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PUBLIC HEARING  
before  
SENATE STATE GOVERNMENT, FEDERAL AND INTERSTATE RELATIONS  
AND VETERANS AFFAIRS COMMITTEE  
on  
SCR 7/2nd OCR  
(Initiative) and Referendum)

Held:  
June 10, 1981  
Assembly Chamber  
State House  
Trenton, New Jersey

COMMITTEE MEMBERS PRESENT:

Senator Wynona M. Lipman, Chairman  
Senator Lee Laskin

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ALSO:

James A. Carroll, Research Associate  
Office of Legislative Services  
Aide, Senate State Government, Federal and Interstate Relations  
and Veterans Affairs Committee

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New Jersey State Library

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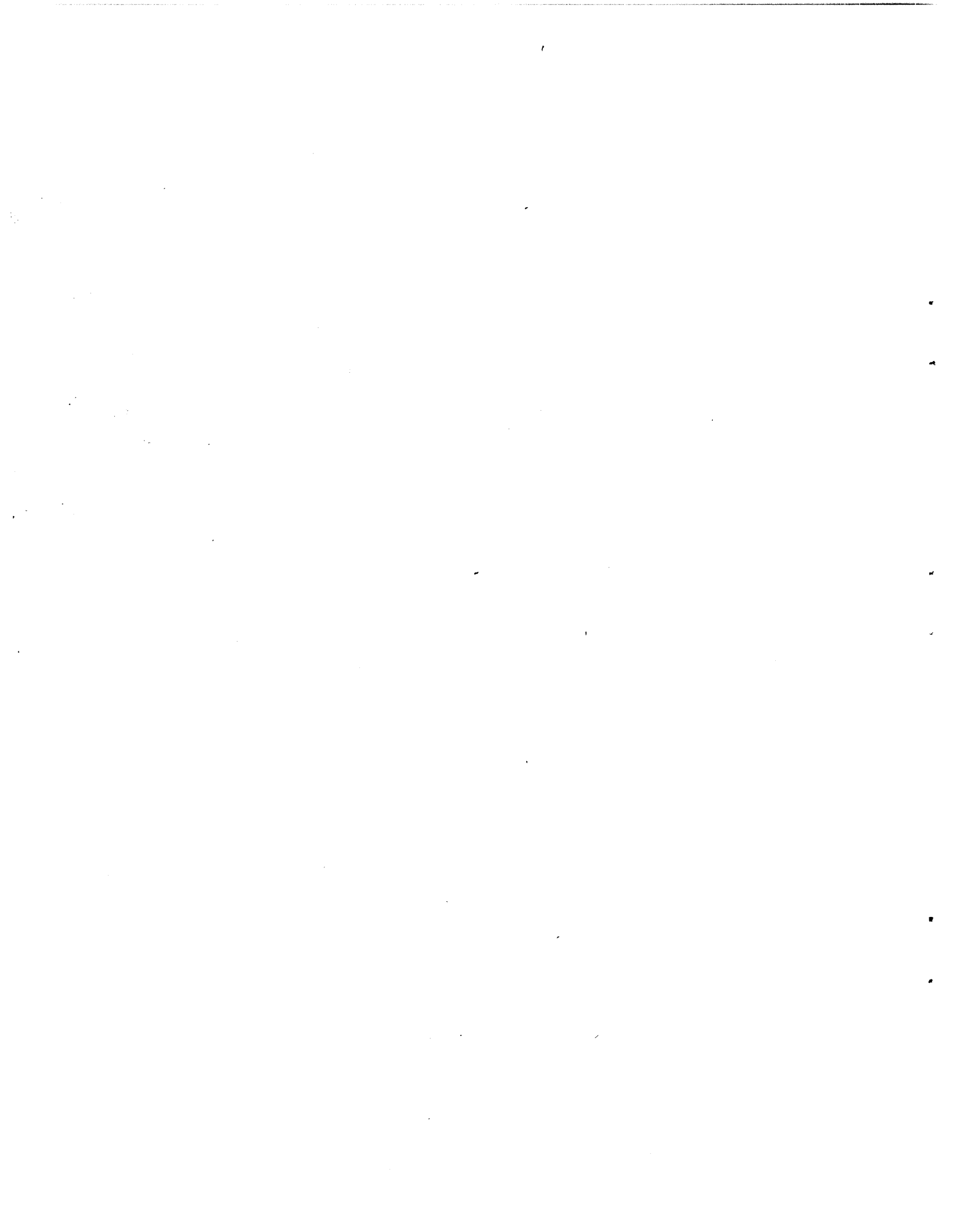
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SENATOR WYNONA LIPMAN (Chairman): I will now convene the public hearing on SCR-7 OCR. I was in effect trying to wait for a group, Senator Laskin, Senator Di Francesco, and Senator Hirkala.

This Resolution proposes an amendment, SCR-7, to the Constitution to provide a constitutional base for initiative and referendum in the State of New Jersey. The companion measure to this Resolution which is not being considered today is Senate Committee Substitute for Senate Bill 828 and Senate Bill 81.

This legislation would implement the constitutional provision. It is still under consideration in the Senate Committee. As originally written, the proposed amendment, SCR-7, established that the people had the power to propose initiatives and referenda through such processes as may be provided by law. The Committee, with the sponsor's approval and cooperation, amended SCR-7 to place some of the specific procedures provided for in Senate Committee Substitute 828 and S-81 in the Constitution, which will provide for our constitutional safeguards for certain requirements for initiative and referendum. It is rather difficult to explain this procedure.

The amendments provide a constitutional guarantee that initiative and referendum questions will be placed on the ballot if the Legislature and the Governor do not enact a substantially similar law or place a substantially similar constitutional amendment before the voters. This would establish in the constitution an indirect initiative and referendum process in this State. The amendments also establish in the constitution the minimum number of signatures required to place an initiative or referendum question on the ballot, and the maximum number of petition signatures that may come from any one county.

The signature requirements and county maximum are the same as provided in S-828, S-81 SCS. The minimum number of petition signatures required to place an initiative question proposing an amendment to the Constitution on the ballot is 12% of the votes cast in the State in the last presidential election. In this case some 360,000 signatures would be necessary.

To place a statutory initiative or referendum question on the ballot, the minimum number of the petition signatures is 8% of the votes cast in the last presidential election, 240,000. The maximum number of petition signatures from any one county by both initiative and referendum is 15%.

I will now call the first witness. I do hope you understood the explanation. The first witness today is Senator John Dorsey who is being represented by his aide, I do believe.

V I C T O R R. M C D O N A L D: Good morning, Madam Chairperson, my name is Victor Mc Donald. I am appearing before your Committee on behalf of the sponsor of SCR-7, Senator John Dorsey.

SCR-7, which has been carefully considered by both your Committee and the Senate Judiciary Committee, would give the people of New Jersey the powers of initiative and referendum. As you are well aware, initiative is the power by which the voters may, through a petition process, propose a statute or constitutional amendment, and adopt or reject the same at a general election. Referendum is the power by which the voters can sign a petition and force the legislative enactment on to the general election ballot for approval or rejection by the electorate. These are the powers which SCR-7 would confer upon the people of the State of New Jersey, powers which are currently exercised by the voters of 23 other states.

SCR-7 and its companion legislation - S-828/81 SCS - represent a well thought out blend of the ideas and suggestions of various legislators, public

interest organizations and members of the public. With its dual threshold of signature requirements, 12% of the votes cast in the last presidential election for a constitutional amendment, 8% for a statute, the bill clearly recognizes the relative importance of these two types of enactments. The 12% and 8% limits also strike a careful balance between the desire to allow the public to use the initiative and referendum process and the desire to keep frivolous questions off the ballot. Twelve percent of the 1980 presidential vote is approximately 360,000 signatures, while 8% of that figure is 240,000. The 15% signature limit from any one county was also added to insure that proposed public questions would have statewide support, and not be limited to one geographic area.

A final and very important provision of SCR-7 was inserted to guarantee that the elected representatives of the people - the legislators - would also be a part of the I & R process. The requirements that all citizen sponsored initiative and referendum questions be first submitted to the legislature was added to give the Senate and Assembly the opportunity to carry out the people's wishes without resorting to the general election ballot. The six-month time period for legislative consideration will also help insure that the public is made acutely aware of an I & R measure's potential impact on the State, as the legislative debate on the matter is reported in by the State's news media.

Madam Chairperson, SCR-7 is a good piece of legislation and it deserves the support of both this Committee as well as both houses of the legislature. I would be remiss in my duty today if I did not address myself to the fears and allegations which the foes of initiative and referendum will be advancing in opposition to this measure. For when those fears are closely examined, you will clearly see that they are utterly groundless. Much of the opposition to initiative and referendum appears to center around a basic distrust of the wisdom of the people and their ability to make rational choices. Time after time, opponents charge that the people are incapable of making informed choices or that they are inherently fickle and therefore should not be entrusted with the power to initiate and approve laws. None of these charges are true. And, there are reams of evidence to disprove them.

Since the adoption by public referendum of the State Constitution in 1947, the State legislature has placed 88 public questions before the voters for their considerations.

Of these questions, 49 have been bond issues with an aggregate total of \$7.7 billion; 33 have been amendments to the State's Constitution; 5 have been gambling statutes; 1 was for the convening of the constitutional convention. In their wisdom, the people approved 31 bond issues totaling \$4.18 billion, and rejected 18 issues totaling \$3.52 billion, while 23 changes to the Constitution were accepted and 10 were defeated. The call for a constitutional convention was approved, as was the amusement games licensing law, and extension of that law to agricultural night racing. A final question concerning increased fees and prizes for amusement games was defeated in 1976.

The point I am trying to make is that the statewide electorate has demonstrated on numerous occasions that it is eminently capable of making clear, rational and considered decisions on a wide variety of issues. Not only has the statewide electorate demonstrated its ability to make clear, rational decisions, but so have the voters of the individual counties and municipalities.

Through various legislative enactments the residents of 131 of the state's municipalities have been granted the powers of binding initiative and referendum on local issues. Additionally, the people of five counties - Atlantic, Essex, Hudson, Mercer and Union - have received the powers of initiative and referendum

by adopting new optional county charters. As a matter of fact, the Legislature has also given the residents of each of New Jersey's 567 municipalities the power to initiate nonbinding referenda on local questions.

And, lest anyone claim that the people do not want to exercise the power of initiative and referendum, I will remind them that during the 1979 general election the voters of eight counties - Burlington, Cape May, Cumberland, Hunterdon, Morris, Ocean, Union and Warren - endorsed initiative and referendum at the polls with a resounding vote. Those counties were joined by Passaic County in 1980 where the people also voted "yes" for initiative and referendum by a huge margin.

I would like to close my remarks before you today by reading an excerpt from the July 9, 1947 session of the New Jersey Constitutional Convention. The speaker was Miss Bertha Lawrence, the official representative of the New Jersey Education Association:

"We believe and we know that New Jersey does recognize in Article I, paragraph 2, that all political power is inherent in the people. This merely gives assurance to the people that that power does so reside, and if there should be a desire on the part of the specified number of the people to initiate the legislation which they believe is necessary to the common good, and which they would like to see initiated, they have the right to such initiation, and if they believe that a proposal before the legislature or before any group is important to them, that it may be referred to them for their decision, so that at all times the will of the people may become articulate - may be known in order that it may become important in the action of the State. I do not anticipate that this will be used very much. Experience has shown that although it is written into most of the constitutions west of the Mississippi, and in three of the states east of the Mississippi - in Maryland, Maine, and Massachusetts, to mention the only three I can recall - it is still a power which the people would like to see in their hands. If you have read the current issue of Ladies' Home Journal I think you have found that the researcher stated a very interesting principle when he said that the decision of the people is very often in the right direction."

"The decision of the people" - that phrase by the representative of the NJEA clearly and succinctly sums up the issue before you today, SCR-7 will create the mechanism by which the decisions of the people can be made. Thank you very much. Do you have any questions?

SENATOR LIPMAN: Senator Laskin, do you have any questions?

