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**P U B L I C   H E A R I N G**

before

**SENATE STATE GOVERNMENT, FEDERAL AND INTERSTATE  
RELATIONS AND VETERANS' AFFAIRS COMMITTEE**

on

**SENATE CONCURRENT RESOLUTION NO. 1**

(Proposes to amend the State Constitution to establish an indirect initiative and referendum process in New Jersey)

December 4, 1986  
Room 410  
State House Annex  
Trenton, New Jersey

**MEMBERS OF COMMITTEE PRESENT:**

Senator Gerald R. Stockman, Acting Chairman  
Senator Gerald Cardinale  
Senator C. William Haines

**ALSO PRESENT:**

Joseph P. Capalbo  
Office of Legislative Services  
Aide, Senate State Government,  
Federal and Interstate Relations  
and Veterans' Affairs Committee

**New Jersey State Library**

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Hearing Recorded and Transcribed by  
Office of Legislative Services  
Public Information Office  
Hearing Unit  
State House Annex  
CN 068  
Trenton, New Jersey 08625





## New Jersey State Legislature

### SENATE STATE GOVERNMENT, FEDERAL AND INTERSTATE RELATIONS AND VETERANS' AFFAIRS COMMITTEE

STATE HOUSE ANNEX, CN-068  
TRENTON, NEW JERSEY 08625  
TELEPHONE (609) 292-9106

WYNONA M. LIPMAN  
*Chairman*  
GERALD R. STOCKMAN  
*Vice-Chairman*  
RICHARD CODEY  
GERALD CARDINALE  
C. WILLIAM HAINES

November 7, 1986

#### ANNOUNCEMENT

Senator Wynona Lipman has announced that the Senate State Government Committee will continue its public hearing on Senate Concurrent Resolution No. 1 SCA on Thursday, December 4th, 1986. The hearing is scheduled to start at 10:00 A.M. in room 410 of the State House Annex.

For further information, please contact Joseph P. Capalbo, aide to the committee, at (609) 292-9106.



SENATE CONCURRENT RESOLUTION No. 1

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Senator DORSEY

A CONCURRENT RESOLUTION proposing to amend Article I, paragraph 2 \*and Article II\* of the Constitution of the State of New Jersey.

1 BE IT RESOLVED by the Senate of the State of New Jersey (the  
2 General Assembly concurring):

1     1. The following proposed amendment to the Constitution of the  
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3     \*(a)\* Amend Article I, paragraph 2, as follows:  
4         2. All political power is inherent in the people. \*(\*)\* \*(a)\*  
5     Government is instituted for the protection, security, and benefit  
6     of the people, and they have the right at all times to alter or re-  
7     form the same, whenever the public good may require it. \*(\*)\*  
8         \*(b)\* *The people reserve unto themselves the power to propose*  
9     *to the Legislature amendments to the Constitution, and to approve*  
10     *or reject the same at the polls* \*(\*)\* *if not acted upon by the Legis-*  
11     *lature* \*(as may be provided by law)\*, *and the power to propose*  
12     *to the Legislature laws that are not only for the purpose of repeal*  
13     *and to approve or reject the same at the polls if not* \*(enacted)\*  
14     *acted upon* *by the Legislature and the Governor* \*(as may be  
15     *provided by law*)\*. *The people also reserve unto themselves the*  
16     *power* \*(in addition to that required by Article IV, Section VII,  
17     paragraph 2 and Article VIII, Section II, paragraph 3 of the Con-  
18     stitution,)\* *to repeal* \*(at the polls any law, or any section or part  
19     thereof,)\* *laws, or sections or parts thereof, at the polls* if such  
20     *repeal is not* \*(enacted)\* *acted upon* *by the Legislature and the*  
20A     *Governor* \*(as may be provided by law)\*.

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted October 20, 1986.

26 \* [1. The number of signatures required upon an initiative peti-  
21 tion proposing a constitutional amendment in order for that petition  
22 to be submitted to the Legislature shall be equal to at least 12% of  
23 the votes cast in the State in the preceding presidential election.  
24 However, no more than 15% of the signatures on the petition may  
25 come from any one county.]

