and referendum in our State.

New Jersey SEED, a coalition of business and labor groups working for balanced environmental and economic concerns, is strongly

opposed to the establishment of initiative and referendum in our State. While these proposals are offered as populist reforms, we believe they will, instead, become an opportunity for legislative mischief and a mechanism for circumventing rational government.

Amending the New Jersey Constitution to provide for initiative and referendum would, in our view, undermine the process of representative government in our State.

Careful deliberation by the Legislature on the most difficult issues we face would, in effect, be replaced on election day by popularity contests.

Mr. Chairman, when the present State Constitution was drafted in convention 37 years ago, the subject of initiative and referendum was debated and rejected. It was determined that the Legislature should continue to be the main initiating body for constitutional change, not the voting booth.

New Jersey SEED maintains that, thanks to our sunshine laws and the high visibility of our representatives, our system is more open to the public today than at any time in history. We are deeply concerned that bypassing this system will result in massive costs to the State, the business and labor community, and the public. Moreover, by eliminating the possibility for political compromise, it will result in a dangerous polarization of viewpoints and opposing parties in our State.

Initiative campaigns on such issues as forced deposit legislation, hazardous waste, and utility rates, where the careful consideration and weighing of issues is reduced to a "yes" or "no" vote is far better left to the legislative process. Multi-million-dollar media campaigns are not what the people of New Jersey need or deserve. What they deserve is the most effective debate, consideration, and resolution of critical issues facing our State that the Legislature can provide.

On behalf of the New Jersey Society for Environmental, Economic Development, I urge you to oppose the concept of initiative and referendum and reject the proposals being heard by the Committee this morning.

Again, thank you for your attention and for the opportunity to present these views.

ASSEMBLYMAN CHARLES: Are there any questions? Mr. Zimmer?

ASSEMBLYMAN ZIMMER: Mr. Spinnanger, has your organization been active in campaigns on public questions that have been put on the ballot by the Legislature?

MR. SPINNANGER: Among our membership, yes.

ASSEMBLYMAN ZIMMER: Do you feel the voters have acted wisely in their judgment of these questions in the last few years?

MR. SPINNANGER: I think they have.

ASSEMBLYMAN ZIMMER: Was a lot of money spent on those campaigns?

MR. SPINNANGER: No, it was strictly through our own internal newsletters. No, we were not--

ASSEMBLYMAN ZIMMER: (interrupting) Are you aware of the fact that many proponents and opponents spent millions of dollars in those campaigns?

MR. SPINNANGER: No, I am not.

ASSEMBLYMAN ZIMMER: That is a process where the public is allowed to choose what it wants to do about some fairly complex and challenging questions when they go to the polls.

MR. SPINNANGER: Yes.

ASSEMBLYMAN ZIMMER: You say it has worked reasonably well?

MR. SPINNANGER: Among our membership, certainly.

ASSEMBLYMAN ZIMMER: But, you oppose expanding the public voice on issues that the public itself could initiate?

MR. SPINNANGER: Yes.

ASSEMBLYMAN ZIMMER: Okay. Thank you.

ASSEMBLYMAN CHARLES: Thank you very much, Mr. Spinnanger.

Mr. John Scott? (not present) Mr. Frank Haines?

**FRANK HAINES:** Good morning, Mr. Chairman and members of the Committee. I am Frank Haines, Executive Director of the New Jersey Taxpayers Association. NJTA is a private, nonpartisan governmental research organization, founded in 1930. It is now in its 55th year. We are a member organization, supported by voluntary contributions.



Our members represent most segments of New Jersey business and industry.

I have presented NJTA's views on the subject of initiative and referendum at most of the hearings held by legislative committees over the past seven years. As part of our educational campaign, I have appeared on various radio and television programs. I have even had the pleasure of being on one program with Mr. Zimmer.

From the outset, I want to summarize NJTA's basic policy on the subject, which was adopted by the Association following extensive staff review of the history of initiative and referendum, including Proposition 13 in California and Proposition 2-1/2 in Massachusetts.

NJTA's position is that, "Amendments of the New Jersey Constitution to authorize use of unlimited initiative for either constitutional amendment or statute, and unlimited referendum for statute, is unsound policy." We have a series of reasons for that decision:

We consider New Jersey's Constitution to be a reasonably short document. It is considered an outstanding example of a basic charter which, among many notable characteristics, provides for a short ballot, a strong Executive, sound financial principles, and an effective judicial system. There have not been excessive amendments, thanks to legislative controls, and New Jersey ballots have seldom been overloaded with referendum questions. Thus far, since 1947, the maximum number of questions in any year has been eight. Those are the items that were voted on by the people and are included in the Constitution: Bond issues, constitutional amendments, and statutes relating to gambling.

The Constitution provides for the orderly process of constitutional amendment from the Legislature to the people. This reflects a well-established, historical precedent, used in 49 states for voters to have a voice in changing the State Charter.

I have been an observer of the legislative process in New Jersey for 34 years. For at least a decade, and probably more, the New Jersey Legislature has been striving to achieve recognition as an equal branch of government. Larger professional staff, improved committee

procedures, and oversight measures are just a few of the actions taken to make the Legislative branch more effective.

Enactment of unlimited, indirect initiative and referendum can undercut many of those efforts, especially if there are no limits placed on the subjects that can be petitioned. Initiative and referendum can nullify concerted efforts to establish a well-planned continuity in policy, particularly in fiscal affairs. Adoption of initiative and referendum will make it too easy for the Legislature to avoid critical decisions by leaving them to the voters.

Importantly in this regard, the republican form of government and the concept of legislative apportionment both assume that a duly-elected Legislature represents the interests of the State's entire populace, and not just those of the voting populace. Under unlimited initiative and referendum, decisions which the Legislature may be encouraged to avoid because of the existence of such provisions may then be made by a majority of a minority -- those who can vote and do. This usurps the constitutional roles and responsibilities of the Legislature and the general public alike.

One of the major arguments used by advocates of initiative and referendum is that direct legislation fosters more effective citizen participation, or it more adequately expresses public sentiment than does the conventional device of representative democracy, such as candidate elections.

David Magleby, in his Book, Direct Legislation, Chapter 6, has analyzed a significant number of referenda and concluded that the evidence disputes the claim.

In fact, statistics do not consistently show greater voter increase when initiative and referendum are available. The fall-off is considerable, especially when the ballot is not tied to a presidential or major statewide campaign. Fall-off also increases as ballot issues become more complex. Thus, the Legislature's refusal to deal with a problem because initiative and referendum are more politically expedient, or citizen refusal to exercise the ballot responsibility even when initiative and referendum are available, could result in critical decisions being delayed.

It is a misconception that initiative and referendum are unlimited, fundamental, inherent rights of citizens in every state and local government unit. The constitutional right to petition for redress of grievances refers to communication with elected representatives. We challenge proponents to provide evidence that early constitutional draftsmen considered such a right as meaning initiative and referendum. We find nothing in early constitutional history, nor in subsequent history, which relates the right to petition for grievance to initiative and referendum. It was not even a concept in those early days.

Further, we see no evidence of a public ground swell in support of these powers, despite the fact that in several counties there was an advisory referendum some years ago. Two Eagleton polls, held in 1979 and 1984, bear out some of this evidence.

Experience in other states demonstrates that the use of initiative, particularly for a highly controversial subject, will often affect the business community. The ensuing campaigns frequently involve the raising and expenditure of millions of dollars by both proponents and opponents. It is this significant and often excessive cost that we would like to see avoided.

Use of initiative tends to reduce complex problems to simple slogans, thus eliminating deliberation, compromise, and attention to detail which is possible under the legislative process. Recently, testimony given in Connecticut on this subject dubbed legislation by initiative as being "legislation by bumper sticker."

We would submit that initiative and referendum is an extremely complex subject, and that proponents tend to oversimplify the powers. Those powers are reserve powers, delegated to them by the Legislature and by the people through the constitutional amendment process.

Proponents begin by stating that 23 states already have initiative and referendum. They should add, "in some form." They fail to point out that initiative may apply to law, to constitutional amendment, or to both. Accordingly, when the record on initiative is analyzed, it shows:

Twenty-three states have initiative for either constitutional amendment or law.

Twenty-one of these states authorize the use of initiative for law.

Seventeen states authorize the use of initiative for constitutional amendments, but only 15 of the 23 authorize initiative for both constitutional amendment and law. According to our calculation, only 30% of the states have it for both.

Two states authorize initiative for constitutional amendment, and the other six states authorize initiative only for law.

Again, we fear the voters are being misled into believing that I&R is a popular innovation of the post-war period. Voters should understand some of the major historical facts about state adoption of initiative and referendum:

In 19 of the state constitutions which provide for initiative involving either constitution or statute, all date from the progressive era near the turn of the 20th Century, prior to 1920; and, 15 of those 19 states are west of the Mississippi River.

Only four states have adopted some form of initiative since 1920: Alaska in 1959, Wyoming in 1968, Illinois in 1970, and Florida in 1972. None of those four states use initiative for both constitutional amendment and law, as it being proposed in New Jersey.

Alaska and Wyoming have provided initiative only for law, while Illinois and Florida have initiative only for constitutional amendment.

Furthermore, in three states of the post-war adoption, the initiative power is limited:

Alaska prohibits use of initiative for dedicating revenue, making or repealing appropriations, creating courts and defining their jurisdictions or prescribing their rules, or enactment of local or special legislation. Use of referendum cannot apply to the dedication of revenues for appropriations to local or special legislation, nor to laws necessary to preserve the public peace, health, or safety in Alaska.

The Wyoming limitations on use of initiative and referendum apply to the same subjects; in fact, they are almost identical to those of Alaska.

In Illinois, initiative applies only to the legislative article.

In essence, what we are saying here is that there is no great movement among the states to adopt initiative and referendum; it is a period of almost ancient history in this country, and its extensive use is only in those states which have had it for a long time. We acknowledge that that use is increasing significantly.

The subject of limitations is another aspect of I&R under consideration today, since it is reflected in one of the proposed constitutional amendments.

New Jersey voters should understand that not all state constitutions authorize initiative and referendum as unlimited powers.