SENATOR LASKIN: Yes. Since I assume you are very familiar with the technicalities of this bill, I am going to ask you a couple of questions. Suppose a referendum question is defeated, is there anything in that bill that establishes some time limits when it can be brought up again?

MR. MC DONALD: It is not in the Constitutional amendment. It is in the Senate Committee Substitute that is currently before the Committee.

SENATOR LASKIN: What does that say?

MR. MC DONALD: I believe it is a two-year delay that you can't discuss it again if it is defeated.

SENATOR LASKIN: Is there any safeguard in the proposal whereby there can be a judicial review to determine whether or not the question that may have passed meets the general constitutional requirements? Is there anything in the bill about judicial review?

MR. MC DONALD: In the Senate Committee substitute--- It is not in the Constitutional amendment. If it were a statute that was enacted by the people through the Legislature, I assume the courts, as with any statute, can make a ruling on it.

SENATOR LASKIN: Let me give you a hypothetical. Suppose you get a question on the ballot that says "Abolish the State Legislature." I will give you an example that I might like to vote for. And, say that passes. The constitutional amendment then takes precedence over the basic constitutional requirement that there be a State Legislature; is that what you are saying?

MR. MC DONALD: All right, that is an area that I don't think I am equipped to address.

SENATOR LASKIN: Well, that is a bad example. Let's say you have a question passed that says, "All pavements in the State of New Jersey will be colored brown, and it passes. Suppose the opponents of the measure claim that it is improper to do that for some reason. Do they have the right of judicial review of that question in the same manner that a statute could be reviewed?

MR. MC DONALD: Yes, it is a statute. The only difference is that it was enacted by an effort of the citizenry, but it still has the same standing and effect as another legislative enactment.

SENATOR LASKIN: I am not sure of that. That bothers me.

SENATOR LIPMAN: Senator, we have a statement which came out of the Committee, and I am going to ask Jim to read it into the record.

MR. CARROLL: If there is conflicting case where the proponents of a particular question on the ballot would hold that the Legislature did not adopt that---

SENATOR LASKIN: That is the proponents. I am talking about beyond that. If a question is adopted--- I am not talking about whether the proponents have a right to seek review. I am talking about a situation where the question is now passed by the majority vote. Is there a process of judicial review at that time? You see, that is the main concern I have. You see, we don't really live in a majority ruled country. Although we oftentimes use that phrase that the majority rules, it really doesn't. That is why there is a constitution. That is why there are courts, because sometimes the vote of the majority may be unconstitutional. Sometimes the vote of the majority of the legislature in enacting a law may ultimately be deemed to be unconstitutional, because in this country we protect the rights of the majority as well as the minority.

Has any thought really been given to that? The most significant point to me is, if just because 51% of the people vote for something, and 49% of the people are deprived of a basic inherent right that they may have, don't we have to be concerned about that part of the initiative and referendum law?

MR. MC DONALD: I don't really believe that as far as statutory enactments you would have any problem. The way this bill is set up now is is a slower process than, say, the California one where it is petitioned in gloom on the ballot. This goes before the Legislature where there are some difficulties---

SENATOR LASKIN: And they don't do it, and it goes on the ballot, I am beyond all that. I am in favor of initiative and referendum, but I am now beyond that. The question passes and it is patently inequitable, unreasonable, unfair to the minority residents, those people who are in the 49%. What standard of judicial review is there? Because our system requires the rights of all to be protected.

MR. MC DONALD: If it were a statutory enactment, it would be subject to the same judicial review that any enactment of the Legislature ---

SENATOR LASKIN: But, is it a statutory enactment if it is put on the ballot?

SENATOR LIPMAN: Senator, fortunately, we still have Senate Bill 828 and 81 under consideration in the Committee, and it is possible to consider the amendment. We did not add judicial review except in the case of a contest. That is, when the proponents of an initiative and referendum question do not agree that the government and the legislature have acted wisely, then the Supreme Court enters. That is the only judicial review.

SENATOR LASKIN: That doesn't solve the problem.

SENATOR LIPMAN: I know it doesn't. Fortunately we still are in the process of amending Senate 828.

If you have no more questions for Mr. Mc Donald, I thank you.

MR. MC DONALD: Thank you, Senator.

SENATOR LIPMAN: We have a statement from Senator Anthony Russo which will be read into the record.

MR. CARROLL: This is a statement given by Senator Anthony E. Russo of the 20th District.

"In the wake of publicity generated by Proposition 13 in California three years ago, interest in citizen initiated referenda rose sharply in our State. The fact that the Legislature, despite the support of a clear majority of Senators has reflected by the number of co-sponsors did not act on such a proposal, gave rise to the charge that we be inured to the complaints of citizens.

"However, by its action in releasing SCR-7, which I was pleased to co-sponsor, the Senate State Government Committee demonstrated the determination of Chairwoman Wynona Lipman and her fellow members to let the will of the people be heard. I concur with the judgement of Senator John Dorsey, principal sponsor of SCR-7, that Senator Lipman's Committee has indeed improved upon the original version that so many of us Senators co-sponsored. The Committee has wisely, I think, spelled out some of the specifics of how initiative and referendum should work if they are approved by the voters.

"Additionally, the measure we in the Senate are to consider would allow our citizens to place on the ballot questions covering any subject. The legitimate desires of citizens to have a direct voice in making public policy would be granted by SCR-7. However, the measure provides safeguards which I regard as necessary and responsible. The signatures of 240,000 registered voters, or 8% of the number of ballots cast in the last presidential election, would be required to pass or repeal a law by initiative. Approximately 360,000 signatures, or 12% of the vote would be needed to amend the State Constitution.

"Prudently separate bills would impose on opponents and proponents of public questions the same individual spending limitations as those in effect for gubernatorial candidates, \$800. In addition, it would forbid the use of aid petition circulators. These provisions would be dealt with in separate bills, S-8282 and S-81. I believe that SCR-7 as presently constituted strikes a very proper balance between those who want perennial oversights on every conceivable question, and those who, for whatever their reasons, fail to share my belief in the fundamental soundness of the judgement of the electorate.

"I wholeheartedly urge my colleagues in the Senate and the Assembly to vote for this landmark measure, which would put New Jersey citizens on an equal footing with their peers in progressive states, which trusts people's ability to reach intelligent and informed decisions on matters of public policy. Your cooperation in this matter is most appreciated. Sincerely, Anthony E. Russo, State Senator"

SENATOR LIPMAN: Thank you, Jim. I now call Mr. Richard Zimmer, Republican Candidate for the General Assembly District 23.

R I C H A R D     Z I M M E R:    Thank you very much. My name is Richard Zimmer. I am a candidate for the State Assembly in the 23rd District, which includes parts of Hunterdon, Morris, Sussex, Warren, and Mercer Counties. I live in Hunterdon County in Delaware Township. I am here to strongly support SCR-7, and I hope that both houses of the State Legislature will have the opportunity to vote on this amendment in time for it to appear on the ballot this November.

I would like to commend the Chairman of this Committee for expediting consideration of this Resolution, so that initiative and referendum at least has a fighting chance to be presented to the voters this fall. I also want to commend Senator John Dorsey for his unrelenting support of this measure since he first introduced it some years ago.

This amendment must have a real chance otherwise there would not be an array of such an impressive list of lobbyists to testify against it this morning. With all due respect to these ladies and gentlemen, I don't believe that New Jersey has much to fear if this amendment is adopted. As Mark Twain said about the music of Wagner, "It is not as bad as it sounds." Potential for abuse has been minimized by amendments adopted by this Committee setting substantial requirements for the number of signatures required, geographic distribution of people signing the petition, and further by modifying the amendment to make it an indirect initiative and referendum this Committee has made sure that this Legislature would be forced to grapple with problems it might otherwise duck. This encourages our legislators to do the job that they are paid to do, and I think that it is an important addition, and improvement in the bill which would, of course, permit other people to go to the initiative and referendum process in the end if the Legislature continues to evade its responsibilities.

There are other safeguards that have been mentioned that are in the enabling legislation which I think also add to the balance of this amendment. The point was raised before on judicial review by Senator Laskin, it is my understanding that the legislation in its current form would be subject to judicial review by the State courts, as well as the Federal courts, under Federal Constitutional criteria. The Federal Constitution has precedence over both the State statutes and State Constitution.

SENATOR LASKIN: Legislation would. I am going to interrupt you because this is--- You see, I am a proponent of initiative and referendum.

MR. ZIMMER: Yes, sir.

SENATOR LASKIN: But, I am scared to death that if we don't pass the most hundred percent perfect bill what could happen. This bill is, of course, subject to judicial review now. What happens if a question is passed that is absolutely an intrusion on the rights of those who don't happen to vote in the majority?

MR. ZIMMER: In that case, Senator, I submit that it would be a violation of the Fourteenth Amendment to the United States Constitution, and that State Constitutional Amendment would be deemed to be invalid under the Federal Constitution, just as---

SENATOR LASKIN: All right, now, let's follow that. Let's say you are right. If you were right, that means that somebody is going to have to go up the long ladder of the court system, through the Federal system, and maybe to the U. S. Supreme Court. Don't you agree that it would be easier and cleaner if we put the procedure right in the bill, and we would not have to worry about, "Well, maybe it is a Constitutional case; maybe it isn't." Because if you have more than one lawyer in one room, you have as many opinions as there are lawyers, as you know.

MR. ZIMMER: At the moment we have two lawyers, and two opinions.

SENATOR LASKIN: That is right, absolutely. So, all I am saying is, shouldn't we clean it up if we can before it goes into law.

MR. ZIMMER: If there is any ambiguity, it would not hurt to make it crystal clear. But, I do believe that as a general principle, even as currently drafted, there would not be that problem. I would hope that the judicial review provisions would be put in the enabling legislation rather than the amendment, so that we could move forward on the amendment and get it approved in time to appear on the ballots this fall.

In the end where you stand on initiative and referendum depends on how much you trust the people. Experience in other states combined with the safeguards added to SCR-7 convince me that initiative and referendum will be used in New Jersey only as a last resort and that the public will prove to be more responsible than some lobbyists fear.

Thank you very much.

SENATOR LIPMAN: Okay, thank you, Mr. Zimmer. I now call Mr. Frank Haines of the New Jersey Taxpayers Association.

F R A N K H A I N E S: Senator Lipman, Senator Laskin, I am Frank Haines, Executive Director of the New Jersey Taxpayers Association.

SENATOR LIPMAN: Excuse me, Mr. Haines, I never introduced Senator Laskin from Camden County.

MR. HAINES: The New Jersey Taxpayers Association is a private, non-partisan, governmental research organization founded in 1930 now in its 51st year. We are a member organization supported by voluntary contributions and our members represent most categories of New Jersey Business and Industry.

We have presented Association views on the subject of initiative and referendum at most of the hearings held by the various legislative committees over the past three years. Our specific policy on the question of initiative and referendum - which is approved by our Board of Directors and Executive Committee - is that "Amendment to the Constitution to authorize use of unlimited direct initiative for either constitutional amendment or statute and unlimited referendum for statute is unsound policy and not supportable by the Taxpayers Association."

This position was taken after our research staff had undertaken extensive review of the history of initiative and referendum including developments related to Proposition 13 in California and subsequent state tax and spending limitation questions as well as a long list of arguments for and against initiative and referendum.

Among the conclusions that we made was that assertions that initiative and referendum are unlimited fundamental inherent rights of citizens in every state and local governmental unit are basically philosophical misconceptions. Further, inferences of a wide acceptance by states of initiative and referendum are not supported by the facts. Citizens generally are unfamiliar with the complex variations of initiative and referendum and consideration of expanding the State Constitution to add these powers requires extensive voter education about the amendment as well as the implementing legislation.

My comments this morning are limited to the Constitutional amendment. So, we won't get into some of the other controversy on the implementing legislation. The New Jersey Constitution has a reputation for being one of the outstanding fundamental documents among the 50 states. It is reasonably short. It is a basic charter which has notable characteristics which provide for a short ballot, a strong Executive, sound financial principles, and an effective judicial system. There have not been excessive amendments and New Jersey ballots have seldom been overloaded

with referendum questions. I think the first testifier on this this morning indicated that effectively in the history of the use of referendum in New Jersey.

