

P U B L I C H E A R I N G

on

SENATE CONCURRENT RESOLUTION NO. 49, proposing
to amend the Constitution to provide for
staggered terms for the members of the Senate,

before

Senate Judiciary Committee

Held:
April 22, 1970
Assembly Chamber
State House
Trenton, New Jersey

MEMBER OF COMMITTEE PRESENT:

Senator Frank X. McDermott [Acting Chairman]

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SENATOR FRANK X. McDERMOTT [Acting Chairman]: May I have your attention, please. We are calling to order this public hearing on Senate Concurrent Resolution No. 49, sponsored by Senators McDermott, LaCorte, and Rinaldo. I am Senator Frank McDermott from Union County, the principal sponsor of this bill. The bill is presently in the Judiciary Committee and, as a member of the Judiciary Committee, I am conducting this public hearing as required by the Constitution. When any resolution is proposed to amend the Constitution, there is a requirement of a public hearing before the bill can be acted upon by the Senate or the Assembly.

The purpose of this bill is to amend Article IV, Section VII, paragraph 2 of the New Jersey State Constitution, in order to provide for three staggered terms of 4, 4 and 2 years within each decade for the members of the Senate.

As we all know, the Constitution has recently been amended because of the decision in Reynolds vs Sims, requiring one man, one vote, and a change-over in representation of both the Senate and the Assembly; there must be reapportionment every decade of both houses of the Legislature. This means that after each census, the Senate and the Assembly districts will be realigned according to the population changes.

Under the present constitutional amendments, the Assembly runs every two years and the Senate runs three times in each decade, and the terms are two years in

the first part of the decade, followed by two terms of four years each.

This proposed amendment would alter that, so that instead of all the Senators running together each time, their terms of office would be so staggered that one-half of the Senators would be elected every second year, together with the entire Assembly. However, once every decade the entire Senate would run together.

This proposal was made on March 19th and it has received some favorable editorial comment. One editorial I would like to quote was in the Newark News of March 12, 1970.

[Reading]

There is really no good reason why all 40 members of the over-manned State Senate should be elected at the same time. It is a practice that insulates the entire upper house for too long a period from voter reaction at the polls.

Accordingly, Senate Republican leaders are on the right track in studying whether an amendment to the state constitution should be proposed to provide for staggered terms, thereby assuring that a part of the Senate would stand election every two years. It might be a little tricky to work out because presently over a period of 10 years senators are elected twice to four-year terms and once to a two-year term, this last to permit speedy re-apportionment following the decennial census. But legislative draftsmen say it can be done.

If staggered terms are approved, it would mean a return to the long-time practice when there was one senator from each county. This provision was lost during the 1966 Constitutional Convention that reconstituted the Legislature on the one-man, one-vote principle. Moreover, the Assembly regularly submits its full membership to the electorate every two years.

If the electorate could get a crack at half the Senate membership at the same time, it might be better enabled to indicate its pleasure or lack of it with the way its members have been behaving.

The first witness is Senate President
Raymond Bateman from Somerset County.

Senator Bateman, thank you for coming here, by
the way. I appreciate the fact that you have a very
busy schedule, particularly when we are meeting twice
a week and your additional duties as President, and
I realize it is quite a sacrifice on your part to come
here to testify on this resolution.

S E N A T O R R A Y M O N D H. B A T E M A N:

Senator McDermott, I am here to just say a few
things in favor of SCR 49 and I say them both as a
member of the Senate and as a member of the Citizens
Conference for State Legislatures, which is a national
organization comprised almost completely of citizens -
there are two legislative members - former Speaker Unruh
and myself. This is a group that is deeply involved
in trying to improve the legislative processes around
the United States to better cope with the problems that
we have to handle.

Generally speaking, staggered terms for one house
of the Legislature is considered to be, by groups such
as this, one of the tools of legislative improvement.
This is because the basic argument is that it provides,
at least in one chamber, a continuity of service that
you don't have unless you keep through any given election
a certain number or certain percentage of the legislators.
I believe this is included and has been included and as a
practical matter staggered Senate terms exist in over half

the States in the nation and, as you know, existed in New Jersey for a long time prior to the Constitutional Convention.