Ten states have limits on varied subjects under constitutional initiative, while limitations on referendum are generally more numerous and found in some form in 20 states. These limitations are so numerous and varied as to make difficult a simple analytical presentation. Our staff has a very complex chart, which is still in draft form. It compares the language of the various state constitutions, and it is extremely complex and varied.

The wide use of limitations brings us to the conclusion that NJTA considers adoption of unlimited referendum in New Jersey as a step backward. However, if legislation is prepared to let the people decide on whether to take that step, NJTA considers the experiment would be less disastrous with limitations, such as those included in Assemblyman Karcher's amendment.

Present day advocates of initiative and referendum point out that in the states which do not have reserved powers in their constitutions, legislation has been introduced. The lady from Colorado left you information which reports all of the states that have had legislation introduced over the past years. There is hardly a state in the country, which does not have I&R, where it has not been introduced at some point in time.

Proponents should indicate that in the past decade only a few state legislatures -- and only in a few states -- have the question of an initiative and/or referendum even gotten as far as the floor of one house, to say nothing of passage for submission to the voters. It passed by one houses on several occasions in New Jersey. That would be one such example of positive action, if measured that way.

Another would be the recent defeat in the Connecticut House of Representatives of a Republican-sponsored constitutional amendment for indirect initiative. It was defeated by a vote of 65 to 85. There followed a subsequent defeat of a senate proposed constitutional amendment for referendum.

The only recent example we have been able to find of an I&R amendment going to the voters was in Minnesota, in November of 1980. The voters rejected an I&R constitutional amendment for statute only. Not only did the amendment prohibit I&R for a constitutional amendment, but it also prohibited its use for appropriation or special laws.

We think there are a couple of essential questions which relate to the legislation under consideration today. I think Assemblyman Baer in his testimony alluded to this the other day.

Should there be a limit placed on the total number of State questions that can be placed on the ballot? Since general obligation bond issues, constitutional amendments, and questions relating to gambling, all passed by the Legislature, must be placed on November election ballots, the question is: "What is the capacity of voting machines in terms of the total number of State and local questions presently in use in New Jersey's counties?" If there are practical limitations, and NJTA believes there are-- In other words, the question is whether the machines are limited in their ability to take a fixed number of questions. Let's say there are eight of 10. It may be necessary to consider some sort of a limit, unless you are prepared to require extensive changes in voting equipment or procedures in New Jersey.

Only people from the counties -- and, I understand there are two different types of voting machines -- can answer this question. I understand that where there is punch-card voting there is no problem;



one can submit an unlimited number of questions to the voters. So, in this respect, we call attention to Assemblyman Zimmer's bill, Assembly Bill Number 2, which would require distribution of informational materials on public questions. Such a document might be highly desirable even today -- not even tied in with the future of referendum -- to explain referendum questions and present opposing views thereon. As a matter of fact, we have endorsed legislation that would require additional information be provided on descriptive statements as they relate to bond issues.

Several states have such an information document. I want to point out something, and some of you may have already seen it. This is a 1984 issue of the California General Election. It has 110 pages. It is rather extensive. It covered six state bond issues, four constitutional amendments, submitted by the Legislature, and seven initiated questions. One is a constitutional amendment, three are statutes, and two are initiated constitutional amendments and statutes combined. Now I question if we are ready for this, and I mean that in terms of the election machinery.

First, if we are, then I think the explanatory statement required on the ballot would have to be removed and something like this would have to be substituted; or, we might have to put limitations on questions, and that becomes a very controversial issue. I think this should be very carefully investigated by people who know the capacity of voting machines in order to see whether this would be physically possible, and in what way it would be possible. It has to be given a reasonable number of initiatives, granting that the limitations on signatures would probably provide for a limited number of questions. I think this is important to look at.

Another question which may be significant if these bill are going to be released is: Is it the sponsor's intention to place a limitation on legislative or public action regarding laws or amendments, initiated and approved by the voters? If this goes on the ballot and it is approved, is it your intention to have subsequent change limited or not?

Again, I do not find any limitations on proposed amendments for change once they have been adopted. Some states have such limits. It appears that a majority of the states does not limit the changes. So, the question is: Should changes made as a result of a referendum be subsequently limited to change by the same method, or should the Legislature have the authority to act to amend or repeal at its discretion -- particularly when it involves statutes?

A constitutional amendment, submitted by the Legislature, carries a three-year limitation on the same subject in the present Constitution.

So, in essence what I am saying is, under the proposal, anything -- at least by statute -- might be, at best, very temporary, and this is at least a major item that should be considered.

In conclusion, NJTA sees little constructive improvement in New Jersey State government to be gained at this time from the adoption of unlimited State initiative and referendum for both constitutional amendment and statute.

Mr. Chairman, thank you for being so patient with my rather lengthy statement.

Probably the most comprehensive study that has been written in recent years has just been published: Direct Legislation, written by David Magelby. I am sure that some of you have seen this book. I won't go through some of Mr. Magelby's major conclusions, which are in his last chapter. He has done an analysis of voting questions as a result of initiative and referendum, initiated both by a legislature and by the public. This has probably never been so comprehensively covered before.

Some of his points ought to be read into the record. I would like to read just a couple of these points, if I may. These are quotes from his book:

"It would be hard to argue that better laws have been enacted by initiative because so few have been enacted, and because a higher percentage have been overturned. Voter drop-off and confusion call into question the rationality of the process, especially given the tendency of initiative campaigns to over-dramatize and over-simplify.

"Direct legislation and direct democracy have had the effect of weakening the parties, but not the special interests. Under citizen participation, direct legislation is a difficult process for most voters to understand. Citizens do not sponsor initiatives; groups do. The assertion that more citizens will vote if offered the initiative is in error. Typically, turnout is not increased by direct legislation, and alienated non-participants are not moved to the polls by I&R."

"Direct legislation is structured in such a way as to discourage participation by less alienated and poorer voters who lack the knowledge and personal efficiency to survive the complicated ballot, the voters handwork -- where they have it -- and the excessive number of voting decisions.

He states that in those states where he has seen this handwork -- and I am quoting: "The voters' handbook is so complicated and technical that it can inform only a few voters."

"The process is neither more democratic nor more representative than the candidate electoral process. Most voters have inadequate knowledge to make their voting choice on ballot propositions. The absence of straightforward, understandable, rational argumentation in initiative campaigns, combined with what he has discussed with relation to voter decision-making" -- which he has gone into in great length, through study, in these situations -- "raises serious questions about the integrity of the direct legislative process."

"Participants in ballot propositions are neither representative nor very committed to their vote," and he recognizes that state legislatures are more professional and better organized today, more than they were when this initiative and referendum effort was at its peak.

"While direct legislation does not remove special interest groups from active participation in legislative politics, it, along with other forms of direct democracy, has made the political party a far less potent force in state politics."

These are all quotes from his conclusions in the book. Despite some of the arguments presented by earlier speakers, I would

submit that this gentleman has probably become one of the foremost experts on the subject in this country today.

Again, Mr. Chairman, thank you. I, of course, will be willing to respond to any questions you gentlemen may have.

ASSEMBLYMAN CHARLES: Thank you, Mr. Haines. Are there any questions? Mr. Zimmer?

ASSEMBLYMAN ZIMMER: I want to commend you, Mr. Haines, for the careful way your organization has looked at the issues across the board, and the services you have given to the State over the years on some very technical issues some of us would otherwise not have paid attention to.

On this matter, I have a few basic disagreements with you, as you may well imagine. One of the points I do not quite understand is when you say that nothing in the original Constitution of the United States guarantees the right of initiative and referendum. I don't know that any of us claimed it did; however, it is my belief -- and I would like to know whether it is yours also -- that the Constitution is an expanding document. The original Constitution permitted slavery; it did not permit women's suffrage; and, it did not provide for the direct election of United States Senators.

Is it not part of the movement that led to these reforms which also brought about initiative and referendum in the states where it exists today?

MR. HAINES: Yes, but, as I said, my point was that-- I didn't say "you," but many of the proponents are interpreting this as being a fundamental right, guaranteed by the Constitution.

ASSEMBLYMAN ZIMMER: If it was, then we wouldn't have to have this hearing.

MR. HAINES: All right. We find nothing in any of the writings of anyone who, let's say, did basic studies of constitutional writings, which supports this point. That is all I am saying. I am saying there is a tendency to say that this is a fundamental right, and I find nothing in the writings, through my studies -- and I do not claim that they are all-encompassing; I have a lot of other things to read -- which support this concept.

Yes, the Constitution is a changing document, and a lot of things are changed through the amendment process. However, I would also like to point out that the amendment process to the United States Constitution process has been extremely limited, and it has rarely been utilized. You know that.

ASSEMBLYMAN ZIMMER: You mentioned the Eagleton poll. Do you recall the exact results of the latest Eagleton poll on initiative and referendum?

MR. HAINES: No, I don't, sir, but I will submit a copy for the record, if you think it should be included.

ASSEMBLYMAN ZIMMER: Well, I would like to include it in the record because I read the results--

MR. HAINES: (interrupting) I would point out that in Chapter 1, Mr. Magelby referred to New Jersey as one of the states where, let's say, almost a bare majority seemed in favor of I & R, "When questioned as to the complexities and the details of understanding, indicated a rather vague understanding of a lot of the subject."

ASSEMBLYMAN ZIMMER: I think it may be helpful if we put this into the record.

MR. HAINES: That is your prerogative, sir.

ASSEMBLYMAN ZIMMER: In the 1984 poll, to my dismay, but not to my surprise, 57% of the public did not know about initiative and referendum. Fifty seven percent were in the "don't know" category. But, of those who had an opinion, 38% thought it was a good idea, and 4% thought it was a bad idea.

So, of those who had an opinion, over 90% thought it was a good idea. I don't know of any question or controversy in this State where those expressing an opinion were so overwhelmingly on one side of an issue. This is up a little bit from 1979 -- the proportion of those who have an opinion.

You were correct when you said that there were those who, when the probing questions were asked, disagreed as to the utility of initiative and referendum in all instances.

MR. HAINES: My statement was "overwhelming."