The Constitution provides for the orderly process of constitutional amendment from the legislature to the people, reflecting the well established historical precedent for voters having a voice in changes in the State charter. An alternative means for Constitutional change is through a constitutional convention, although New Jersey's constitution makes no provision for periodic consideration of whether such an assemblage should be held.

The New Jersey Taxpayers Association believes that the elected representatives, the Legislature, being a deliberative body, should continue to be the principle initiating body for constitutional change. NJTA is fully cognizant of reasons behind recent tax and spending limit actions in other states, particularly California and Massachusetts, which are among the minority of states with initiative and referendum. It is the Association's view that New Jersey has so many problems calling for attention that it is unsound policy to inject a procedure that can keep the regular operation of government in constant turmoil and indecision. This would be particularly disruptive to a new administration whose policies could be drastically modified or nullified by a minority of voters whose in-depth knowledge and understanding of intricate problems cannot be expected to approach that of the Legislature.

There could be a serious impact on the role of the legislature also. For over a decade the New Jersey Legislature has been striving to achieve recognition as an equal branch of State Government. The addition of more professional staff, improved Committee procedures, oversight measures are only a few of the actions which have been 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 which can be petitioned. I would say that would even apply to the direct method also, particularly. Initiative and referendum can nullify concerted efforts to establish well-planned continuity of policy particularly in fiscal affairs. Adoption of initiative and referendum will make it too easy for the Legislature to avoid critical decisions by passing them on to the voters.

A significant fact, which New Jersey voters should realize about initiative and referendum is that less than half the states have those powers in one or more of the varied forms. Further, New Jersey is in the majority of states whose constitutions do not provide for initiative and referendum.

There is no evidence of widespread newspaper editorial support for initiative and referendum in New Jersey at this point. You frequently see in governmental offices a satirical sign, "Don't confuse me with the facts; my mind is already made up." I want to add just a few selected statistics, not to confuse, but to demonstrate the extent of State adoption of initiative and referendum, and provide a little evidence of the complexity of this subject. I have to point out that numbers on this summary may differ slightly depending on which documents you use, because there are some valid differences in interpretation of some of these state constitutions. But, the figures won't be off any more than one or two.

Twenty-three states now have referendum, and most are in the midwest and far-west, and most of them were adopted before 1920. The same 23 states have some form of initiative.

Fifteen states and the District of Columbia have direct initiative for statute.

Fifteen states, and they are not the same that have the initiative for statute, have direct initiative for constitutional amendment. It is interesting

to note that Illinois alone provides for constitutional initiative only for its legislative article. And, it was used last November to reduce the size of an Illinois House of Representatives from 177 to 118.

Ten states authorize direct initiative for both statute and constitutional amendment.

Eight states have indirect initiative for statute.

Only four states in the east which have either initiative or referendum. There is Maine which has initiative and referendum only for statute; Massachusetts which has indirect initiative and referendum for statute and constitutional amendment, and Maryland which has only referendum, and Florida which has initiative only for constitutional amendment.

Now, historically, development is not current in terms of expansion of states, adding these to their constitutions. Florida, which I have indicated, has only the direct initiative for constitutional amendment is the only state which recently has added initiative to its constitution. That goes back to 1972.

And, there have been no additions since 1972, even though there have been efforts in a number of states to provide for such changes.

Fifteen of the twenty-three states with referendum exclude financial matters, that is, either appropriations taxes or both. And, at least 7 states with the statutory initiative exclude appropriations.

It is for these reasons and that the states that have developed initiative and referendum as limited powers that the Association suggests an alternative proposal, that you give serious consideration. Instead of opening the dam to unlimited use of initiative and referendum for both constitutional amendment and statute to a more cautious approach by initially imposing limitations that would apply to subjects such as emergency legislation, elections, appropriation of funds and raising revenues. This could have the effect of prohibiting use of these matters in the subjects that could have a drastic adverse financial impact on state government in New Jersey, and I would only use the analogy of Massachusetts at this time as something which is to be avoided.

This limitation of use of these powers are basically limited in many cases, anyway, and would certainly avoid a lot of problems for New Jersey at the outset. Thank you for listening to me and for the opportunity of presenting this information to you.

SENATOR LIPMAN: Thank you, Mr. Haines, for your testimony. It is a curious observation you have here, all defending the legislature nicely. Thank you very much. You also showed that we can't get away. The reason the sponsor asked for this is so that the Legislature cannot avoid critical problems. And you say the reason we don't need this is because the Legislature might leave the problems to the people. It is very odd. We can't get away no matter what.

Senator Laskin, do you have any questions?

MR. HAINES: Ma'am, I would submit that probably one of the most important reasons for having a Legislature is to adopt a budget and decide fiscal policy which includes taxes and bonding and so on, and to go to complete participatory democracy in complex problems like this can only lead, I think, to a lot of indecision and unnecessary complexity in terms of fiscal policy.

I am glad I don't live in Massachusetts at this point, and although the shock has not hit California yet, it is soon to come, and I think not only the citizens but governmental officials are gravely apprehensive of what is to come in these states. The responsibility is now on the Legislature to try to correct

something which they didn't initially ask for. But, it is left to them to try to solve.

SENATOR LIPMAN: We thank you just the same for your defense of the Legislature.

I now call Mr. Sam Perelli, United Taxpayers of New Jersey. Mr. Perelli is an ardent advocate of SCR-7.

S A M P E R E L L I: Senator Lipman, Senator "33 to 1" Laskin--- That is how you are known up in our office, by the way - Frank Haines from the New Jersey Taxpayers Association is quite an act to follow. We don't have the some \$200,000 budget that that Taxpayer Association has, so I might submit to you that you are going to hear from the little guys that pick up the tab in New Jersey right now. (Applause)

I understand that the AFL-CIO represented by Mr. Marciante will be here today to oppose the people's right to petition amendment. I only ask of Mr. Marciante that he consider that all the taxpayers and the voters of this state want is the same democratic process and input that he has in his union. So, I rest my case with the AFL-CIO.

The New Jersey Chamber of Commerce opposes. We have extreme difficulty in finding out why, especially in view of the fact that one of their major members and contributors use the same process on a county level, the initiative process and the referendum process, to overturn the blue laws. I would like them to come forth and explain that what is good for them when they want to use it is not good for the voters of the great State of New Jersey. The blue laws, by the way, were the Sunday closing laws for anyone who is not familiar with that.

Mr. Haines started talking about his information. I certainly hope they would update it and show you that recently in the State of Illinois the voters rejected a 50% cut in the property taxes, and some major tax reforms, they rejected them. Somebody's information is out of date.

Now we come to--- There was a group of young people that I saw here before. I am sorry they are not here right now, because I am going to talk about their future. I am going to talk about the opposition that we have from the New Jersey Education Association, the teacher's union.

SENATOR LIPMAN: Mr. Perelli, they are here.

MR. PERELLI: Thank you. I wish you young folks would stay here for a moment, because I am going to address these remarks to each and every one of you. The teacher's union, young ladies and gentlemen, through you Senator Lipman, who brought you here today, these teachers, are saying that you folks are not capable of making decisions when you are old enough to vote. And, that upsets me. That upsets me that they would want to restrict the law making process to say that only the legislators are allowed input and you would not be allowed to vote on these major issues. That same teacher's union is the one charged with the awesome task of educating our students until they are of voting age, and then they are no longer responsible citizens. And, for the record, Madam Chairwoman, I would like to add that the Massachusetts teacher's association, a well-respected teacher's union, used this process to place public question three on the ballot, and that ballot question asked the State voters if they wanted the State legislature to pick up a larger percentage of school funding. The measure did pass, however, our point is that the teacher's union did in fact use the process. And, here in New Jersey our teacher's union says, no.

So, I ask you, each and every one of you here today, to consider the fact of the future of our State, the future of these children up here, to decide

where they want to go, what they want to do with their lives in the State of New Jersey. They might opt to move to one of these states that has these particular rights. I want them here in New Jersey, so they can assist us in making New Jersey the finest of the 50 states. (Applause)

SENATOR LIPMAN: I would like to ask you to restrain from any demonstrations in the Chamber.

MR. PERELLI: The people's right to petition amendment has been up until now a non-partisan issue, and I hope that it will stay non-partisan. But, I am compelled to read into the record a resolution and a footnote from the Virginia Republican Convention where they actually used a telegram that was sent to the United Taxpayers of New Jersey, and heretoforth, I have not used this as testimony. I didn't want to use it, but by golly if it is important enough to be used in the State of Virginia, who, by the way, is endeavoring for the same type of legislation, then I think it is important that we in New Jersey hear the results of this telegram.

It is addressed to myself as State Chairman of the United Taxpayers of New Jersey. "George Bush and I congratulate you on your efforts to attain for the people of New Jersey the rights of initiative and referendum. We urge you to keep up the fight, and we endorse your efforts." It is signed Ronald Reagan. Thank you. (Applause)

SENATOR LIPMAN: Senator Laskin, do you have a questions for Mr. Perelli?

SENATOR LASKIN: I notice one comment that you made, that some politicians think that the people are not capable of electing or voting on the right things, or doing the right thing, making the right decisions. What makes you change your mind with initiative and referendum, if they have not been able to exercise good discretion in electing legislators, do you think they are going to do a better job in putting these questions on the ballot?

MR. PERELLI: Well, I submit to you, sir, that using taxpayer's money, look at the results of the people that came out and did in fact vote and did see what this process is all about. The taxpayers got involved in this last election, not like past elections, where the powerful, iron-fisted, special interest groups have held control of New Jersey. That is putting New Jersey back into the eighties.

SENATOR LASKIN: I only wish more taxpayers would get involved in all elections, but I find that they don't. That is just a comment.

MR. PERELLI: We found recently, Senator, in 1980 when these various blue law referendums around the county brought out record breaking turnouts, and I am positive that the people of New Jersey will not abuse the right of petition.

SENATOR LIPMAN: All right, thank you, Mr. Perelli. Mr. James Connerton, New Jersey Education Association.

J A M E S P. C O N N E R T O N: I thank you, Madam Chairman and Senator Laskin, for the opportunity to testify on this important subject. As you know, we were prepared to testify last month, but we waived our opportunity in the interest of time. Our thoughts haven't changed since last month.

It was pointed out last month and again this morning by Mr. McDonald that back in 1947, when the present State Constitution was adopted, the NJEA supported the concept of initiative and referendum. And that is so. But we supported it then under far different circumstances than prevail today.

In 1947, the memories of a Great Depression and a World War were still fresh in the minds of everyone, but especially of legislators. Public spending for anything but national defense was practically unknown, and public employees worked for slave wages. Great public needs went unmet.

The 1947 Constitution invested the Governor and the Legislature with wide-ranging powers to deal with the problems of our State. Our Chief Executive is one of the most powerful in the nation, and he has the ability to respond quickly and decisively to pressing concerns. One may not always agree with his actions, but you must admit that the power is there in the office.

New Jersey's Legislature is one of the most open in the nation. It has an elaborate committee structure, which allows public input on all bills which pass through the Legislature. Legislators have district offices in their home areas. The people who tell you they can't reach legislators are really telling you one of two things: they don't understand the legislative process, or they don't agree with the positions their legislators hold.

These are the people who want "Initiative and Referendum." They want everything brought to them. They don't want to have to call legislators or write letters or do the things that make participatory democracy work. They want "arm-chair democracy."

The term "Initiative and Referendum" is so simple, it almost defies belief. Let the people vote on the issues -- after all, they are the source of government authority, say the proponents of this method of government. It sounds almost self-evident that we should have been doing this all along.

The concept of initiative and referendum does sound simple, but we believe a better word would be "simplistic." The process reduces the serious problems that government faces every day to, at most, a few paragraphs on a ballot. It asks for a "yes" or "no" answer to problems that do not lend themselves to simple answers.

What it would accomplish is uncertain because the results of ballot measures have been mixed in other states. The worst recent result has been in Massachusetts, where a high-powered business-backed campaign helped pass a punishing tax cut. If you have illusions that this is power to the people, I think you ought to be disabused of that. As a result of that action in Massachusetts, schools, firehouses and other public services are being done away with. Over 9,000 teachers are in danger of losing their jobs. Can anyone seriously argue that children will benefit from this: Do we want this in New Jersey?