So from the point of view of the operation of a continuous Legislature having one house of staggered terms makes what has been acknowledged by citizens and academicians very good sense, and I don't hesitate to say that because it has been said before in the American Assembly and in some of the Citizens Conference Reports and in other studies of the legislative process in this country. And, as I say, over half of the States in the nation have Senates with such staggered terms.

I was a member of the Constitutional Convention in 1966 and would say without qualification that this program which you have in SCR 49 does no violence to the recommendations of that bi-partisan group. As a matter of fact, we never really discussed the issue of staggered terms in a convention. We were trying to develop a system so that at the end of each decade we would be able to automatically apportion and start the system all over again, and that's how we got to the so-called 2, 4, 4 plan for the Senate, and your proposal in SCR 49 which in effect has half of the Senate running on a 2, 4, 4 plan, and half of the Senate running on a 4, 4, 2 plan, it seems to me completely meets the basic qualifications which were set up in the Constitutional Convention and which is to bring the Legislature to a

point after the census figures are in which would make it easy to reapportion both houses at the first possible opportunity after the reports were made. So I think your change is completely in the spirit of the Convention and as a practical matter the Convention didn't ever get to a full discussion, or I think any discussion, of staggered terms. I would also expect there would have been no problem with this kind of proposal had it been made at that convention.

I would point out that the legislation sets up the system and, if approved by the public, would have the Senate decide itself which half of the Senate would run on a 2, 4, 4 and which would be run on a 4, 4, 2. I think this is proper and I would expect that the Senate would make that a matter of lot or a matter of draw or some method that would be eminently fair to all the areas that have their representation in the Senate.

So I testify wholeheartedly for SCR 49. I think, if enacted by the public, it would be an improvement. In the 1970's when the tempo of the legislative process is going to increase even further than it has already this year, it just makes good sense to have in any given year, after any given election, at least a part of the members of one house to be able to reflect what has happened before and be in a position to help, for example, a whole contingent of newcomers to continue on with the work of the Legislature.

SENATOR McDERMOTT: Thank you very much,

Senator Bateman. We appreciate your remarks.

Are there any further witnesses?

SENATOR BATEMAN: Do you have any questions, Senator?

SENATOR McDERMOTT: Not on this, Senator.

Are there any other witnesses? If not, I declare - Assemblyman Schluter? Thank you for coming. Will you identify yourself, please, for the record.

W I L L I A M E. S C H L U T E R: Yes. My name is William Schluter and I one of the Assemblymen from District 6A and part of Mercer County, and I apologize that I did not contact you ahead of time indicating that I would appear. But I was in the State House today and I saw this opportunity to comment on this piece of legislation.

I do not have a prepared statement, Mr. Senator, but there are a couple of items about this resolution which, if you are not aware of them, I would like to point out. I think, as Senator Bateman said, it is very good in theory and philosophy and I think there should be a certain amount of continuity in the Legislature.

The only questions which I would like to raise refer to the mechanics of carrying out the intent of what you have here. I have two basic questions which the resolution seems to leave hanging. First is the selection of the Senators who would be in the first class or the second class from a multi-member district.

Now I know this says it shall be done by lot as provided by law. However, this might leave you with the situation where in multi-member Senate districts you would have, for example, in a county which has two Senators, both of them running and both of them in the same class - both of them running at the same time. It would seem to me desirable if you could build into the legislation which you are proposing, selection so that the members of a multi-member Senate district are apportioned between the first class and the second class on a somewhat even basis. In other words, if you have a four-member Senate district, and I know of one, two would be in the first class and two would be in the second. If you have a six-member Senate district there would be three and three; if you have a two-member district it would be one and one.

It would seem to me that this bill does not provide any assurance that, in a district such as Essex County, conceivably you could get all six Senators running at precisely the same time unless the specific legislation spelled it out differently, and I would suggest that perhaps this should be part of the basic constitutional change.