ASSEMBLYMAN ZIMMER: Overwhelming what? Disagreement?

MR. HAINES: We saw no overwhelming public support or understanding of this subject.

ASSEMBLYMAN ZIMMER: Here is a question. They asked the public whether initiative and referendum would allow the public to decide issues when public officials are hesitant to act for fear of offending certain groups -- "agree, 78%; disagree, 15%."

MR. HAINES: Yes. That was a very "directed" question.

ASSEMBLYMAN ZIMMER: Sure. Then, of course, putting in another aspect in order to give balance to this: "The job of making laws should be left to elected representatives. If people don't like what they do, they can vote them out of office." The people agreed with that proposition, as do I, and as to the proponents of ACR-1, but they feel that when the representative system fails, initiative and referendum is helpful.

So, Mr. Chairman, if we can, I would like this put into the record.

You endorsed what you suggested: If we must pass initiative and referendum, we should adopt the limits proposed by Alan Karcher. Can you explain for me why we should limit it in areas of legislative and congressional redistricting?

MR. HAINES: The record shows that the states, in recent years, have not seen fit to go all the way. Certainly, if it is an experiment, we prefer that it be a limited experiment and that those things not be included. Also, because of the complexity and the reasons I stated regarding the difficulties it can cause with a uniform fiscal policy, it often leads to expensive campaigns to defeat questions, which is not sound nor acceptable to the State.

ASSEMBLYMAN ZIMMER: The specific question I asked you was with respect to legislative and congressional reapportionment.

MR. HAINES: Oh, we talked about that one before, didn't we?

ASSEMBLYMAN ZIMMER: As far as Congressional redistricting goes, as you know, this State Legislature has not enacted a constitutional, congressional redistricting plan since 1970. The courts had to step in during the '70s and again in the '80s. To me, this is one area that is ripe for reform, and it is one the Legislature



will not reform because it is a legislative prerogative that we members of the legislature are reluctant to give up.

Do you endorse that limitation?

MR. HAINES: Absolutely. Looking at some of the complexity of questions raised in other areas, and looking at the length of a statute for Congressional reapportionment, it is inconceivable to me that you can get a reasonable petition -- I assume it would be a statute; hopefully it would not be a constitutional amendment -- drafted so people could understand it. Even in getting it on the machine, it would be hard to get people to understand it and react favorably to it.

In other words, I am saying that the length and complexity of the question, under our present machine system would be, to me, almost an impossibility.

ASSEMBLYMAN ZIMMER: You feel the public could not improve on the job the Legislature has done in Congressional redistricting?

MR. HAINES: I am not saying that. (laughter) One of the arguments is that the public has the ability to draft things like this. What I said before is that it is not an individual; it is a group, so it depends upon the special interest group who is going to draft that legislation and try to educate the public about it.

I think we have a good example of that. Look at the California experience of last year. They had an apportionment question. It was rejected. Now they are trying again.

Frankly, I just feel that this is a subject which is not within its proper domain; it should be reserved to the Legislature to decide.

If we had a national referendum, how do you think we could ever get something like this understood? Granted, we don't have this, but I think the complexity-- Not only that, the courts have been the arbitrators. As a result of, shall we say the failure of the Legislature, or the indecision and vagueness, the Federal courts have been the arbitrators of apportionment in this State, as they probably will be in any initiative and referendum controversy. This is a whole subject by itself.

Accordingly, I see a tremendous amount of wasted effort if you attempt to use this subject for initiative.

ASSEMBLYMAN ZIMMER: Just briefly, there is another area Alan Karcher would like to close to initiative and referendum, and that is the election law. I don't know whether your organization has taken any interest in the effort to reform our election laws or not, but I am sure that as an observer of the process, you no doubt know that for a generation or more, efforts have been made to reform election laws.

MR. HAINES: We participated in some of those efforts in order to try to bring about reform of the election law. That is one where we would probably would take exception. To my recollection, there is no widespread use of limitations on election laws.

Probably the most widespread use is the one Mr. Baer mentioned. This should be made clear. People cannot use initiative and referendum for any subject the Legislature does not have the power to use it for now.

However, I don't see that as a subject which is widespread in its use in the states. I think that probably in that case we might make an exception for the inclusion of that.

ASSEMBLYMAN ZIMMER: Moving to another subject. You showed a pamphlet. Does that pamphlet also have candidate information?

MR. HAINES: No, it does not. This has questions only.

I forgot to show you something. This is a foreign language edition also. This one involves the county; it has county and local questions in it. This is the foreign language version which is put out on the local level. It has the State questions in foreign language, and it also has local questions, which do not include the foreign language. But, that is a local edition.

ASSEMBLYMAN ZIMMER: The reason I am curious about that is because I got a voter pamphlet which was put out in the State of Washington. It was something I looked at when I was preparing my bill, A-2. It is only 23 pages. It is very clear. It has the entire text of all the questions, and some very very comprehensible pro and con arguments. This is what I have in mind.

MR. HAINES: I would not argue against that principle, Mr. Zimmer. I think the concept is excellent.

ASSEMBLYMAN ZIMMER: Maybe we can work together on A-2.

MR. HAINES: I wish we were discussing A-2 also. The problem is as I said: An unlimited subject. The machines can handle it, because they don't put explanatory statements on the machine. But, California provides for interpretation of both sides, and then additional argument and rebuttal by additional parties. In effect, you are getting a very brief debate on each question.

I do not criticize this. It is expensive. One goes to a voting residence. But, if it contains unlimited questions and if you reproduce the nullification of a very complex statute, such as a reapportionment statute, as a great deal of this is, -- a large part of it involves the reapportionment question -- then it is going to become extremely bulky. It is more than one night's reading for anyone, I am sure.

ASSEMBLYMAN ZIMMER: Just one final observation. I read the Magelby book also. I found it to be very interesting. I think that we with all respect to you, Mr. Haines, you are selectively quoting some of the conclusions. I didn't bring my copy along, but there are some conclusions in there that I would like to quote in order to show everyone that initiative and referendum isn't as dangerous as opponents claim it is. Big money cannot buy a "yes" vote.

Although there is some question as to whether or not voter turnout is increased, voter participation in initiative and referendum questions that originate with the public is higher than those which originate with the Legislature. Voter participation in initiative and referendum questions is at least as high as for state legislative races.

MR. HAINES: In certain cases, yes, that's right. He has looked at the overall question. He has done a very comprehensive summary. I think the key thing is, the record will show that most initiatives for statute don't fly.

ASSEMBLYMAN ZIMMER: That's right.

ASSEMBLYMAN CHARLES: Thank you very much, Mr. Haines.

MR. HAINES: Thank you very much, gentlemen.

ASSEMBLYMAN CHARLES: Bernadine Silver? (not present)  
Eugene O'Brien? (not present) Kerry Moody? (not present) Marie  
Curtis?

**MARIE A. CURTIS:** Thank you, Mr. Chairman. With me today is Doris  
Weisberg, our State Government Director. I am Marie Curtis,  
Legislative Vice President of the League of Women Voters of New Jersey.

In 1981, the League adopted initiative and referendum as a  
study. Local Leagues all across the State made a comprehensive survey  
of materials relating to this topic. We learned that the initiative  
and referendum process is used in 23 states, in over 100 cities, and in  
counties throughout this country which are too numerous to mention.

We then contacted the State Leagues in the states that have  
initiative and referendum, and received comprehensive replies from 16  
of the 23 states. All 16 favored the concept generally, and felt that  
their experience with it was a positive one. Some reservations were  
expressed, but only with regard to safeguards, such as the number of  
signatures required, prohibition of paid signature solicitors,  
geographical spread, etc. Such technical protections are already  
incorporated in ACR-1 and Assembly Bills 1 and 2.

I might add that I brought our Subcommittee report from those  
16 State Leagues that did respond with me today. This is a little bit  
aside from the written testimony, but there are some interesting points  
in here, including the fact that Oklahoma has found that legislative  
questions outnumber public initiatives regularly on their ballot. In  
Ohio -- one of the two direct states mentioned earlier today -- they  
had as many as seven or eight questions on the ballot 10 years ago;  
however, recently public questions have been limited to only one or  
two. So, I think there is some interesting information in here.

The League in New Jersey came to a consensus on this question  
in August, 1982, with a strong position in support of indirect -- not  
direct -- initiative. Indirect initiative complements 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 -- in this bill six months -- 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 '80s is toward some form of initiative and referendum. We have had response along these lines from Leagues all across the State of New Jersey. We in the 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 additional 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. Thank you.

ASSEMBLYMAN CHARLES: Thank you very much Ms. Curtis. Are there any questions?

ASSEMBLYMAN ZIMMER: Did you ask the Leagues in the states that have initiative and referendum whether they thought it was a good or a bad process?

MS. CURTIS: That was the essence of the request, yes. We asked for information and--

ASSEMBLYMAN ZIMMER: (interrupting) What was the vote?

MS. CURTIS: I think the vote is indicated right in here. It was overwhelmingly in favor of it. I don't think there was a single League response in those 16 states which said they did not favor it in general. As I said, there were some who said they would prefer certain limitations. For instance, let's say in California they would prefer to prohibit or put some kind of a cap on expenditures for campaigns and the allowance of paid solicitation for signatures on petitions, etc.

However, that would not be allowed here in New Jersey. We feel the stringent regulations built into your package on this measure answers the needs of the states that had some technical questions. They were only technical and procedural questions; they were not on the essence of the matter. That was given a unanimous yes.

Incidentally, if anyone wishes to have this, the material is available to you through the League office for your perusal. Thank you.

ASSEMBLYMAN CHARLES: Thank you.

Joseph Shanahan?

**JOSEPH F. SHANAHAN:** Thank you. This is in support of A-1 and ACR-1. Mr. Chairman, I am Joseph F. Shanahan of Lambertville. I represent the Hunterdon County Citizens' and Taxpayers' Association, a nonpartisan group of working taxpayers, whose major objective is to assist in promoting efficiency and economy in government at every level.