Massachusetts did have a problem. Its tax structure was similar to New Jersey's, with an overreliance on the property tax. The answer there, as it should be here, should have been legislative reform of the tax structure. But the Massachusetts Legislature did not reform the tax structure; it passed the buck. And it is still passing the buck, saying "the people voted for it."

We view "Initiative and Referendum" as a similar form of passing the buck. Taken to its extreme, "Initiative and Referendum" could mean that in 20

years, given the state of the art, each voter will have a computer terminal in the home, with a chance to vote on each and every issue. If that becomes the order of the day, who will rule? Who will be in charge? Everbody is in charge - and, ultimately, no one is in charge. Yet decisions do have to be made - final decisions - and final decisions cannot be made by everyone simultaneously. Individuals duly elected to exercise careful, thorough judgment must make them.

We must have leaders, I submit, like yourselves. But with "Initiative and Referendum," there will be no leaders. There will be anarchy.

Just as it will weaken the structure of government, "I & R" will weaken the political process. Why should candidates for office campaign or take positions on issues? If "I & R" were the law, the candidates could only say, "Well, I'll wait and see what the people tell me to do on that." There will be no leadership, no presentation of ideas, no creativity in the process. In short, the political process would be barren, and the government as well. Instead of a Legislature, we could elect a polling firm to make several thousand phone calls a week to find out what the people want. Would you use Harris, or Gallop, or Yankelovich? Well, since we don't want to make decisions, you could rotate and give each of them a shot at it.

Proponents of "I & R" say it will increase interest in government, and get people more involved. In Switzerland, where practically every issue goes to a national referendum, voter participation is actually lower than it is here in the United States.

"Initiative and Referendum" is based on a faulty theory: it assumes that there is a "public" that speaks with one voice. In fact, there is no such thing. As any pollster will tell you, "public opinion" is many divergent voices -- conflicting interests that should be resolved, not kept constantly clashing. And public opinion can mean one thing today and another thing tomorrow. It is that way because people can and do change their minds quickly. They can receive new information, they can develop a new outlook through new acquaintances, or they can simply undergo a change in personal outlook. But, if "I & R" is the law, there is no second chance. True, another ballot measure can be developed, but it generally takes at least 18 months to get a new petition drawn, get signatures, get legal opinions and so forth. So the voter usually would have to wait two years to express his opinion on the same subject. And two years can mean great damage to government, as Massachusetts residents will tell you.

"I & R" also assumes that public opinion is completely informed. It is not. We have representative government for the very reason that all people cannot be completely informed on all issues. Legislators are elected to do this by and for the people. Legislators are elected to study issues and to decide them on the basis of the information at hand.

I think we ought to put the matter up front: most of the clamor for Initiative and Referendum comes from groups who want lower taxes. Well, we have one thing in common with them: we feel that the tax structure of this State is out of balance, with far too much reliance on the property tax. This penalizes lower- and middle-income people and small businesses. But the answer is not to put a simple question on the ballot: "Do you want lower taxes?" Of course, most people want lower taxes. But they are willing to support a fair system of taxation, because they want and will support good schools and other essential public services.

The answer to our tax problems should not be a cop-out. It should be hard-headed dealing with reality by the Legislature, not the avoidance and neglect

of reform that happened in California and Massachusetts where Initiative and Referendum have over the years given lawmakers an excuse to avoid responsibility.

Five years ago, it took a Supreme Court mandate and the closing of our public schools to move the Legislature. There was no long-term damage; in fact, the resulting tax package was a step toward reform. We hope that a negative ballot measure is not the next thing to move the Legislature because, if it is, the schools may close again. But this time, some closings may be permanent.

We can understand the desire of this Committee to get the measure of "Initiative and Referendum" before the full Senate for a vote. However, just as the New Jersey Education Association changed its mind over the past 30 years, we would urge that you vote against this measure when it comes up on the floor before the full Senate. And I thank you very much for your patience this morning.

SENATOR LIPMAN: Senator Laskin.

SENATOR LASKIN: Just one point of clarification: Is the NJEA opposed to the concept of initiative and referendum in any form or are they opposed to this specific proposal?

DR. CONNERTON: We are opposed both to the specific proposal and to the concept ---

SENATOR LASKIN: In any form?

DR. CONNERTON: --- in the State of New Jersey. We do not believe that in the State of New Jersey, given the legislative process we have and the State Constitution we have, going back to '47, that we need initiative and referendum in this State.

SENATOR LIPMAN Thank you, Dr. Connerton.

DR. CONNERTON: Thank you very much.

SENATOR LIPMAN: I will call Miss Eileen Measel of the New Jersey Business and Industry Association.

E I L E E N M E A S E L: Good morning, Madam Chairman and esteemed members of the Committee. If Mr. Perelli thinks that Mr. Haines was a hard act to follow, certainly following Mr. Perelli at any point is no less a task. I won't be quite as emotional as he, perhaps. But if you remember anything of what I have to say this morning, I would like one thought to remain with you: this legislation and its companion bills may be the single, most important piece of legislation that you have to vote on in your entire legislative careers. This could very well change our very system of government in the State of New Jersey.

The New Jersey Business and Industry Association would like to thank you, however, for this opportunity to present our views on a constitutional amendment which would establish an initiative and referendum procedure in New Jersey. The Association has a long history of providing research and information to the Legislature and to other governmental agencies. Over the years, we have watched society become increasingly complex and so have the laws by which our citizens are governed. We are proud to participate in this representative system of government, which has provided for and solicits public comment on the many issues it has to deal with. The very fact that this public hearing is taking place this morning with so many diverse groups and individuals scheduled to make their views known, I think is testimony to the effectiveness of such a system.

The concept of direct legislation, by initiative or referendum or any system of direct voter participation has been associated with our democratic society. However, somehow this idea has been misconstrued. This nation's Founding Fathers considered a government based upon direct democracy and I think wisely chose a modification of that idea. Both the United States and

New Jersey Constitutions provide for three branches of government, not four or five. The delicate balance among the judicial, executive and legislative bodies would not exist if one branch, in this case the legislative, could be overruled or undercut and rendered powerless by a limited number of people. And, we would consider 360,000 votes a very limited number of people. An even lesser number, 8%, could propose a statute or call for a referendum petition. I would like to, at this point - if you haven't already - consider a legislative plan that requires a stable, long-range outlook which is really the foundation for a sound economic and social structure that could be seriously shaken by the initiative and referendum procedure.

I would like you to consider for a moment how we could bring about our State's tax policy, our State's planning - the master plan that has been proposed - or our zoning, whether it be on a statewide or a countywide level, by initiative and referendum. And, last but not least - and this is sort of an issue of our times, unfortunately - I would like you for a moment to consider how you would deal with the problem of the disposal of our hazardous waste, which appears in the newspaper every day, if we were to do it by initiative and referendum of the people. How do you think we would put it in an area that the voters decided to put one of these facilities? It could be New York, Pennsylvania, Massachusetts -- but certainly not in New Jersey.

The adoption of the initiative and referendum into the other - I heard the figure this morning of 23 state charters - state institutions came about really as a result of dissatisfaction and distrust on the part of people towards their legislative bodies. By the way, that is historically documented, and it appears even in many textbooks that our children and young people read in Civics and U.S. History classes. The era of the "smoke filled room" style politics which prompted much of this I & R procedure has largely been replaced by "government under glass," and certainly we are familiar with this government under glass approach. This has been facilitated by the enactment of open public meeting laws, freedom of information acts, investigative reporting, and indeed increased public awareness.

But, this initiative and referendum approach in New Jersey has been promoted in a very different matter than prior efforts to amend our State's constitution. Previous constitutional amendments have proceeded only after considerable study effort, such as the large scale drive for constitutional reform which was launched in 1941. It took six years of broad research and educational programs before the Constitution of 1944 was revised, and during this time permeating that drive for constitutional reform, there was a basic need to maintain the clear and unambiguous expression in our State Charter of the traditional American principle of the distinct separation of powers among the three departments, legislative, executive, and judicial. The New Jersey Constitution has been a living document because of the selective and cautious approach taken to amend it. This document under which we live and are governed deals with broad concepts and rights. Specific issues, no matter how pressing, no matter how seemingly life and death the matters are, that are more properly the subject of legislation or regulation, should not be incorporated by initiative and referendum into such a document, otherwise this living Constitution which has worked so well could be riddled with statutory type language, which could mark it for extinction.

Some speakers here this morning have, in almost twenty-five words or less, characterized the debate on this issue as whether or not the Legislature trusts the people and their native intelligence to decide issues on their own. Characterizing this debate in that fashion is typical of the kind of "yes and no, white and black, good and bad" approach that initiative and referendum petitions tend to be couched in. The I & R process does not lend itself to the complicated nature of today's legislative process. There were almost 4,000 bills introduced in the 198th Legislature, while only slightly more than 700 actually became law. The introductions were reviewed by Legislative Services and most were assigned to an appropriate committee for further study and review. Many of the bills which ultimately became law were substantially amended as a result of the committee process, or altered on the floor of these very legislative houses. This is not the typical approach with an initiative and referendum procedure.

Legislation by initiative and referendum leaves little room for compromise on an issue because of the way the ballot question is presented to the people. The level of good government for which our State is noted could be seriously threatened if we were to govern by initiative and referendum. This leads us into the problem of just how the public is going to receive the sufficient education and understanding of an initiative and referendum question, and the proponents of this legislation indicate that the media will be able to provide all the information the public will need to know in order to make a decision on a given issue. Instead of elected public officials making these decisions, someone else will be bringing the issue to the fore. I would like you to consider who that someone else might be. Public relation firms will undoubtedly be paid to wage informational campaigns by one side of an issue or another. The input from small, less well-heeled groups is bound to be lost in our costly electronic media age. There isn't much time for a thorough discussion of the issues in a 60 or 90 second t.v. or radio ad, just the bottom line, predetermined not by the legislature but by the proponents who are supporting or who are against an issue in referendum. Yes-no, good-bad is what they will be presented with in such a forum.

Finally, instead of a greater sense of participation in government, which is what all initiative and referendum proponents say will result, the public could actually withdraw from the bombardment of these media type campaigns. Confusion rather than enlightenment is often the result. I guess the best example that we have just experienced of this is our recent 21 candidate gubernatorial race. Despite the enormous sums of money, both public and private, spent in the candidates' efforts to increase their recognition factor, the public remained largely unable to name more than several of the candidates running for this highest state office, much less be able to indicate what these candidates were proposing.

As elected officials, I am sure the members of this committee seek and, even when they don't seek input from their constituents, get input from their constituents which helps them to formulate and define both community and statewide issues. You know that these issues are rarely of a cut and dry, yes or no variety. Exceptions exist to almost every man-made rule. It is this flexibility which comes about as a result of compromise and

the legislative method of dealing with complex issues that makes the American system of laws the most fair and equitable in the world. Initiative and Referendum procedures are not flexible enough to enhance this tradition.

The initiative and referendum method of government easily lends itself to emotional kinds of issues, the hate and fear kind of issues which when dealt with are best left to a more dispassionate discussion and cogent argument permitted in the present system. The public is certainly free to adopt a passing fancy or more into their own lifestyles, but it is indeed dangerous to leave open the potential for it to be the subject of a law or a constitutional amendment.

In closing, the New Jersey Business and Industry Association does not favor government by initiative and referendum. We have a government by representation. Indeed, it is a government of the people, but it is a less direct, less chaotic form of government which has existed quite well for over 200 years. Good government stems from the wide participation of citizens in selecting the most talented and dedicated representatives who while being responsive to the public's needs are able to make intelligent and statesmenlike decisions that go well beyond the rhetoric and the easy yes and no, right and wrong kinds of determinations. The present reduced level of voter participation in elections would seem to indicate we don't need another mass voting structure which could be abused by special interest groups who can afford to wage one-sided persuasion campaigns in the mass media. The legislature should continue to encourage greater participation of the electorate in the representation process which currently exists.