The other question I have relative to your resolution is the item of whether the selection is made before the election or is made after the election, which I think is fairly important. If you have a 2-member Senate district - this would only occur, of course, on the tenth year - the first time they are running, do the two Senators from one party oppose the Senators from

the other party and the two Senators who received the highest vote, are they the winners? Or is it one Senator from one party opposed to the Senator from the other party, if you understand what I mean?

SENATOR McDERMOTT: I certainly do.

ASSEMBLYMAN SCHLUTER: It seems to me it would be desirable if these two features could be incorporated in the constitutional change. You, Senator, are much more familiar with the Apportionment Commission and the history of apportionment in the State, but I would think that the Apportionment Commission, itself, could take care of the selection of which Senators are in the first class and which Senators are in the second class. Personally I would like to see the legislation spell out ahead of time that a Senator every ten years is going to run against one Senator rather than running at large - or rather than running at large and then deciding afterwards what terms they should serve. It would seem to me that the Apportionment Commission which I believe is constituted by our Constitution would be a very good agency with a little more explicit language in the resolution to indicate that they shall be apportioned as evenly as possible within a Senate district. I believe this could take care of these two particular points which I raise.

In conclusion, Senator, again I do want to reiterate that I think staggered terms are good. There have been measures suggested in the Assembly - the

matter of the election of Assemblymen where the term might be lengthened and the terms staggered within the district. I think it is helpful in legislation in general and in the continuity of legislation to as much as possible have one house - a uni-cameral body - reflect single-member districts, which as you know we don't have.

Thank you.

SENATOR McDERMOTT: Assemblyman Schluter, I would just like to point out to you that the resolution does not deal with the detailed mechanics of how this will work out, and the reason it doesn't is that in doing some research it was determined that after the 1947 Constitution it was done by lot in the Legislature, and this is what we are endeavoring to do now. We cannot put on a constitutional referendum all of the details of it - merely to amend the Constitution so that it can be done.

That is a very important point you bring up about the mechanics. There have been some discussions among the Senators who very naturally are directly affected, how the various Senators would be chosen to run for a 2-year term first and then a four-year term first. The proposal provides by lot. The question as to multi-Senate districts has been discussed and nothing has been determined because nothing can be determined until the Constitution is properly amended.

There is some sentiment that the Senators from a single district all run at one time, that they not be divided, because this would have a tendency to confuse the people, particularly in view of the second point you brought up as to who would get the two-year term and who would get the four-year term after each census.

So this seems to be the majority sentiment at the present time but not the last word - that the Senators within a district would run altogether and that the lots would be chosen so that there is this even division of 20 in one group and 20 in another group. You show that you have given thought to this; your thoughts are very well accepted by the way, and I am sure that the other Senators, when they read the record, will appreciate the points which you have brought up. But as of this time, there is no finality as to how it will work out and this will have to wait until after the exact amending of the Constitution.

It was worked out in 1947 and I am sure that we will find a way to work it out in 1971. As you know, reappointment will have to take place some time after November 1970. There will be a new Reapportionment Commission - new as far as membership goes - a 10-member commission will be appointed according to the provisions of the law - 5 by the Republican State Chairman and 5 by the Democratic State Chairman and, should there be an impasse, the eleventh tie-breaking member would be appointed by the Chief Justice of the State Supreme Court. And when this Reapportionment Committee meets,

after we have the final census figures this year, I am sure they will go about the job very rapidly of determining the districts, because then, after that, should SCR 49 be made law, the question of who will run can be decided, because there may be shifting of Senators from one district to another, I think, as far as numbers go. Bergen County now has 5, Essex has 6, and there may be a switch, one from one county to go to another. It depends upon the population change.

I certainly appreciate your coming here today.

ASSEMBLYMAN SCHLUTER: Thank you.

SENATOR McDERMOTT: Are there any further speakers? If not, I hereby declare this public hearing closed. Thank you.

HEARING CONCLUDED.

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