For many years this organization has been calling for the constitutional reform of the initiative and referendum for the State, and has been involved in making statements and presenting signed petitions on behalf of the idea of initiative, to amend the State Constitution, in order to give reality to that part of the State Constitution which states that, "All political power is inherent in the people."

I might take time to go from my prepared text to take issue with Mr. Haines who said before that none of the proponents had correctly referred to the Constitution when addressing the points for initiative. Apparently, Mr. Haines has not read some of our statements, which were made on several occasions. We have continued to use the State Constitution, which says, "All political power is



inherent in the people." We are not referring to the right of redress in the U.S. Constitution.

Another point that Mr. Haines made regarding apportionment was that it could not be handled. If he was referring to going into the exact details of apportionment, he is right. However, we, as the Hunterdon County Taxpayers Association, have been involved in apportionment also, and we proposed and introduced a completely computed system of apportionment through which no partisan operation would be involved. This was strictly a taxpayer thing.

I see Mr. Haverly is listed on the agenda today. He is the one who proposed this. However, neither side would let us intervene to propose it. It would have been simple to put it on the ballot as a referendum, saying, "Should the redistricting of the Legislature, which is now in the hands of an Apportionment Commission, and the redistricting of the congressional districts, which is in the hands of the Legislature, be moved to a nonpartisan, computer-type organization?" I think that would have been a simple proposal to put on the ballot. The public could then speak, and I am sure everyone in this room today knows which way they would answer that question.

To continue, I would like to say thank you to Senator Dorsey and Assemblyman Zimmer. We, the people, may get a chance to say something about the outrageous tax policy that has been visited upon us by a politically minded Legislature and the "Royal Governor" type of Executive. We may even get a chance to rescind the Atlantic City gambling blunder, which is encouraging scoundrels to come into this State and corrupt our citizens.

Thank you for giving us the opportunity to speak today.

ASSEMBLYMAN CHARLES: Thank you very much, Mr. Shanahan.

Larry Haverly?

**LARRY HAVERLY:** We are a statewide group, with members in all parts of the State. We have Democratic, Republican, and Independent members. As Mr. Shanahan said, we are the working citizens, the ones who are not represented by groups such as the New Jersey Taxpayers' Association, as Mr. Haines is.

Our position is that adding an initiative and referendum provision to the New Jersey State Constitution is a long-overdue voting reform.

Voters should be allowed to propose specific legislation, or constitutional amendments; so that citizens can better participate in the democratic process; so that desirable reforms can be brought directly to decision by sufficient, interested citizens; so that there will be greater interest in voting at election time; and so that confidence in government would be restored. We support initiative and referendum, and we urge the Committee to release ACR-1.

When one looks at the three bills, the Karcher bill versus the Zimmer bills -- there just seems to be no comparison between them, in terms of the thoroughness with which they have been worked out, the amount of hearings that have been held, and the modifications and honing and tuning of the legislation.

We support the Zimmer bills and oppose the Karcher bill.

Initiative, referendum, and recall are fundamental voting rights. Through these means, citizens can have a direct say in the vital issues which affect them. These fundamental voting rights are equaled only by the right to vote for representatives.

Initiative, referendum, and recall are important forms of direct democracy, and 29 of the states already have one or more of these provisions in their state constitutions. These are proven techniques. There has been much evidence submitted which points out the benefit gained from this: the selectivity citizens show when rejecting measures which are not well-conceived, the acceptance of ideas which may be controversial, and measures which legislatures are unwilling to tackle. All of these were well-documented through earlier testimony.

It is really time for New Jersey to modernize its State Constitution to include this initiative and referendum right.

We feel that fundamental voting rights are being denied. The State Constitution already says, "All political powers inherent in the people," but, we in New Jersey are being denied this fundamental voting right. Clearly, no provision has been made for recognizing this, and

until it is written in as a constitutional amendment, citizens will be unable to exercise these voting rights.

Our group is a nonpartisan group, but in all honesty I have to say that in recent years we have been finding it hard to go along with the Democrats on many issues. For some reason the Democratic Party has been blocking this issue. It is no secret that a few powerful Democrats are holding this back. We are surprised that many of the individual Democrats have gone along with this because at one time the Democrats prided themselves with being representative of the people and not of the special interests. However, that is not the way it looks to us anymore; we really find it kind of abhorrent that there has been so much opposition, delaying tactics, all sorts of methods to kill this, substitute foolish measures -- such as the Karcher bill -- diversions, and all sorts of things which only lead to delay on the part of the Democratic Party. I think they hope that eventually nothing will happen.

Obviously, there are many people in this State who feel very strongly about this, and I think these people will continue to fight and ultimately be successful in getting this voting right.

Certainly, I & R is needed to counter voter apathy. There has been a declining inclination on the part of voters to go to the polls. One saw this in the recent primary election, for example.

This apathy reflects a feeling that one's vote really doesn't matter. I have talked with a lot of people out on the street, and they say, "What is the point of voting; it really doesn't matter. One guy says one thing and I vote for him and then when he gets in office, he does something different." Well, when one votes on issues, he will know his vote will count, and it will have an impact, either for or against, on adding an amendment to the Constitution, reforming a law, or adding a statute.

There is no question that initiative and referendum has broad support. We have heard much testimony to that effect. ACR-1 alone has 16 co-sponsors. There is only one sponsor of ACR-42. There are five co-sponsors of ACR-47. And, over in the Senate there are 19 members; that makes 41 legislators here in the State Legislature who have put their names on the bills as being in favor of them.

We find that this has the support of thoughtful and concerned citizens of all political persuasions. In 1983, a proposal to amend the State Constitution got as far as being voted on by the Senate, and it was quite a battle just to get that up for vote. When it finally was put to a vote, it was passed overwhelmingly but there were all sorts of delaying tactics and various delaying measures used to prevent it from ever being acted upon in the General Assembly.

The New York Times has come out in support of initiative and referendum. The Star-Ledger has editorialized for it. The Paterson News, The Ocean County Times, and many, many other newspapers have expressed support of initiative and referendum. A number of T.V. stations -- WABC TV, for example -- have come out in support of it. The Governor of this State has come out in favor of and in support of I&R. A survey of The Independent Businessmen came out in support of it. George Gallop reported a survey which showed that initiative and referendum was favored by a vote of three-to-one. Twelve counties here in this State have gone on record as favoring I & R, most of which was done by a vote of the people.

We certainly need I & R now. The New Jersey State Constitution really needs modernization to allow voters such a fundamental right. It would make New Jersey's government more democratic. It would give people the opportunity to have a greater voice and it would allow public opinion to be recorded directly.

In contrast to some of the opponents of the bill, I don't see any great danger that a vast majority of laws will not be passed in the same manner they are now, with all the checks and balances, and so on. Of course, any law passed by the voters would be subject to the same constitutional requirements that laws passed by the Legislature are subject to.

This would affect only a minority. Some surveys have shown that not more than one measure by the voters per state appears on the ballot. So, the idea that there are overwhelming numbers on the ballot just isn't supported by the evidence.

In California, which is sometimes used as an example, many of the measures on the ballot to be voted on are put there by the legislature and not by the initiative process.

So, I do not foresee that the way laws are now passed -- with hearings, and so on -- would be significantly changed.

One thought that has come up as I have listened to the testimony here is, I think that any responsible group who would propose an initiative would do well to hold a public hearing, which would allow proponents of the measure to speak in favor or it and opponents to speak against it. This should be done sometime prior to the final wording of the measure.

The idea that just a few people could come up with a poorly worded initiative, and get the tremendous support that would be needed to collect signatures, and so on, is inaccurate. One would have to have a well-thought-out measure that would have to be worked over, and it would have to develop a lot of support just to get signatures, and the people who collect the signatures to work on it before it would even appear on the ballot. After that, of course, the public would then have the final say as to whether something would be passed or not.

We think the signature requirement on ACR-1 is just about right. It is rather high. It is 12% for an initiative on constitutional amendments, and it is 8% on an initiative for a law. This is considerably tougher than California, for example, which only requires 8% and 5%. Massachusetts only requires 3%. In contrast, New Jersey would have 12% and 8% through the ACR-1 proposal.

The number of signatures is tougher than all but two states for constitutional amendments -- Arizona and Oklahoma -- and all but five for initiative on laws.

We think that is about right. We feel it would make it difficult but not impossible to get measures on the ballot. Therefore, only measures that had a broad level of support from people who are willing to work in order to get the measure passed, and also amongst the voting public, would ever make it to the ballot.

I would take exception with Mr. Haines, who said that the redistricting matter is too complicated for the voters. As Joe Shanahan pointed out, we submitted material to the Federal court, and in that matter we thought we had proposals which were better. The difference is not a question of who can write better or who can get the

better expert advice. Citizens can get expert advice, just as legislators can. Citizens can write well; legislators can write well. The question involves the political pressures that are on them. Citizen groups are not subject to party discipline if they do something which is out of line. They are not subject to the necessity to get special interest money for elections. So, this opens an opportunity to citizens to get some good laws passed, and to tackle some measures which are simply too touchy for the legislators to do as good a job with.

I realize that most laws passed by the Legislature are pretty good laws. We are not proposing that system be changed. We are basically looking for an occasional extra opportunity to allow certain laws to be voted upon. We think that would<sup>b</sup> of greater benefit than having an occasional law or constitutional amendment proposed and passed. We think that would make the Legislature more responsive; we think it would make them more willing to listen.

Now, we have heard a lot of people say that citizens can be heard. That is not exactly accurate. Citizens can speak, but whether they are heard or not depends very much upon the person who is doing the listening.

In the case of initiative and referendum, it would require that citizens be heard because if their well-made points were not listened to, then they would always have the option -- a very difficult option, admittedly -- of taking the case directly to the public.

Our group has been supporting this for a long time. We do not think it is bad for anyone. The business community -- the large businesses -- spoke against it. We think they are foolish, in that we do not see this as a threat to businesses. Many of the measures which have been put to I & R in other states have proved to be beneficial to businesses. In some cases, perhaps things will happen that they may not want, but maybe they should occur. The small independent businessmen are on record as being in favor of I & R.