I would be happy to answer any questions you might have.

SENATOR LIPMAN: Thank you very much.

SENATOR LASKIN: You have plenty of information to digest.

MS. MEASEL: Well, that's the way we like to keep it, Senator.

Thank you.

SENATOR LIPMAN: Thank you very much. I would like to call Mary Kay Smith of the New Jersey Coalition of Concerned Parents. Is Ms. Smith here? (no response) Okay. I would then like to call on Mr. Charles Marciante of the New Jersey AFL/CIO.

F R E D M I H E L I K: As you can see, Senator, I am not Charles Marciante.

SENATOR LIPMAN: Yes.

MR. MIHELIK: My name is Fred Mihelik and I would like to represent him and the State AFL/CIO today if I might.

The New Jersey State AFL/CIO opposes the concept embodied in Senate Concurrent Resolution 7, designed to establish an Initiative and Referendum procedure in New Jersey by amending the State Constitution. We are greatly concerned about the potential for mischief and legislative and social disruption contained in this measure.

Amending the State Constitution to provide for referendum by public petition would seriously undermine and neutralize the authority and effectiveness of our legislative branch of government. You would, in many cases, be surrendering responsibility for governmental decisions and directions to the whims and financial resources of any number of special interest groups in this State.

In point of fact, the State AFL/CIO believes this proposal promises

much more than it can ever hope to deliver. It promises greater participation in the legislative process, when in reality it would become the private purvey of those individuals and groups who could afford to undertake the most expensive publicity and petition drives.

Make no mistake about it, SCR-7 and its companion measures would, in effect, delegate legislative authority in this State to the slick, Madison Avenue professionals who will use the emotions, fads and issues of the moment to shackle our residents with long-term liabilities.

We are concerned about the sheer number of causes and crusades - some legitimate but most spurious - that would be granted an exaggerated importance and influence over our lives and futures. It doesn't take much imagination to envision the wheels of government grinding to a halt in an endless bureaucratic jumble of blind alleys and contradictory objectives.

We have already seen the potential for obstructionism and chaos such legislation portends in California and Massachusetts. California residents are just beginning to feel the full impact of the infamous Proposition 13 enacted some years ago. Now that California's several billion dollar budget surplus has been depleted, the unrealistic tax and cap limitations are working real hardships on the populace and those charged with running state government. And, New Jersey does not even have the luxury of a budget surplus to begin with.

In Boston, the impact of Propostion 2½ has already resulted in dire cutbacks in police and fire department protection, as well as a massive disruption of that city's school system.

Some issues and procedures are simply too complex or intricate for the general public to fully understand or make a knowledgeable decision on. Our forefathers understood this, that's why they created a government of three distinct but equal parts: executive, legislative and judicial. That's why they provided for legislators, elected by the people to do the peoples' bidding, who can specialize and obtain a fuller understanding of complex problems. It may not be a perfect form of government, but it works better than any other so far devised, and it is certainly more appropriate than the "government by sloganeering" that would enevitably evolve from the initiative and referendum process.

The New Jersey State AFL/CIO respectfully urges the members of this committee to oppose and reject Senate Concurrent Resolution 7 and all other legislation that embodies this concept. The potential drawbacks far outweigh potential benefits. Thank you.

SENATOR LIPMAN: Thank you, Mr. Mihelick. Senator Laskin, do you have any questions.

SENATOR LASKIN: No.

SENATOR LIPMAN: Thank you very much. Mr. James Morford, New Jersey Chamber of Commerce.

J A M E S M O R F O R D: Madam Chairman, members of the Senate State Government, and Federal and Interstate Relations and Veterans Affairs Committee, I am James Morford, Director of Governmental Relations for the New Jersey State Chamber of Commerce.

The State Chamber welcomes this opportunity to state its views on the subject of Senate Concurrent Resolution No. 7. The Resolution establishes a procedure whereby citizens may petition the Legislature to amend the

State Constitution or propose repeal or enactment of statutes, and if the Legislature fails to act the issue would go directly to the voters for approval or rejection at the polls.

The New Jersey State Chamber of Commerce opposes initiative and referendum for New Jersey. Such a process, we believe, would not be in the best interests of the business community or of the general population of the State. At its May 21st meeting, the State Chamber Board of Directors adopted, without dissent, a resolution reaffirming the organization's opposition to initiative and referendum.

Opponents often argue that initiative and referendum would increase citizen participation in the electoral process. This view is not substantiated by facts. A recent Eagleton Poll of New Jersey voters found that 78% of the sample knew little or nothing about the subject of initiative and referendum. The poll further found that while voters tended to support the right of citizens to petition their government, they recognized the problems of obtaining the information necessary to making an informed decision.

Each year we witness in those school districts where budgets are submitted to the voters an embarrassingly low voter turnout to render a decision on expenditures that directly affect local tax rates. This voter apathy often results in decisions being made by a small minority motivated to lower taxes, rather than to fund the system of public education.

The State Chamber further believes that enactment of SCR-7 will add dramatically to the costs of the electoral process. The public will have to pay for the additional costs that will result from the implementing legislation now under consideration by this committee. Review of petition language by the Office of the Attorney General will require additional staff. Verification and validation of petition signatures by the Secretary of State will require additional staff. The printing and mailing of sample ballots containing an unlimited number of propositions will add significant costs, and the preparation of voting machines for an unlimited number of propositions will add costs and could even result in requiring additional machines in each voting district at substantially increased costs to the public.

The State Chamber is concerned that initiative and referendum would result in significantly increased costs to business. Each election would have the potential of a series of propositions that would cause the business community to spend millions of dollars to campaign throughout the State of New Jersey to represent its views. While initiative and referendum may result in a media bonanza, it would undoubtedly add millions of dollars to the cost of doing business in a State already recognized as one of the highest cost states in the nation in which to conduct business.

The present legislative process has evolved over many years and works reasonably well. When considering issues, legislators have at their disposal research from non-partisan staff, input from affected administrative agencies, party policy developed by partisan staff, the views of lobbyists representing all sides of the issue, as well as the views of constituents. The general public will not have access to such complete information and research when called upon to make a yes or no decision at the end of a simplified and sloganized campaign.

The ballot question, as proposed in SCR-7, is an example of oversimplification. If, as revealed in the Eagleton Poll, 78% of the voters

know little or nothing about initiative and referendum, they certainly will gain no additional knowledge from the ballot question as offered in SCR-7.

Legislators, elected by the people and paid an annual salary to represent the interests of all the citizens of our State are accountable to the people and may be turned out of office every two to four years if they fail to perform to their constituents' satisfaction.

The State Chamber believes that while the issue of initiative and referendum may be offered as a populist reform, it is instead an opportunity for legislated mischief, an abdication of legislative responsibility, and a mechanism for circumventing rational government.

Thank you very much.

SENATOR LIPMAN: Thank you, Mr. Morford. There are no questions.

MR. MORFORD: Thank you, Senator.

SENATOR LIPMAN: Is Ms. Silver here? Mrs. Laurence Silver.

M R S. L A U R E N C E S I L V E R: I wear two hats this morning and I rise to speak to this assemblage to say that it is mandatory for the people to have the right of initiative and referendum, and perhaps recall, because the legislators of the State of New Jersey - many of them - have lost sight of the fact that they are servants of the people and the State has become restrictive, dictatorial and inefficient. But I do not want to just denigrate things. I would like to put it not only in perspective, but I will give you facts and figures.

Many of our representatives do not represent the will of the people. This was patently evident in September 1976 when approximately 20,000 people came down here to Trenton, right outside of the State building, and said, "We do not want an income tax." It is one of the most vicious income taxes in the country, the cost of which has escalated since its inception. According to the figures that I was able to obtain, it cost us approximately 10 percent to administer the tax. And I do not believe the figure because I think it costs much more. Being in the position that I am in - and I didn't identify what it is - I represent the small people, as Sam Perelli said. We have heard from all the rich ones, business and industry, and the AFL-CIO people who have come down here to lobby time and again when the small taxpayer has not done it. Therefore, I do not believe the figure of 10 percent. I think it is far greater than that because we have so many papers that we must fill out in order to have anything. That is costly. When I hear that we have to cut the school budgets and do without the teachers and the firemen and the policemen, I become irate because these are not the places to cut, although our school population has decreased.

I find inefficiency and waste evident wherever I look in the State. Our roads used to be the finest in the country. They are no longer that. Route 22 has been described in the papers as the most ugly in the country and one of the most dangerous. There is the interchange in Totowa, a maze of roads - Routes 4 and 17 in Paramus - and, recently - and I am familiar with this - the \$5 million unneeded road alignment in Sussex - and the insistence by the State (and I have attended public meetings, town meetings and public hearings both here and in Pennsylvania and they don't pay one iota of heed to what the public says) that the Appalachian Trail, a hiking trail, be made 1,000 feet wide - for what I don't know, unless they are going to run elephants through it - although every municipality affected has protested. To me, the right of eminent domain has been used indiscriminately in the State and should be abolished because they don't know how to use it. Furthermore, it is the vestigial remnant of the right of kings and I thought we had abolished those remnants a long time ago.

Third is the State's inability to supply us with decent air - cancer alley - and water. Although there is sufficient water in this State if it were distributed properly. I happen to be working with some of the water people up there on 208 and Title 20 and I know whereof I speak. Within the past two and one-half weeks, I have been in contact with some of the officials down here in the State and they agree with me wholeheartedly. I believe, because I have studied and researched some of this water problem, that we are not handling our water properly, that there is more than sufficient. Even, as to the fuel problem, I went to the extent of getting some information from England where they have been transforming waste into methane for many years. I have the material at home.

Our education system: I happen to have been a long time-resident of New Jersey, as is my family. My mother went to a one-room school house. I never

saw a woman who better writing at her age - and she just died at 100 years of age - or was able to parse a sentence more easily than she, including some of the college graduates, my own daughter included. Our education system has deteriorated with the imposition of T & E, which is poison. It is impossible of implementation.

Since the State has taken over the direction of the hospitals, they have lost personal touches. I speak from personal experience. But I will offer you figures based on material from the State ---

SENATOR LIPMAN: Mrs. Silver, would you repeat your statement about the hospitals?

MRS. SILVER: Personal services.

The following figures are based on material from state and federal reports over a period of 10 years from 1969 to 1980, based on all 50 states. We are the tenth highest in number of state and local full-time employees. Their earnings rank eleventh highest in the nation. Neither have services improved nor has the population increased to that amount. The reason for the increase in these figures, according to the way I figure it, is because of a quirk in government - and I don't mean State government. Our property tax is the fourth highest in the nation and is about \$172 above the national average or 35 percent greater than most of the states.

The school property tax - and these are not my figures: School property tax levies have gone from \$975 million to about \$1,900,000,000, although the school population has decreased.

Budgeted state expenditures have increased by 431 percent. It all cannot be blamed on inflation because in that 10-year period inflation has risen 300 percent, approximately. Why do we have to go up another 131 percent? I question: Could it be waste and mismanagement?

Enough of the litany of figures. Everyone knows that New Jersey is over-taxed. We have practically every major tax that every other state has, along with all the nuisance taxes, and we register pretty high on every one of them. But, as citizens, can we afford to permit ourselves to leave our homes, lives and children in the hands of such poor representation? I think not. We have some excellent legislators and I have been in touch with them. Unfortunately, I haven't been down to Trenton as often as I should have recently because other business has kept me away.

A number of our legislators vigorously oppose the right of the people to have initiative and referendum. Their claim is that it would be used detrimentally against them and the State. I hardly think so. Of the 23 states which now have initiative and referendum and some have recall - it varies, as you were told previously - the evidence weighs heavily against the contention. It has been used sparsely and wisely; and, in some instances, increases have been granted where needed. I do not propose a change in our government. I think there is nothing better than representative government. I think the three branches have worked well.