We have long supported this measure. We think it is a good idea. We think its time has come. It has really been kicking around too long. From our study, there is no question of need. It has been

thoroughly studied. The matter is available and it should be voted on. It should be sent to the Assembly. We would like to see it posted and brought to a vote. Thank you.

ASSEMBLYMAN CHARLES: Thank you, Mr. Haverly.

ASSEMBLYMAN ZIMMER: Mr. Chairman, I would just like to make one point for the record.

ASSEMBLYMAN CHARLES: Yes.

ASSEMBLYMAN ZIMMER: Mr. Haverly mentioned that there were 16 sponsors of this legislation. Since ACR-1 was printed, it accumulated 16 more. It now has 32 sponsors.

ASSEMBLYMAN CHARLES: Thank you, Mr. Haverly.

Lee Pacifico? (not present) Ernest Lettieri?

**ERNEST LETTIERI:** Good morning, gentlemen. Mr. Chairman and your colleagues, I see that you have the curtains wide open this morning. The last time I was here, you had them drawn to keep us in the dark.

ASSEMBLYMAN CHARLES: That was at the request of someone in the audience. (laughter)

MR. LETTIERI: I didn't come down here today with any formal proposal to hand to you in support of initiative and referendum. I don't believe there is anyone in this room who has any more experience than I have -- even though I may be blowing my own horn -- with gathering petitions. It is not as simple as you think.

I spearheaded a drive to get an elected school board. I spearheaded a drive to rescind the mayor's pay raise -- the mayor of Bayonne. I spearheaded a drive to restrict our elected officials to two terms -- two terms and out -- on the local level, which was taken to court; the court ruled we could not do it after my attorney said we could and all that effort was put into it. He did not appeal the case. Later on, he was disbarred; evidently I picked the wrong lawyer. (laughter)

The legislative process, while it is fine and dandy, does not take care of everything that is going on. I heard people talk this morning about inadequacies in different laws. I would like to point out to you that a lot of legislative time spent on enacting new laws should sometimes be spent in overhauling the old laws, such as Title 19



and Title 40, which are full of inadequacies. These, of course, were drawn up by lawyers who are in the Assembly. I always say that 90% of the laws are make-work programs for the lawyers.

If I don't agree with the way a law is written, I have to hire a lawyer and go to court, and the other person has to hire a lawyer to defend it. So, there you go.

Insofar as the testimony given here and in the Senate on initiative and referendum is concerned, it would probably fill about a dozen 9X telephone books. You know what a 9X telephone book looks like, don't you? In the yellow pages we see a young kid sitting on a book eating his oatmeal, or cereal; someone comes along and takes away his book, and away he goes.

So, the testimony here is really irrelevant. What has to be decided -- and get this through your minds -- is, do you trust the people? When you run for election, you go out, campaign, and say, "Trust me; I know what is good for you." But, evidently you don't. I know in our own Hudson County people knew what was good for them: They threw a couple of mayors out of office. November is coming around; we might do something like that, I don't know. (laughter)

You take a question, such as the bottle bill. This is a recalcitrant Legislature; you are afraid to make up your minds. If you push the bottle bill, the manufacturers are going to get angry at you. If you do not, the public will be angry, and the environmentalists will be angry. So, you are caught between a rock and a hard place. That is the reason why we want initiative and referendum; we want it to light a fire under a recalcitrant Legislature. We have been preaching that for years.

In 1973, or '74, when you enacted the Income Tax, we put 15,000 people out in front of the State House. The cry of these people fell on deaf ears. Only last week we had two insurgents take 39 captives and they got world-wide television coverage. We couldn't even get the Governor to come out and say "hello" to us. Had we been a more militant group, had we been like the renegades over there who took our hostages, had we besieged the State House, had we broken windows, had we set a fire, maybe that would have called national attention to the

plight of the people in the State of New Jersey. We are not those types of citizens. We are not "thugs;" we are not murderers; we are just peaceful, law-abiding citizens who are trying to get our just desserts.

We would like to be able to ask questions: "Should you?" "Can we?" or, "Would you?" You fellows say, "How about us borrowing \$55 million to put in a new reservoir?" "How about borrowing \$180 thousand to put in a couple of traffic lights?" And, the people say, "Oh, okay; that is a good idea." Now we want to ask questions and we can't do it.

We believe in due process, believe me. However, I think you people are taking advantage of the people of the State of New Jersey. There was a bill proposed by the Legislature to eliminate councilmen-at-large. I believe you, Mr. Charles, are one of the sponsors, along with Mr. Doria, Mr. Gallo, Mr. Janiszewski, and Mr. Cowan. That bill is lying in committee someplace, or it is in the wastebasket. What happened to it? This is why we want the right of initiative: Can we or can't we eliminate our councilmen-at-large? Can we do "this?" Can we do "that?"

I could stay here for two and one-half hours and give you instances of why we should have initiative and referendum, but I do not believe I should. I believe I have taken up enough of your time. I think I can answer questions, and I think I should be able to ask a question.

One of the questions I would like to ask you, gentlemen, is why are the special interest groups -- the NJEA, for instance -- against it? Is it because they contribute to your campaign fund? Why is the AFL-CIO against it? Is it because they contribute to your fund? Why is the New Jersey Taxpayers Association -- big business -- against it? Is it because we are liable to ask them to pay their fair share of taxes on industrial properties? These are all questions that you have to ask yourselves.

Gentlemen, good day. Are there any questions you would like to ask, sir? (no questions)

ASSEMBLYMAN CHARLES: Thank you very much, Mr. Lettieri.

Thomas Grido? Joan Beauregard?

**JOAN A. BEAUREGARD:** Good afternoon. The former speaker did such a good job, I kind of hate to follow him.

My name is Joan Beauregard, and I am Chairman of the Board at Trenton Psychiatric Hospital. I am not a high-paid lobbyist. I am not a low-paid average worker. I am a volunteer. Our entire board consists of volunteers.

The taxpayers of New Jersey have been very generous with us. They have enabled us to help people who can't help themselves. We have no fear regarding how they are going to vote. They know when to vote "yes," and they know when to vote "no." But, how are they ever going to surpass those who come in here with red tags? How do you think we feel when we sit here and we know that these people are being paid to speak to you, when the average citizen -- both husband and wife -- is out working to help support his family? He can't take a day off to come here and tell you how he feels about initiative and referendum. He could sign a petition if someone came around when he was mowing the lawn or cooking dinner. People could take a few minutes in the evening to read up on these things. They are not as stupid as some people would have you believe.

Do you know what it is like to go door-to-door and ask for signatures? They hear the story from the person who is seeking their signature. Why are you afraid of letting citizens have the right to initiative and referendum?

The New Jersey Chamber of Commerce is against initiative and referendum. Why? Are they afraid because we might insist they stop polluting our water, our air, and our food?

The New Jersey Education Association had billboards all over my neighborhood at election time. That costs a lot of money. They were telling us what a good job they do when educating our people. I have even seen spots on T.V., done by the Education Association, telling us what a good job they have done. I think they protest too much against I & R. Haven't they intimated that we are too stupid, and too uneducated to be allowed to vote? Don't they know we are their product?

I originally had quite a few examples to tell you what was wrong with our State, both from within and without the system, but I won't take your time. I know other people want to talk, and you have had quite a long day.

However, you know as well as I do that our good government in New Jersey can be better government. We feel that I&R, as proposed by Mr. Zimmer -- ACR-1 and A-1 -- is the best you can do. We have put our faith in you by electing you, every single one of you. We were smart enough to elect you. We put our faith in you. Where is your faith in us? Thank you.

ASSEMBLYMAN CHARLES: Thank you, Ms. Beauregard.

Raymond Schulley?

**RAYMOND S. SCHULLEY:** Mr. Chairman, I was here approximately two weeks ago at the last hearing on this subject. I found it to be very informative. I thought the testimony presented by the proponents of I & R was much sounder than the testimony presented by the opponents.

I was shocked by the testimony of the representative from the New Jersey Education Association. To my understanding, he stated that the position of his organization was that the people of this State are not intelligent enough to know how to use initiative and referendum, and they are not intelligent enough to know how to vote properly on items put on the ballot by I & R. For an organization which deals with education, that is quite a surprising position.

However, I can understand why there is opposition to initiative and referendum: It is a threat to the established order of things. The established order of things in this State seems to be government "of the few, by the few, and for the few." I think evidence supporting that viewpoint was given right in this room this morning when we heard that a bill was rushed through the Legislature in 44 minutes; when we heard Assemblyman Zimmer refer to a legislative orgy; and when we heard Assemblyman Franks state that he couldn't even get a committee hearing for certain measures he would like the Legislature to consider. With this, the only conclusion I can come to is that government is a closed corporation, and the electorate is trotted out periodically to provide window dressing for what purports to be a representative form of government.

I view initiative and referendum as a civil right. The First Amendment to the Constitution of the United States says, among other things, that we have the right to petition for the redress of grievances. This is something George III learned the hard way. initiative and referendum is an inherent part of that right, and for some reason we have been denied that right here in New Jersey.

I am very surprised that no individual or organization has taken the State government of New Jersey into a Federal court and charged it with the systematic denial of the civil rights of its citizens. I would urge support of ACR-1 and A-1. Thank you.

ASSEMBLYMAN CHARLES: Thank you, Mr. Schulley.

Margaret Bosco?

**MARGARET E. BOSCO:** I would like to say "hello," and "amen" to David Schmidt, a young man who really said it all last week; to Susan Thomas, who said a lot more; to William Cleary; Charles Lehman; Marie Curtis, who said a lot; Joe Shanahan; Larry Haverly; Ernest Lettieri; and Joan Beauregard. I have probably missed a couple of people; forgive me.

I won't just say "amen" and then go back to my seat; that is too easy. I would like to address my first remarks specifically to the Chairman, in order to try and bring about more productive hearings in many other areas of legislation, when it is necessary to conduct a hearing.

If you were quoted correctly by the media after the last public hearing, you couldn't have used a better description than "delaying tactics," while adding that "you wanted to give everyone who was interested in the legislation a chance to be heard. Only seven of the 24 people who signed up to speak got the chance to do so Monday." You neglected to mention that although everyone who wanted a chance to speak was required to "sign in, please," you granted Assemblyman Baer the opportunity to go on for 25 minutes, without any indication from the Chair that he was to give someone else a turn to present their testimony to the Committee.

When I questioned you about this after the hearing, your answer was that, "Legislators are extended that courtesy, and you were

sorry." I wonder what happened to extending courtesy to public-minded citizens who spend the better part of a day here, including travel time and expense to and from hearings? I was glad to sign up. I am sorry to have to say that it just doesn't wash clean.

Also, I am tired of hearing and reading about party lines. I am a registered Democrat, but I am not of the opinion that only Democrats know what is best for the people of New Jersey. Really, I think I am more of an independent, but I am a registered Democrat.

I must skip around from time to time when presenting my testimony. I heard Speaker Karcher on a T.V. program, I think it was the night before the last hearing. Fortunately, I heard the first few minutes of the broadcast, but then we had a terrible electrical storm, so I did not hear the rest of it. However, I heard it long enough to hear him insult the citizen by stating that the ordinary citizen is not educated; he doesn't comprehend; and he can't begin to understand what the issues really are. I wonder if, when he was voted into office, he thinks he was voted in as an "automatic expert?" I am sure there are some things in this State, country, and world that he does not understand either.

Some of the people who are in the groups Mr. Haines referred to do in-depth research, and perhaps they understand more about some things than you legislators, who must spend your time covering many issues, understand.

I would like to cite just one example of how I & R would have been of benefit a few years ago to citizens, parents, and taxpayers in a small Northwest Jersey community. The school board and some of their associated clubs were pushing a referendum for a gigantic expansion and building program. Children were solicited to campaign for a bigger and better school. The children came home and said, "If we have a bigger and better school, we will learn more." Bigger schools are all right, sometimes.

Several public hearings were held, and at one of the hearings Senator Dumont, who is a member of the Senate Education Committee -- he has been for a long time, and I think he still is -- was the attorney for one of the sending districts. The school system I refer to is a

sending/receiving district. It has three sending districts coming into it; there were four.

The Senator was the attorney for one of the sending districts which had already petitioned the Commissioner of Education and had already received approval to withdraw as a sending district and, of course, taking with it its financial support. It had a withdrawal program for three years. However, the Senator said, "If you are ever going to expand, now is the time to do it; don't wait until the State comes in and tells you how to do it."

There were about 500 pupils in the secondary system at that time. There was a referendum held in December, and it was passed. The people had been promised that it would only involve a few pennies on their tax bills. Well, March came, and with it their tax bills also came. The taxpayers found out that this involved quite a few dollars, which were added to their tax bills. There was shock, then a desire, and finally insistence that it go back for a more honest vote, based on honest facts. The school board even took the citizens to court. They won because the judge did not have the "guts" to say that this shouldn't have happened. In the opinion he wrote, he said that "He realized that the many facts surrounding this, as to the population projections, were erroneous." He ended by saying that the people wouldn't be able to afford it. There was no case history he could rely upon in order to give a different opinion.

So now, even though I said this involved parents, citizens, and taxpayers, I would be remiss if I did not add that the students are going to be paying for this for years. That school, built to house 1,000 comfortably, or 1,200 easily, still has a population of only about 520. This is about five years down the road. We have a real empire there. There are classes housing only a few students. It is kind of a big secret.

I think -- I hope -- you get an idea of what I have been trying to put across. If we had I & R at that time, we would have a much more comfortable situation right now.

I am going to conclude by saying that I & R could be just the proverbial "shot in the arm" that is so needed to restore confidence in

government, which is at an all-time low. It is also called apathy, and apathy is very high.

I would like to add one more thing. I do not recall who said this, but someone said: "If it is morally wrong, it is not politically right." Thank you.

ASSEMBLYMAN CHARLES: Thank you, Ms. Bosco.

Frank Intelisano? (not present) Reverend Dudley Sarfaty?

**REVEREND DUDLEY SARFATY:** Good afternoon, Mr. Chairman and members of the committee. It is lucky I am a preacher because I know how to talk before lunch and not take too long. (laughter) I have also learned over the years not to scold the people who are in church for those who are not.

ASSEMBLYMAN CHARLES: You ought to talk to my minister. (laughter)

REVEREND SARFATY: Assemblyman Charles, that might depend on whether I am successful here today or not.

I am here at the request of the Government Commission of the New Jersey Council of Churches, primarily to speak on behalf of A-1, which is the bill they have studied.

The testimony is mine, and if I do not deviate too much from my prepared text, I will leave a copy of it with you and your secretary before I leave the room.

Certainly, we, in the New Jersey Council of Churches, do not support a bill, such as this, lightly. I was a little concerned by some of the groups and people I saw here at the first hearing. I wondered if they just wanted to lower their taxes. That does not seem to be the weight of the testimony heard today.

I also cannot help but notice that the usual suspects, those who I frequently find oppose the things the Council of Churches stands for, are not here today: The high-powered lobbying groups who were here to speak against I & R at the last meeting.

To be honest with you, as part of the private sector with an on-going concern with issues of justice and good government, we were frightened by the negative stories of what demagogic efforts had accomplished through I & R in other parts of the country. We were even



further upset at last year's errors in the State government's level of accuracy, our current, traditional process of citizen referendum, and the confusing, last-minute method of getting public questions on the ballot without giving them the proper time for due consideration by the citizenry.

It is our Commission on Government's obligation to do some reflection on the issues that will be on the ballot in order to find out which ones are going to be placed there, who will speak for them, and, worse yet, to find out who has made a consistent case against them. The task is almost impossible. As you all remember, last year we voted on something that was different from what the Assembly had passed.

In fact, we are not surprised at the negative reaction of a lot of people who might have their negative reaction further taxed by an even smaller number of additional referenda.

Previous testimony indicates the care taken by A-1 to prevent frivolous I & R. If we establish a more formal I & R procedure, it should get more accurate attention from responsible State officials, and better exposure to the taxpayers and voters.

It certainly seems to me to be unprincipled to begrudge the citizenry their rights just because we do not want to risk having to work harder. That is somewhat of an over-simplification. I have spent all of my life wondering whether Jefferson or Hamilton was right. You know, it was tempting when I was a student -- especially when I was a scholarship student at Columbia College -- to think I could associate myself with the rich, the well-born, and the able just by having the ability to do so.

I think we and the Church now have to trust the people the way Jefferson did. I think the Legislature has to do the same thing, and so do the high-powered lobbyists.

The question seems to me to be -- whether we are personally reluctant or not -- whether our official commitment is to trust the citizenry to more fully share in the governmental process. I can think of all sorts of small-minded and selfish reasons why I would like to oppose this, but when it comes down to trust in the people upon which this democracy is based, I find these reasons fade.

I would like to illustrate our positive evaluation of A-1 in terms of some of the things I have seen happen in the present legislative process. I am quite tortured about doing this. I am suggesting that the errors of our present process -- and, this is not to scold the people who "came to church" -- are almost as dramatic as the potential errors of I & R.

I saw "Golden Fleece" award votes on money matters and policy; legislators voting on legislation they did not read in blind obedience to a leadership position; and, other kinds of activities I do not think would occur under the carefully drawn protections of A-1, even if one received a long pamphlet, such as California's. This past Thursday night, or Friday morning, I even saw an important bill get lost between the Senate and the Assembly.

This Committee has a chance to develop I & R legislation for New Jersey that would make Samuel Gompers and Woodrow Wilson proud. It will not produce anomalies such as the Love Bill solution to casino conflicts of interest, and the defeat of a bottle bill which the Eagleton Institute says New Jersey wants, 59% to 36%. I don't want to scold Mr. McEnroe, but I hope the reason he is not here today, is not because he was beaten by the lobbyists when the people wanted his bill to pass. This defeat was won by a vast and unreported expenditure of special interest money. I heard one of your Committee members try to draw this out of a previous witness, but he did not get an answer. This is an ethics bill which allows a legislator to own as much as 1% of the stock of a publicly traded casino company without reporting it. If my mother was alive and she owned 1% of a company, I wouldn't trust her anymore. (laughter)

I think this Committee can deal with the issues of special interest funding, as Assemblyman Baer suggested at your previous session. It could require that contributions be made by an early date of the campaign and that the Election Law Enforcement Commission have a legible list of contributors on file so the citizens would know, as I have tried to find out and could not, before the election who was really "bankrolling" it. Certainly, you could protect the Bill of Rights from weakening amendments. In short, I think you could apply

all of the careful thought and balancing of interests for which the Legislature was designed.

My point is to make to a Committee, whose members I personally know and respect, the argument that our present legislative process has flaws which prevent its achieving its theoretical design in too many cases, and that a carefully drawn I & R bill can open an appropriate new door for citizen participation in the governmental process, very much using the Legislature, which is the case in indirect I & R.

Not to offend, but to dramatize from my own personal knowledge the fact that our present system also has flaws, I think you three legislators know that migrant farm workers have been effectively legislated out of unemployment insurance in our State in an effort to balance our state fund deficit. Last week a group was appointed to study the matter. Last year, farm workers went down to Christmas week before they were "grandfathered" in for 1984 only. There is a great danger we will be chasing you at Christmastime, 1985, with no solution.

The South African disinvestment bill process also showed that the present process has anomalies. An investment advisor whom I wanted to bring to New Jersey for expert testimony was threatened with his job if he came. The Senate Committee was told by the Chairman of our State Investment Council that they wanted disinvestment of non-Sullivan companies with 5% of their assets in South Africa. You must know that Reverend Sullivan has substantially modified his principles, which are meliorist at best. He has been misquoted as often as Bishop Tutu. He now wants to wait just a little while longer, if the words "a little while longer" apply in South Africa.

Worse yet, the Chairman of our State Disinvestment Committee said he wanted to divest from companies that had 5% of their business in South Africa. Mobil Oil has only 3.75%, and Bouroughs has only 3.75%. Most of the Fortune 500 companies have in the vicinity of 1%. Ford, at 1.2% has \$230. D'Arcy Advertising is the only company, at 6.2%, with an investment of \$1.8 million, measured in billings. It is a Sullivan company. It has 13 African employees, and 87 whites. Short of one small electric company, no percentage runs much over 3%, but the

Senators didn't catch that. I think St. Paul calls this "dissimulation," but Clint Eastwood would call it "lying like a pole cat."