May I just digress a moment and answer your question concerning the law, having had some familiarity with it, although not a great deal. Practically everything, a statute or even our Constitution, is open to judicial review. That is the last resort in this country, as you well know, whether it be the Supreme Court of the state or whether it be the Supreme Court of the United States. Therefore, as I have heard 51 versus 49 - that 49 can well be protected by a travel through the courts. It is expensive - no question about that. It is lengthy - no question about that. That is the way we do it here. So, if the thing is held up, I am sure

nobody is going to die on account of it unless you do what they are planning to do with some of the other things, such as cut our school expenditures where they should not be cut and cut our police where they should not be cut and cut welfare people where they should not be cut. I have been on top of this time after time. As a matter of fact, I am on top of it right now and I have had dialogue with some of the people in Trenton.

It is just such legislators who say we have used initiative and referendum loosely who have brought about the demand by the citizens that they be granted the right of initiative and referendum for New Jersey because they have failed to represent the very people who put them in office. It is mandatory that the power and decision-making be given to the people, which is inherent in the Constitution, and that SCR 7 be passed to save themselves from those who would cater to special interests and who fail to work for the good of all the people-- that the right of initiative and referendum be given to the electorate.

We must do away with inefficiency, waste and the demand for more money to fill the unfillable hole of poor government. And I thank you gentlemen and lady.

By the way, I would just say, in case anybody is interested, I happen to have Proposition 2½. It was sent to me by the Mayor of Boston.

SENATOR LIPMAN: Thank you, Mrs. Silver.

I will call Miss Lorraine Niemala of Common Cause.

L O R R A I N E N I E M A L A: I am Lorraine Niemala of Common Cause of New Jersey.

The suggestions before you today are recommendations I have submitted in the past on behalf of Common Cause. Those which speak to SCR 7 are critical, we feel, to safeguard the initiative and referendum process against abuse. We are not attempting to be obstructionists. Rather it is our hope for you to view these proposals as an attempt to make the process work more smoothly, to protect the citizens who go through the time-consuming and expensive procedure of proposing a public question from easy repeal and amendment of that question and to assure that the public questions are of statewide importance.

We at New Jersey Common Cause would certainly like to thank you for adopting the standards you have to date. It is our feeling the legislation has been improved and strengthened by the thoughtful consideration this committee and Senator Dorsey have given to suggestions made by interested groups.

On behalf of Common Cause, I urge you to consider these proposals. According to Senate Rule 171, SCR-7 will die if it is amended in the Assembly. We have come too far and made too much progress to have that happen.

Suggested Additions to SCR-7.

Legislature consideration - The Governor should be required to sign or veto the measure within ten days of legislative passage. If the I/R measure is passed by both houses of the Legislature and signed by the Governor, amendment and repeal should be limited for a period of two years to a 3/4 majority of both houses. As presently written, the Legislature could pass and amend or repeal the law without giving it time to function.

Second point - "No initiative or referendum enacted by a vote of the people shall be amended or repealed by the Legislature for a period of two years except by a vote of 3/4 of all the members of each house." Amendment and repeal of a measure that has been approved by the voters should require a 3/5 majority of all the

members of each house after two years. With the initiative referendum process constructed to provide broad citizen and legislative involvement to refine the proposal, the legislature should have a strong consensus to change the law.

Third point -- "No initiative or referendum question shall be adopted unless it shall be approved by a majority of the legally qualified voters of the state voting thereon." The requirement for passage that the majority of the votes cast on the measure shall be at least 30% of the votes cast at the General Election would help ensure that the measure has been seriously considered by the electorate. Idaho, Massachusetts, Nebraska, New Mexico, and Washington have a similar provision.

And, our fourth point in relationship to the amendment -- "...provided, however, that no more than 15% of the signatures on the petition may come from any one county." The further requirement that a minimum of 1% of the total number of voters participating in the last presidential election in the respective county shall sign the petition and be certified in a minimum of 2/3rds of the counties in the State of New Jersey would help ensure that the measure is of statewide interest.

SENATOR LIPMAN: Ms. Niemala, I have a question for you. Would it not be better to put your suggestions - the ones you have just made about additions to the SCR - into the implementing legislation, into S-828/81 SCS. Do you understand what I am saying?

MS. NIEMALA: No, what was that?

SENATOR LIPMAN: You have made suggestions to amend the SCR itself. Would it not be the same if we considered your suggestions for the implementing legislation?

MS. NIEMALA: I have a question. I am not a lawyer, so therefore I have a question whether you can, for instance, on the 30% majority, put that into legislation as opposed to a constitutional amendment. I think some of these things might be constitutional issues, and that is why we refer these four points specifically to this hearing.

SENATOR LIPMAN: Okay. Senator Laskin.

SENATOR LASKIN: Well, we can put everything in the enabling legislation, depending on the wording of the ballot question. If the ballot question, for example, just says it generally - which it should do; it should not go into all this nonsense with all these details because it will bog down - the ballot question could say, "Shall the right of initiative and referendum be given to the people?" If so, enabling legislation shall be enacted by the legislature to implement the provisions of that question. That way, the people aren't voting on nine zillion pages of statutes; they are voting on the concept. The enabling legislation would then be adopted by the legislature to implement that question. So, it can be done depending upon the wording of SCR-7, which has a little bit more than it ought to have right now.

MS. NIEMALA: Right. Well, some of these things do refer specifically to some of the specifics that are aren't in the amendment.

SENATOR LASKIN: I understand. But, I think Senator Lipman's point is that you want these items somewhere.

MS. NIEMALA: Right. I fully appreciate that. It has nothing to do with where they are to us, as long as they are a part of the package

and they are in the right place. Thank you very much.

SENATOR LIPMAN: Thank you very much.

I would like to call Ms. Lisa Migaleddi of the American Association of University Professors.

L I S A M I G A L E D D I: Madam Chairwoman, Senator Laskin, I am Lisa Migaleddi of MGR, Incorporated, and I represent the American Association of University Professors, Rutgers Council. I am speaking on behalf of Barry Lefkowitz who was unable to attend, for the record.

We believe that the Democratic process is the cornerstone and foundation of a viable government and those who are governed. The representative process of government is a major brick of our democratic foundation. Before you is an issue which, on the surface, seems to be a question of the extension of basic democracy -- greater citizen voice and participation.

We are AAUP strongly support the cause for citizen participation. However, this measure of initiative and referendum is fraught with many dangers and long-range problems.

First of all, this measure erodes the very nature and power of representative government. Secondly, the measure will inadvertently cause a greater overload for our court system. Thirdly, there could be the potential of creating a disproportionate amount of power among activist minorities. And, fourth, the cost of democracy becomes even greater.

I will expound upon these points later, but first I would like to discuss an assumption that is being made for the cause of initiative and referendum. A commonly shared belief is that initiative and referendum will create greater interest and awareness among our citizens and thus they will march in numbers to the polls. Unfortunately, there is much evidence to the contrary.

In New Jersey, we already have an opportunity to evaluate whether or not our citizenry will go to the polls when issues are before them. The record clearly shows that in school district elections with referendums, bond issues or budgets, usually ten to fifteen percent turn out. On State bond issues or questions, less people pull levers than for candidates on the same ballot. Under the Faulkner Act, referendums in those municipalities are available and yet, once again, we see a minority of voters turning out. No, we do not believe that initiative and referendum will create greater participation.

The legislative process in New Jersey provides for an airing of all viewpoints on issues. Any issue can, in fact, be addressed through this process. In our legislative process, we find the level of knowledge and information to be far more extensive than that available to the average citizen. A legislator is educated by the professional staff of Legislative Services, the political parties, state agencies, lobbyists on both sides of the issue, and, most importantly, his or her own constituents.

On the other hand, if New Jersey had initiative and referendum, citizens would be bombarded with media campaigns on numerous issues causing confusion and piecemeal education. Moreover, unlike a legislator, the average citizen has little time or few opportunities to develop a proper understanding of initiative. Consequently, we would have costly campaigns in which uninformed citizens would probably cause legislative havoc in State management merely through an impulsive "roll of the dice."

The Legislature should not allow further erosion of its power and responsibility in managing the affairs of the State. We have seen some of this take place through court intrusion.

A few salient facts should be noted regarding the impact of initiative and referendum:

1. Most states having initiative and referendum instituted this process in the 1920's, not in modern times with active legislative bodies.
2. In California, the courts have spent much time in deciding to remove questions that were not appropriate for ballot referendum.
3. Californians have found themselves inundated with the myriad of questions and issues, both trivial and important, while the voting pattern has shown little overall change.
4. Massachusetts, which has initiative and referendum, found itself in serious financial trouble primarily due to the efforts of the auto dealers who were successful in getting a measure whereby 2.5 percent ceiling was placed on property taxes. Auto dealers benefitted from the passage of the measure, but numerous school closings, police layoffs and transportation cutbacks resulted.
5. In order to protect themselves, PAC's and many non-profit organizations have found that their funds, which are not unlimited, have been diverted to battle referendum issues in the public sector rather than in the Legislature.

These are but a few reasons why we must recognize the fact that this measure of initiative and referendum will turn legislative prerogative and power over to the uninformed, activist minorities and public relations specialists.

Many times, New Jersey citizens feel that our legislative process moves at a snail-like pace. However, all views are heard and debated with compromises made - when necessary. On the other hand, initiative and referendum will be quick....just pull the lever one day, but it also is...."all or nothing."

Our forefathers felt that the people should be governed by representatives acting in their best interest. Do we want to strip our legislators of this power, thereby undermining the very principles upon which our representative form of government was founded? We think not. But if our legislators fail to represent the people's wishes, they can be voted out of office. Thus, a balance of interests is maintained.

Therefore, we strongly urge that initiative and referendum be placed in its proper perspective. It was a mechanism of the past -- needed for that time period -- not today or tomorrow.

SENATOR LIPMAN: Senator Laskin.

SENATOR LASKIN: Whether I agree or disagree with the person's position, I do appreciate good logical arguments one way or the other. Let me ask you this: Suppose, because I detect a fear of something going hog wild in your presentation, we had initiative and referendum, but the requirement was not just a majority of votes cast but a majority of all the registered voters of the State, in other words, an astronomically high requirement for passage, would that change your basic fear that this thing may really go out of hand?

MS. MIGALEDDI: I am not sure whether I can answer that question for the AAUP. As I have stated before, Barry Lefkowitz was supposed to be here and give the presentation. I would like to abstain from answering that at this time.

SENATOR LASKIN: Okay. I just think that the people on both sides of this issue are very sincere about their beliefs. But I think there is a serious concern that a small minority because of a good public relations campaign can get

something passed and you don't really have the will of the people, so to speak. I am just wondering if we shouldn't give some serious thought, assuming that there is going to be initiative and referendum, to a requirement of a very, very sizable vote to get something passed. I don't think that those who advocate initiative and referendum would really be against that because the whole thing is that it is the will of the people and it would bring greater interest; and we would guarantee greater interest by requiring a larger vote to pass something.

SENATOR LIPMAN: Thank you.

MS. MIGALEDDI: Thank you very much.

SENATOR LIPMAN: I will call Ernest Lettieri, Bayonne Property Owners Research Association.

E R N E S T L E T T I E R I: My name is Ernest Lettieri. I represent the Bayonne Property Owners and Rent Payers Association, an affiliate member of the United Taxpayers of New Jersey.

I am going to deviate from my prepared text today because of the fact so many people have taken up so much time with irrelevant things that I think I should be very blunt, to the point and direct. In the City of Bayonne, they call me Mr. Initiative and Mr. Petition.

I have used the initiative process in our community to upset excessive pay raises. I have used the initiative process, which was thrown out of court and is still probably in the Appeals Court, to limit our elected officials to two terms. We just had a petition drive to change the form of government from nonpartisan to partisan government, which was defeated after an \$8,000 campaign by the local officials who do not want to be identified as Democrats - no reflection on you people.

You see, in the communities where we have initiative and referendum, we have a viable entity to do what we want to do. But let me tell you people here today who are so afraid that there will be so many questions on the ballot, go out in the vineyards, go out with a petition to the public and see whether it is that easy to garner the significant number of signatures to put that question on the ballot.

In a community such as mine, we have a 5 percent, we have a 10 percent, and we have a 15 percent requirement of signatures, depending on the form of initiative, whether we institute it or whether it is instituted by the Council, itself.