I believe this Committee could vote out an indirect I & R bill which would have substantial guarantees against such processes as this occurring. I am sad to tell you there were no effective protections against the undue processes I have so sadly outlined and witnessed.

The represented government of the Presbyterian Church has a tradition which comes out of a court case from the Church court in Philadelphia, which calls upon the minority to respect the rights of the majority. Wouldn't New Jersey do well to use I & R to bring such protection to our citizens?

To be brief, let me invite you, and even to challenge you and your colleagues, to report out a bill which will seriously deal with the criticisms that have been properly made. I would like to remind you that the Sunshine Law was once thought of as anathema by most of the Legislature and many other people. By now, it is something I hear us boasting about, and if there is any desire to repeal it, you can't prove it by me.

I thank you for your attention, and I wish you well in a very difficult task.

ASSEMBLYMAN CHARLES: Thank you, Reverend. Are there any questions? (no questions)

Richard Allen?

**RICHARD ALLEN:** Mr. Chairman, members of the Committee, I would like to thank you for this opportunity to let me address the Committee. I am a resident of the Borough of High Bridge. I happen to be a councilman-at-large there, and I don't know whether that is good or bad after hearing Mr. Lettieri's comment before.

I also happen to be a constituent of Mr. Zimmer, who sponsored this bill. I also happen to be an opponent of Mr. Zimmer this year in the Assembly race. But, as the lady before the last speaker said, there is a time to put party lines aside, and there are times to stand up for what is right, and for what you know the people in your area feel is right.

I am not here representing any group. I do not belong to any special interest groups. I do not represent any associations. After sitting out in the audience for the last three hours, I found it quite overwhelming to listen to all these people who represent me, or who represent firms or organizations I might belong to indirectly. Half of the people spoke exactly the way I felt, and maybe half of them spoke the way I did not feel.

I do not have a prepared text to give you because I didn't think I was going to have to be here until Friday. I spoke to Mr. Zimmer a month ago, and he invited me to come to the first hearing. I didn't think I had to because I thought the legislation would be passed at the last session of the Legislature. Obviously, it was not.

I always felt that people had the right to petition. Again, it is a matter of definition as to what the right to petition is. I always believed the people had the right to self-government and self-determination. People in other countries are dying for it. Many of us have lost fathers, brothers, and grandfathers for those principles.

To sit back and watch six or seven persons make the decision that you have the right to voice your opinion bothers me in a way. I realize that in the floor vote Mr. Zimmer brought about there was a difference of seven votes. Even though it didn't carry a majority of the votes, it still had the majority of those who did vote in favor of it. However, seven persons could have made the difference in making that a position on the ballot to be voted on.

I do not know what the members of the Legislature are afraid of. I would not be afraid. Mr. Charles, I do not think you would be afraid. If you make good laws and you are doing your job right, there is nothing to be afraid of.

I heard some comments before. Someone who was against this I&R bill made a comment about the Sunshine Law. He said, "Well, we have the Sunshine Law in place." Maybe I stand corrected, but I believe the Sunshine Law is for municipalities. I do not believe it has made its way up to the Assembly yet. I will stand corrected on that, but I think it just pertains to municipalities. Being a Councilman-at-large, I am well aware of the rules of the Sunshine Law.

I think it is a good law; maybe what is good for the goose is good for the gander, but that is another issue.

We can't have two standards in this State. In a municipality if the CAP law is exceeded, or if it needs to be exceeded, what does the municipality have to do? The Legislature tells us what we have to do: We have to go to a referendum.

We know what has to be done with school board budgets in order to have to have them accepted. The Legislature tells us what has to be done: We have to go to referendum. The people have to vote and accept that budget. Yet, referendum is an obscene word when it comes to State law. Why? I do not know.

I have confidence in the people, and you should have confidence in the people, because you would not be sitting where you are if they did not have confidence in you, or if they did not trust you.

I listened to other people, opponents of this bill, giving you statistics. They were telling you all about the other states and the percentages of all the states that voted it down when they were given the chance to vote on an I & R bill. I would say to those opponents, "Why not put it on the November ballot?" Since they are sure it is going to be voted down, they have nothing to worry about. It will be a moot issue. No sweat. The people will vote in November, according to their statistical data, and the I & R bill will be voted down.

I think the big thing involved is some of the issues that could have been resolved which are major catastrophes to communities, especially local municipalities. These are burdens that could have been removed if I & R was in place.

I can understand why the New Jersey Builders' Association is not for an I & R bill. Can you imagine if Mount Laurel was on the ballot? How do you think the people of the State of New Jersey would vote on the Mount Laurel litigation, or, as it is written now, on Mount Laurel II? Given the opportunity, they would have probably eliminated half the lawsuits that the municipalities are now facing. It would have taken the pressure and the burden off the Legislature, and it

would have let the people decide the just course of their lives and their futures.

The bottle bill was brought up. That is another very important issue, which is a damned if you do and damned if you don't type situation, but it is one where, again, the people in the State of New Jersey have the right to decide whether they want to pay the 4¢, 5¢, or 10¢, or whether they want to live in piles of dirt, garbage, and litter. It is their choice.

Maybe the reason why we get a 5% turnout, or 61 people in a municipality of 1,300 registered voters going to the poll to decide on a \$1.2 million school board, is because of voter apathy. Maybe these people say, "Who cares? They don't listen to us anyhow. These people don't care about us; they just worry about themselves." Maybe voter apathy comes about because people do not feel they have a voice. Maybe it is time to give them that voice.

I strongly urge you to endorse Assemblyman Zimmer's bill, ACR-1. I am in favor of it. I hope you take the time, if the Assembly is called back in before the end of the summer session, to reconsider this vote. I think we all have that right. Thank you.

ASSEMBLYMAN CHARLES: Thank you very much, Mr. Allen.

Since there are no other witnesses--

ASSEMBLYMAN ZIMMER: I would like to include two items in the record if I may.

ASSEMBLYMAN CHARLES: Yes?

ASSEMBLYMAN ZIMMER: I received a copy of the letter to you from David Schmidt, answering some of the questions you asked him at the first hearing.

ASSEMBLYMAN CHARLES: Did he send it to you?

ASSEMBLYMAN ZIMMER: Well--

ASSEMBLYMAN CHARLES: Okay.

ASSEMBLYMAN ZIMMER: I would appreciate it if it were included in the record.

I also have a letter from the Chairman of the Joint Government Affairs Committee of several Chambers of Commerce in Passaic County, endorsing ACR-1. This is a grass roots organization that is

taking a different position from its parent organization, the State Chamber of Commerce.

ASSEMBLYMAN CHARLES: The record will reflect my receipt of them. I am handing them to the Committee aide and they will be made a part of the record of this public hearing.

If there is nothing further, this hearing is now concluded.

**(HEARING CONCLUDED)**





**APPENDIX**



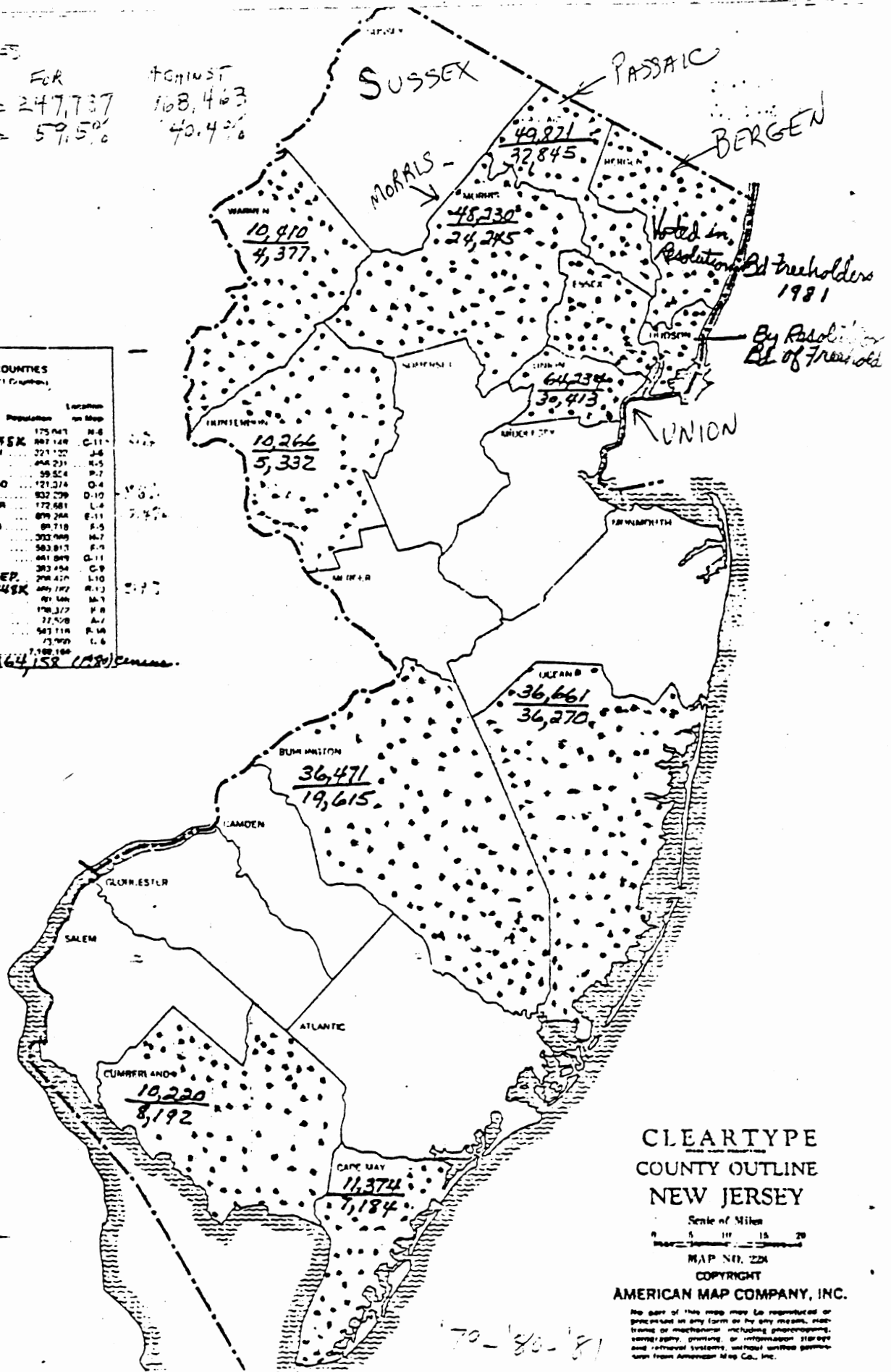
9 COUNTIES

VOTES FOR  
416,200 = 247,737  
99.9% = 59.5%

AGAINST  
168,463  
40.4%

COUNTIES (in Alphabetical Order)		
Name of County	Population	Location on Map
ATLANTIC	175,447	N-6
BERGEN 255K	407,149	C-11
BURLINGTON	221,122	J-6
CAMDEN	454,231	K-5
CAPE MAY	59,524	P-7
CUMBERLAND	121,274	O-4
ESSEX	932,209	D-10
GLoucester	172,581	L-4
HUDSON	879,244	E-11
HUNTERDON	89,718	F-5
MERCER	302,949	M-7
MIDDLESEX	562,813	F-9
MONTGOMERY	441,849	G-11
MORRIS	383,454	G-9
OCEAN	278,420	L-10
PASSAIC 448K	409,192	H-12
SALEM	87,146	M-7
SOMERSET	178,372	F-8
SUSSEX	27,578	A-7
UNION	547,114	E-10
WARREN	73,790	L-6
TOTAL	7,188,186	

372 + 7,364,158 (1980) Census.



July 11, 1985

Assemblyman Joseph Charles,  
Chairman  
State Government, Civil Service,  
Elections, Pensions & Veterans Affairs  
Room 1526  
24 Commerce Street  
Newark, NJ 07102

Dear ~~Chairman Charles~~: Joe

I would like to take this opportunity to apologize for not being present to testify on Initiative and Referendum on July 2, 1985. I had other business commitments which prevented me from making your public hearing.

I have enclosed a copy of my testimony for your review. I am respectfully requesting that my testimony be considered part of the record for the July 2, public hearing.

Since I am very much interested in having my association's point of view on initiative and referendum submitted as part of the record, I await your decision.

Thank you for your consideration.

Sincerely,

*Tony*  
Anthony Pizzutillo  
Assistant Director  
Governmental Affairs

AEP/rg

Enc.

cc: Donald S. Margesson, Committee

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Home Owners of America, Inc.  
1000 North 17th Street  
New Jersey 07102  
Shore Branch  
League of Women Voters  
Home Owners of America, Inc.  
New Jersey

TESTIMONY  
OF  
ANTHONY E. PIZZUTILLO  
ASSISTANT DIRECTOR  
GOVERNMENTAL AFFAIRS  
  
ON  
INITIATIVE AND REFERENDUM  
(ACR-1, ACR-42, A-1, A-150)

BEFORE THE  
ASSEMBLY STATE GOVERNMENT COMMITTEE

JUNE 17, 1985

Good morning Mr. Chairman and members of the Committee. I am Anthony Pizzutillo, Assistant Director of Governmental Affairs for the New Jersey Builders Association. Thank you for permitting me to share with you some of NJBA's views on the issue of initiative and referendum.

The New Jersey Builders Association has long been opposed to the concept of initiative and referendum and opposes all proposals that would amend the New Jersey Constitution to establish the initiative and referendum procedure in our state. We are deeply concerned about the issue of initiative and referendum, while it may be offered as a populist reform, it may instead become an opportunity for legislative abuse, an abdication of legislative responsibility and a mechanism for circumventing rational government.

Amending the New Jersey Constitution to allow for initiative and referendum would, in our view, undermine the process of representative government in our state. The legislative process is a deliberate one where issues are rationally debated and reviewed within committees and on the floor. Only after careful scrutiny does a bill reach the Governor's desk. Therefore, the legislature should continue to be the main initiating body for constitutional change, not the voting booth.

In the NJBA's view, the enactment of initiative and referendum would add unnecessary costs to the electoral process. The public will be forced to pay for the additional costs. Review of petition language by the Attorney General's

office will require more staff. Verification and validation of petition signatures by the Secretary of State will necessitate additional staff personnel. In addition, the printing and mailing of sample ballots with an unlimited number of propositions will add more costs, and the preparation of voting machines for the propositions will add even more costs.

The NJBA is concerned that initiative and referendum would result in significant increased costs to business. Specifically for builders and developers, each election would have the potential of a multitude of propositions that would cause them to spend millions to make its views known to the electorate throughout New Jersey. Because initiative and referendum would promote a media bonanza, it would only add to the already escalating cost of building in New Jersey's tight construction market. This flies in the face of two state supreme court decisions that have been handed down mandating the construction of affordable housing for our low and moderate income residents. Experiences in other states that have initiative and referendum already have proven that the costs of conducting public information campaigns results in millions of dollars spent annually by business.

Additionally, initiative and referendum would result in initiative campaigns on such issues and taxation, utility rates, planning and zoning issues, which are better left to



the legislative process. As you know, legislators, when considering and weighing issues, have a vast body of research available to them from non-partisan staff, administrative agencies, policy statements from partisan staff, and the views of lobbyists representing various interests. The general public does not have access to such information and research, and most likely would succumb to a media bombardment before being called upon to vote "yes" or "no" on a particular issue. We elect legislators to represent the interest of all citizens of New Jersey and as such, they are accountable to the people.

We contend that the present legislative process has worked well over the years and will continue to work well. The New Jersey legislature has a national reputation of being responsible in taking action on very complex issues that then become model legislation for other states. Therefore, we support the view that the elected representatives of our state should have and should continue to have the responsibility of studying all aspects of legislative measures and making informed decisions upon them.

In conclusion, the New Jersey Builders Association does not favor government by initiative and referendum and urges the members of this Committee to carefully study the track record of initiative and referendum in other states. We feel you should closely examine how initiative and referendum

has left states such as California and Michigan in fiscal chaos.

Thank you for the opportunity to speak on this important issue.

# Initiative News Report

4607 Connecticut Ave., N.W. #719, Washington, D.C. 20008 • Editorial: (202) 364-2402 • Business & Circulation: (703) 528-5400

June 18, 1985

Assemblyman Joseph Charles, Jr., Chairman  
State Government Committee  
State House Annex  
Trenton, NJ 08625

Dear Assemblyman Charles,

Thank you for giving me an opportunity to testify before your committee yesterday. Several questions came up during that hearing for which the speakers did not have answers. Having checked through my own files and made a few phone calls, I'm happy to report I can give you the answers you sought yesterday.

First, you asked how the requirement of at least 150 initial sponsors to start a petition drive, compares to other states. Is this comparatively high, or low, you asked. The answer is that it would be the highest such requirement. In most states, an initiative petition can be started by a single individual sponsor. The exceptions are Massachusetts, which requires 10, and Ohio, which requires 100.

Secondly, on the question of the "30 percent minimum favorable vote to win" requirement: As Assemblyman Zimmer noted, this is just one of two tests that would be invoked to determine a winning initiative, the other being a simple majority of those voting on the question. This requirement is meant to calm the fears of those who think that an initiative could be approved with very little voter participation. However, the history of the initiative process has shown that the addition of a "minimum participation requirement" is largely unnecessary, since in the three states that have it, no initiative has ever been disqualified from winning due to low participation.

Three examples will show how the "30 percent minimum" works: Let's say participation is relatively low: 100,000 vote in an election, but only 40,000 vote on the initiative question. In this case, at least 30,001 "Yes" votes would be needed to pass the initiative. In a situation where participation is very low -- 100,000 vote in the election but only 29,000 vote on the initiative -- the measure could not win even if all 29,000 voted "Yes." If participation is high -- all 100,000 vote in the election also vote on the initiative -- the measure would still need a majority of those voting on the question, or 50,001, to win.

In examining Zimmer's ACR-1 and A-1, it struck me that he has bent over backwards to accomodate the claims of critics of the initiative process, while still proposing an initiative system that would work. It is truly a well-crafted compromise.

Sincerely,



David D. Schmidt, Editor, INR

cc: Assemblymen Zimmer, Franks, Long, McEnroe

RECEIVED JUN 20 1985

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NORMAN M. ROBERTSON  
ATTORNEY AT LAW

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June 25, 1985

Hon. Joseph Charles, Jr.  
490 Communipaw Avenue  
Jersey City, New Jersey 07306

✓ Hon. Richard A. Zimmer  
119 Main Street  
Flemmington, New Jersey 08822

Re: Support of ACR-1

Dear Sirs:

I am the chairman of the Joint Governmental Affairs Committee of several Chambers of Commerce in the Passaic County (Paterson-Clifton-Passaic) area. I am writing to express my support and the support of my committee for the initiative and referendum proposal contained in ACR-1.

It was the strong opinion of our committee that a sensible and effective initiative and referendum measure was a sound exercise of the best of this country's democratic tradition. We feel that such a measure would provide a needed popular check and balance to the possible excesses of the political sector of our state's government.

We feel that ACR-1 is such a sensible and effective measure. It should be noted that we reviewed the provisions contained in ACR-42 and found the exemptions and petition requirements contained in that bill to be so unduly restrictive as to render the bill completely ineffective. We sincerely hope that the Legislature will not answer the public's cry for initiative and referendum with such an empty gesture.

NORMAN M. ROBERTSON  
ATTORNEY AT LAW

Messrs. Charles and Zimmer - 2 -

June 25, 1985

It is my understanding that this matter may be brought before your committee on July 2, 1985. I hope that you will give consideration to the feelings of so many people around the state and that you will move to pass an effective initiative and referendum measure. ACR-1 is that measure.

Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Norman M. Robertson", with a long horizontal flourish extending to the right.

Norman M. Robertson

NMR:ms



SEP 20 1985

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