I have heard people here this morning talking about our government, how old it is. Our government is old. It is decrepit. It is over 200 years old and we haven't made any major changes. When our country was discovered in 1492, it used to take 12, 14 or 16 weeks to come across the Atlantic Ocean with a load of immigrants. Today, we can cross that same ocean in approximately 3 to 5 hours, depending on where you want to go. Yet we have an antiquated law both on the state level and on the national level - not so much on the state level, but on the national level - in picking a presidential candidate. He begins the campaign in December and winds up the following November. Why? Because our laws have not kept in tune with the temper of the times and the transportation. Today, we have mass media. Today, we have television. Today, we have jet planes. We don't have any more horseback and steam trains which took hours to get from Boston to New York or New York to Washington. I say we are living in a modern era and we should be treated the same way. The people should be treated as though they are living in a modern era, not way back in the Dark Ages. You hear the unions complain that they don't want

initiative and referendum. Why don't they want initiative and referendum? Because maybe the people will say, "Hey, what the hell are you doing here? We are paying so much money in taxes that we can't afford to keep your services anymore." The teachers' union, they don't want initiative and referendum. They lobbied for T & E, which is called trial and error in a lot of places.

We have the State Chamber of Commerce lobbying against initiative and referendum. It is only one Chamber that is against it because I, personally, called the Bayonne Chamber of Commerce and the Jersey City Chamber of Commerce and they are not against this type of legislation.

Why then are all these powerful lobby groups coming out? The New Jersey Taxpayers Association - who do they represent, Exxon, Pennsylvania Railroad, all the million dollar industries? Who do I represent? I represent the guy that is paying a thousand bucks a year and, if he joins our organization, we charge him a big three dollars. And we have to fight like hell to get people to come in - not so with the other organizations.

Let me tell you one thing: If we don't get initiative and referendum now, we will get it with the new administration coming in because most of them are pledged to support and put initiative and referendum into action.

Thank you very much.

SENATOR LIPMAN: Thank you, Mr. Lettieri.

Senator, do you have any question?

SENATOR LASKIN: No questions.

MR. LETTIERI: I didn't think you would ask me any questions.

James Kehoe, Federation of New Jersey Taxpayers and Clark Coalition of Taxpayers.

J A M E S K E H O E: Madam Chairwoman, thank you for the opportunity to speak before you on behalf of the Federation of New Jersey Taxpayers which is a non-profit, non-partisan organization.

The Federation supports SCR 7. I have thrown my script away because you've heard many, many words here. In looking at your position, you're to evaluate the testimony and I would ask one thing. Evaluate the source of the testimony. The taxpayer groups that appear before you, I believe with the exception of the New Jersey Taxpayers Association, are supported by local taxpayers. They're not affiliated with any PAC movement or what have you. We think it is the right of the people and we demand the right of initiative and referendum. Thank you.

SENATOR LIPMAN: Thank you, Mr. Kehoe. That was remarkably short. Mr. Larry Haverly, Taxpayers Political Action Committee?

L A R R Y H A V E R L Y: Thank you very much. I speak on behalf of initiative and referendum and I represent the concerned taxpaying citizen of the state and I guess that makes me one of the special interest groups that the opponents of I & R have been claiming are such a threat to good government. Yet, we are the people who have to pay the taxes and who suffer from the occasional bad decisions which are made by the Legislature. It seemed rather obvious that since we must bear the consequences of these decisions, we should have the option of voting on issues.

Our group strongly backs Initiative and Referendum and feels that it represents a long, overdue voting reform in New Jersey. It provides its citizens with the opportunity to express themselves at the polls on key issues of importance. I emphasize the words, "key issues," because of the procedures embodied in the I&R process. Only a few issues can be brought to the Initiative and Referendum process and, despite what the opponents said, it would not be a matter of considering all issues. The great bulk of them would still be considered in the normal legislative process and only an occasional issue would be of sufficient importance that you could garner the signatures you would require so that you could actually bring it before the people in the form of an initiative or referendum.

Initiative and Referendum is bound to help stem the tide of voter apathy. Too many voters stay at home on election day because they lack confidence in all the candidates and are denied the opportunity to express themselves on the issues. Again, contrary to what some of the opponents said, cases where there have been important initiative issues on the ballot do bring out large numbers of voters who wish to express themselves. In California, for example, on Proposition 13, there were records set at the polls regarding the number of voters who came out to vote either for or against the issue. The majority of states--and I have attached a list--provide for direct democracy in which the citizen can exercise some form of initiative or referendum or recall rights.

But, Initiative and Referendum are primarily matters of equity. The state Constitution says that "all political power is inherent in the people and they have the right, at all times, to alter or reform the same." Yet, no Initiative and Referendum mechanism has been included in the Constitution whereby these rights can be exercised and we urge that this defect in the New Jersey State Constitution be promptly rectified.

We have examined the committee substitute for SCR 7. Our group would prefer that the required number of signatures on the petitions be slightly lower to bring them in line with the averages of other states and we have developed a list

of the other states and have attached this. They range from 3 to 10% for legislative initiative, whereas the proposal is for 8% and the average is 7.2% in all states. In the case of initiative for constitutional amendments, the various states which have initiative range between a requirement of between 3 to 15% of the voters, with the average being 9.1%. But, our group is willing to go along with the 9 and 12% as being within the range of reasonableness, even though our own preferences are slightly lower. I remember, at the last hearing, Secretary of State Lan also recommended slightly lower numbers than in the bill.

SENATOR LIPMAN: Mr. Haverly, excuse me. I just want to point out that the sponsor, Senator Dorsey, has accepted the 12 and the 8, at this point.

MR. HAVERLY: Okay. As I say, it is something that I think is a difficult number to reach which is proper in the case of Initiative and Referendum. But, at the same time, if it is a very important issue and something which is supported by large numbers of people, then you would have the possibility of getting that number of signatures, but only for very important matters, and I think that is appropriate.

Basically, our group supports this and we urge that it be sent to the floor for a Senate vote and we hope to see it on the ballot in November. Thank you very much.

SENATOR LIPMAN: Thank you. Senator Laskin, any questions?

SENATOR LASKIN: No questions.

SENATOR LIPMAN: Thank you very much. Mr. Edward Magee, Jersey City Republican Action Committee?

E D W A R D T. M A G E E: Senator Lipman, Senator Laskin, I am Edward Magee, Chairman of the Jersey City Republican Action Committee. Thank you for giving the people I represent an opportunity to express their views on Senate bills 828 and 81.

While we urge you to report favorably on these bills, we do not understand why a proposed constitutional amendment, if it has the required number of valid signatures on the petition must be submitted to the Legislature for a concurrent resolution, as stipulated in Paragraph 15b, page 4 of the bills.

Nevertheless, you are urged to recommend passage of the bills. We would remind you that the U.S. Constitution guarantees the right to the Initiative and Referendum process when it declares in the First Amendment, "Congress shall make no law abridging the right of the people to petition the government for a redress of grievances."

Besides, we want to state for the record that this right is enjoyed by the people of 27 other states of the Union, but not by those of us who live in New Jersey.

To illustrate the need for I&R in our state, I cite the fact that the Governor has said several times, and in no uncertain terms, that he will veto any act of the Legislature which reimposes the death penalty for premeditated murder. I&R would permit the people to "go over his head" and enact such a measure, if such was their desire.

I note that the New Jersey Education Association is opposed to extending I&R to the people of our state. I quote from the NJEA Reporter for May 29, 1981. "I&R is the battlecry of a new breed of 'anti's'--a group of tax slashers who seek the I&R club so that they can cripple public services...With a handful of petitions, they want to legislate directly--putting whatever questions they may make up on the ballot for a public vote."

Aside from the stridency and the exaggeration of their criticism, it also appears that they may not trust the people, who presumably learned about democracy and civic responsibility from the teachers (members of NJEA) who staffed the public schools for most of this century. Their hysteria suggests a fear that they may not have done a good job in citizenship education. On the contrary, however, I would assure the leaders of NJEA that the people of New Jersey will act responsibly and with wisdom and with restraint when and if they secure the rights of initiative and referendum. Thank you.

SENATOR LIPMAN: Senator Laskin?

SENATOR LASKIN: I have to ask a question. This is the most important question. I see you're from Jersey City Republican Action Committee. Are you the Republican Party of Jersey City? I didn't even know there was one.

MR. MAGEE: It's not the first time that eyebrows have been raised when I identify myself as a Republican "leader" from Jersey City. But, such is the fact and we there are trying to keep the two party system going.

SENATOR LASKIN: I used to do that. I used to do that in Camden. I would say that I was the Republican leader when I was there, but I was, in fact, the only Republican. So, I'm asking you the same question. That's all.

MR. HAVERLY: No. There are others, I can assure you, Senator.

SENATOR LIPMAN: Thank you, Mr. Magee. Ms. Gertrude Unsel from Elmwood Park?

G E R T R U D E U N S E L: Thank you, Madam Chairwoman and members of the Committee. My name is Gertrude E. Unsel from Elmwood Park. I am the New Jersey Chairman of Women for Constitutional Government. I also serve on the Board of Directors of the Federation of New Jersey Taxpayers, Inc., and I am a member of the Elmwood Park Home-owners Association. I am representing, today, the Women for Constitutional Government.

I am here to oppose the placement of SCR 7, the proposed amendment to the New Jersey Constitution to permit Initiative and Referendum, as long as it is to be a companion bill to the procedure bill, S-828 and S-81.

We feel that an amendment to the Constitution to permit unrestricted initiative and referendum should be on the ballot. But, if the procedure bill should become enacted with the passage of the amendment, we must oppose it. We believe the citizens and taxpayers should have the opportunity to express their opinions either in favor of or against any procedure bill afterwards. These should not be companion bills. S828-S81 should not be waiting in the wings ready to snap into force upon approval of the amendment.

We oppose, therefore, this virtual entrapment posed by these two bills being offered as companions. If an unrestricted initiative and referendum bill is placed on the ballot in the November election with the proviso that S828-S81 automatically becomes effective upon approval of the amendment by the voters, we are being forced into a position requiring us to oppose both measures.

This is an unfair situation. We, the people, demand that S828-S81 be withdrawn before any consideration be given to any amendment and that we be given the opportunity to discuss the procedure after the amendment is approved.

I will have to add a few sentences here. I had not been able to get a copy of SCR 7 until this morning. I notice that it does not permit citizens to propose bills, except bills for repeal and approval. Therefore, I think we would oppose this bill, even if it were standing alone without the companion bills.

I wish to thank the Committee for the time given to me to express these opinions and I would like to apologize for being late. It is because I used the facilities of the New Jersey Transit Corporation. It took me three and a half hours from Bergen County.

SENATOR LASKIN: I'm surprised you made it at all.

MS. UNSEL: I am too. I thank you for allowing me to get this opinion across. Thank you.

SENATOR LIPMAN: Ms. Unsel, I think maybe you misinterpreted the SCR 7. Initiative means the people's right to propose and referendum means the people's right to reject or repeal.

MS. UNSEL: It says here, "to propose amendments to the Constitution and to approve and reject same at the polls," and then, also, "to propose to the Legislature laws that are not only for the purpose of repeal and to approve or reject the same at the polls," and so on. It says nothing about the citizens being able to propose laws, just amendments or laws to repeal or approve what is already enacted.

MR. CARROLL: The language here, "laws that are not only for the purpose of repeal,"--"to proposed laws that are not only for the purpose of repeal." In other words, positive law, as well as repealers. That was the technical wording that would permit the power to propose statutes.

MS. UNSEL: I get it the way it reads, "not only for the purpose of repeal and to approve or reject the same at the polls." But, it says nothing further about the citizens being able to propose laws. I see up here that it was taken out. "People reserve unto themselves the power to propose laws to the Legislature, amendments to the Constitution," and then "laws" was taken out and I see nothing further down that would make that clear that the people may propose laws.

MR. CARROLL: Line 12 takes care of it.

MS. UNSEL: Yes, "the power to propose to the Legislature laws that are not only for the purpose of repeal." They're talking about repeal.

MR. CARROLL: It says, "not only for repeal."

MS. UNSEL: Well, it sounds rather ambiguous to me. I took it to mean not just laws to repeal, but to approve or reject laws. But, it doesn't use the words that you may propose laws of themselves.

MR. CARROLL: The language was developed in the Judiciary Committee. Senator Dorsey has approved it, staff has worked on it and the interpretation is that you are including positive laws, as well as repealers, when you say, "laws not only for the purpose of repeal."

MS. UNSEL: I would assume that that meant, originally, laws to repeal, but then it says, "not only laws to repeal."

SENATOR LASKIN: No, I think it's clear. Those of us on both sides of the issue think that this language means that you would have the right to propose laws. It has to say that because a couple of sentences before that, it talks about laws to amend and repeal, and then it goes further and says, "and laws not only for the purpose of repeal." So, it clarifies that.

MS. UNSEL: I don't know why they would put that down at all.

SENATOR LASKIN: Well, it has to be there because it makes it clearer. It clarifies what was said there earlier because the first part of the sentence talks about laws on repeal and if we don't go further and say, and other laws not even those laws regarding appeals, somebody may make the argument that we're only talking about repeal.

MS. UNSEL: It sounds like this is all you can do, repeal it or approve of it. That's the way it sounds to me.

SENATOR LIPMAN: I assure you that you have both opportunities with this legislation. You have both chances, to propose and to repeal. One gentleman has mentioned recall. Recall is not in this legislation.

MS. UNSEL: Well, the main point of my testimony was that as long as there was an amendment for initiative and referendum in connection with this other bill, I think that we should oppose it, not only for what's in the S828-S81, but for the very fact that it would become effective immediately after the amendment was passed. It's ready to be passed now and it would be ready to spring into action as soon as an amendment was passed. My objection is that we would not have an opportunity to discuss that bill.

SENATOR LIPMAN: The Committee presently has S828-S81 under consideration. I think it is June 18--we've already had two meetings on it. It's under consideration. If you want to make some proposals, then come to the June 18 meeting. It's next week. It is on these joint bills. Obviously, the sponsor and the Judiciary Committee thought that accompanying bills would be necessary for the SCR. It's the way that they set it up originally. Ours is the second committee to attempt to adjust this legislation. So, we are about to finish the amendments on Senate Bill 828 and Senate Bill 81. So, if you would like to make some comment, then please do come.

MS. UNSEL: Well, that is the main objection, that they are being presented as companion bills and the procedure bill would become effective immediately upon passage of the amendment. I don't think I would agree with that. After the amendment is passed, then we can discuss or consider how it would be implemented. There may be other ways or procedures.

SENATOR LIPMAN: I don't know. The Legislature has often made laws, Ms. Unsel, and some criticism has been raised about the length of time it takes to implement them. This may be a blessing to this SCR, should it pass, if there is an implementation bill accompanying it.

MS. UNSEL: Well, you can put my group as in opposition, as it stands today and I would appreciate it if I could have a copy of this hearing.

SENATOR LIPMAN: Yes, absolutely.

MS. UNSEL: Thank you.

SENATOR LIPMAN: Senator Laskin has a question to ask Mr. Perelli.

SENATOR LASKIN: I know this is out of order, but Mr. Perelli is still here and I wonder whether I could ask him a question. One of the big arguments is that even though this is theoretically a citizen participation kind of thing, as a practical matter, it may not really be that if a small group, well organized, well financed, goes around to sell a proposal in the manner that a well organized and well financed candidate could sell himself for election. You know, I view that as a serious matter. I want you to know that.

MR. PERELLI: No more than we do.

SENATOR LASKIN: I think you do too. That's why I want to ask you, is there any real objection to strengthening the amount of vote necessary to get a ballot question passed?

MR. PERELLI: Well, I think, Senator, if you look at the statistics, it would require, for a constitutional amendment, some 350,000 signatures and I think that the most substantial requirement is the fact that no number of signatures could be more than 15%.

SENATOR LASKIN: I don't mean to get it on the ballot. I'm not talking about that. Now, I'm talking about--the question is now on the ballot and we have a typical New Jersey, low voter turnout. More than half of the voters who vote approve the question, but more than half of the voters who vote may be a small percentage of the total registered voters because of our low voter turnout. Would you be philosophically opposed to a requirement that the vote necessary to adopt the question, after it gets on the ballot, be more than just a simple majority of those voting? What I had in mind was a majority of the registered voters, which would require a much greater approval of the question so that we can say, "Well, the citizens really did speak on it." Because, I fear that if we have an off year election, where you have 20% of the voters coming out, that means 11% of our total registered voters could approve a law. I'm not so sure that any of us want that.

MR. PERELLI: Well, I think that just the interplay between the pro and con voices in a petition, I'm positive, it would increase the voter turnout. But, I would bring to your attention that I might consider using your suggestion if we could compare it to the State Legislature. How many pieces of legislation have gone through here where it was one vote in the majority?

SENATOR LASKIN: Too many. But, you see, that doesn't make it right.

MR. PERELLI: I don't think that would happen. In fact, I know it wouldn't happen and the record of all the other states shows conclusively that, number one, frivolous measures don't get on the ballot and the 8% and 12% requirements are much higher than all the other states.

SENATOR LASKIN: But, would a simple majority of those turning out in a given election satisfy you?

MR. PERELLI: Yes.

SENATOR LASKIN: If you had a low voter turnout?

MR. PERELLI: Yes, because, in my opinion, it would create a bigger voter turnout. Just your thought would bring out more voters, just your fear would bring out more voters. There is no question about that in my mind. As a matter of fact, we've seen, in the City of Newark, where the legislators took a 66% payraise in 1978, I believe. The voters came out and in a six to one majority, they beat back the pay raise and they used the statutes within the framework of local initiative and referendum. In Union County, I think they have one of the highest voter turnouts in its history.

SENATOR LASKIN: You're saying that more voters will come out, but I'm saying, assuming that they don't, what do you do. You see, I'm worried about the situation where we have a low voter turnout. Now, if we can word the statute in such a manner to require, for passage, X percentage of the votes, whatever it is and if there happened to be a low voter turnout that year, then they couldn't reach that required amount of signatures. You see, that would protect both sides, in my opinion. You see, you're not taking my assumption, my hypothetical. You're saying that it can't happen that way. All I'm saying is, well, suppose it does and you've got a voter registration of 1 million and only 200,000 people go to the polls, which would mean 100,001 can decide to pass the law. There are 7 million people in New Jersey and that bothers me. It really does.

MR. PERELLI: Well, it doesn't bother me in that I know it wouldn't happen and, really, I have difficulty in accepting that hypothetical. If you could show me where it happened in any one of the states that have had it since the early 1900's--you see, I believe in actual evidence. I have not seen it happen. I haven't



for me, from my selfish viewpoint, I like to know everything about the issue and if I think it's wrong, I'll be that one vote in the 33. But, if we're going to such a marked departure--and it is--from this state's tradition, then I think all bases ought to be covered and if it means the difference between getting this thing passed or getting this thing lost, I would rather have it passed and if it requires a few more people to vote for a bill, I don't, conceptually, see anything wrong with that. I really don't, because we're all talking about greater citizen participation and all that would do is make for greater citizen participation.

MR. PERELLI: I wish, Senator, that I had a copy of the editorial in the Star-Ledger after one of the hearings last year where the editor said that in their view the best argument in favor of initiative and referendum, ironically, was the argument of the opposition, which was the NJEA, where a group of 110,000 people can, in fact, institute legislation. So, the philosophy is, what's good for the teachers' union is certainly good for New Jersey. Here's an example of where a small group of people, collecting \$10 million a year in dues, is actually doing that now. So, I think anything you do to restrict this voter turnout, to say to people that they must come out in droves to approve these things, it's not happening here. There are very small groups of people that are very powerful and this is what we are trying to overcome, this small group of very powerful people. Again, I don't mean to prolong our testimony, but I look at Mr. Marciante and I say that Mr. Marciante did not poll his membership and I challenge him to bring the statistics of the unions and our membership shows that we have many members who are members of the AFL/CIO. It bothers the hell out of me that they come here with these statistics that are, in fact, not facts.

SENATOR LIPMAN: All right, thank you, Mr. Perelli. At this point, I'm going to declare this hearing for SCR 7 adjourned. Thank you.

(Hearing Adjourned)



407 WEST STATE STREET, TRENTON, N. J. 08618

:: (609) 695-3481

JOHN E. TRAFFORD, Executive Director

WILLIAM G. DRESSEL, JR., Asst. Executive Director

June 4, 1981

Re: SCR-7, as amended

Dear Senator:

The League Legislative Committee is opposed to SCR-7, as amended, which proposes an amendment to the state constitution establishing a procedure whereby citizens may petition the Legislature to amend the constitution or propose repeal or enactment of laws. If the Legislature fails to act, the issue would go directly to the voters for approval or rejection at the polls.

The committee believes that the initiative and referendum process would undermine representative government by shifting some of the responsibility for enacting legislation from the elected officials to the people.

At first glance, having the people decide what laws should be enacted is appealing.

However, the process loses its appeal when you consider that a minority of the state's voters will decide important issues without the benefit of the interchange of information generated by the current legislative process; wherein input on all sides of an issue is obtained from both partisan and nonpartisan staff, affected administrative agencies, and special interest and citizen groups.

Under the initiative and referendum process, the general public will often be basing its decision solely upon the impressions resulting from a media campaign.

If citizens are unhappy with the way the legislature or executive branch is operating, they have the option of changing their representatives at the next election.

Based upon the above information and the added, unnecessary cost of the process, the committee urges that this resolution proceed no further.

Very truly yours,

  
John E. Trafford  
Executive Director

JET:es

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

# HUNTERDON COUNTY CITIZENS AND TAXPAYERS ASSOCIATION, INC.

108 Pittstown, N.J. 08867  
P. O. BOX 897 • ~~FRANKLIN COUNTY, N.J. 08822~~

1975-1976

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THOMAS BLASTICK, Hampton, Vice President  
RAY BUCH, Pittstown, Treasurer  
ARLEN D. BESEL, Milford, Secretary  
WILLIAM MACHAUER, Califon, Program Chairman

10 June 1981

STATEMENT TO: SENATE STATE GOVERNMENT,  
FEDERAL, INTERSTATE RELATIONS AND VETERANS  
AFFAIRS

## AREA COORDINATORS

North: Mrs. C. Potthoff, Bethlehem  
Bethlehem  
Glen Gardner  
Hampton  
High Bridge  
Tewksbury  
Union

*MADAME*  
Chairman and Members of Committee:

I am Joseph F. Shanahan of Lambertville, N.J. representing the Hunterdon County Citizens and Taxpayers Association, a group of

East: William Machauer, Califon  
Califon  
Clinton Town  
Clinton Township  
Lebanon Boro  
Lebanon Township  
Readington

working taxpayers (non-partisan) who are interested in the promotion

West: Arlen Besel, Milford  
Alexandria  
Bloomsbury  
Frenchtown  
Holland  
Milford

of justice, efficiency and economy in government and who deplore the

South: Joseph Shanahan, Lambertville  
Delaware  
East Amwell  
Lambertville  
Stockton  
West Amwell

current ever increasing spending policies of government in this State

at every level. We realize that the will to change these policies can

never come about through a politically motivated and dominated legis-

lature but must originate with the people themselves. Therefore this

particular reform is necessary in order to give the citizenry of the

Central: Ray Buch, Franklin  
Flemington  
Franklin  
Kingwood  
Raritan

State an opportunity to safeguard their own financial futures.

I am here today to express the enthusiastic support of our membership and others for the idea of amending the State Constitution to permit the use of the initiative and referendum and strongly urge that it be placed on the ballot this November. Attached is a copy of a petition which was circulated by this organization in 1978 and signed by more than 3,000 people in the then 14th Legislative District and presented to the legislators of that district in 1979.

From our statewide contacts we have reason to believe that support for such Initiative is widespread and we urge the members of this Committee to do their best to get this bill (SCR #7) before both Houses of the Legislature for a vote.

Thank you for allowing us this opportunity to present our views on the subject.

J. F. SHANAHAN  
ALEXANDER CREEK ROAD  
LAMBERTVILLE, N.J. 08867

609-397-3158