26 (2) The number of signatures required upon an initiative peti-  
27 tion proposing a statute and upon a referendum petition shall be  
28 equal to at least 8% of the votes cast in the State in the preceding  
29 presidential election. However, no more than 15% of the signatures  
30 on the petition may come from any one county.]

31 \*b. Amend Article II as follows:

ARTICLE II  
ELECTIONS [AND] SUFFRAGE AND INITIATIVE  
AND REFERENDUM  
SECTION I

32 1. General elections shall be held annually on the first Tuesday  
33 after the first Monday in November; but the time of holding such  
34 elections may be altered by law. The Governor and members of  
35 the Legislature shall be chosen at general elections. Local elective  
36 officers shall be chosen at general elections or at such other times  
37 as shall be provided by law.

38 2. All questions submitted to the people of the entire State shall  
39 be voted upon at general elections.

40 3. (a) Every citizen of the United States, of the age of 18 years,  
41 who shall have been a resident of this State and of the county in  
42 which he claims his vote 30 days, next before the election, shall be  
43 entitled to vote for all officers that now are or hereafter may be  
44 elective by the people, and upon all questions which may be sub-  
45 mitted to a vote of the people; and

46 (b) (Deleted by amendment, effective December 5, 1974.)

47 (c) Any person registered as a voter in any election district of  
48 this State who has removed or shall remove to another state or to  
49 another county within this State and is not able there to qualify  
50 to vote by reason of an insufficient period of residence in such  
51 state or county, shall, as a citizen of the United States, have the  
52 right to vote for electors for President and Vice President of the  
53 United States, only, by Presidential Elector Absentee Ballot, in  
54 the county from which he has removed, in such manner as the  
55 Legislature shall provide.

56 4. In time of war no elector in the military service of the State  
57 or in the armed forces of the United States shall be deprived of

58 his vote by reason of absence from his election district. The Leg-  
 59 islature may provide for absentee voting by members of the armed  
 60 forces of the United States in time of peace. The Legislature may  
 61 provide the manner in which and the time and place at which such  
 62 absent electors may vote, and for the return and canvass of their  
 63 votes in the election district in which they respectively reside.

64 5. No person in the military, naval or marine service of the  
 65 United States shall be considered a resident of this State by being  
 66 stationed in any garrison, barrack, or military or naval place or  
 66A station within this State.

67 6. No idiot or insane person shall enjoy the right of suffrage.

68 7. The Legislature may pass laws to deprive persons of the right  
 69 of suffrage who shall be convicted of such crimes as it may desig-  
 70 nate. Any person so deprived, when pardoned or otherwise re-  
 71 stored by law to the right of suffrage, shall again enjoy that right.

## SECTION II

72 1. *(a) The number of signatures of registered voters required*  
 73 *upon an initiative petition proposing a constitutional amendment*  
 74 *in order for that petition to be submitted to the Legislature shall*  
 75 *be equal to at least 12% of the votes cast in the State in the pre-*  
 76 *ceding presidential election, provided that (1) the petition signa-*  
 77 *tures shall include signatures from the region encompassing the*  
 78 *eight southernmost counties of this State equal in number to at*  
 79 *least 12% of the total number of votes cast in that region at that*  
 80 *presidential election and shall also include signatures from the*  
 81 *region encompassing the other counties of this State equal in*  
 82 *number to at least 12% of the total number of votes cast in that*  
 83 *region at that presidential election, and (2) any signatures from*  
 84 *any one county which are in excess of 9% of the minimum total*  
 85 *number of signatures required on the petition shall be disregarded*  
 86 *in determining whether that minimum total number of signatures*  
 87 *has been obtained.*

88 1b. *The number of signatures of registered voters required*  
 89 *upon an initiative petition proposing a law and upon a referendum*  
 90 *petition proposing a law to repeal an existing law or any section*  
 91 *or part thereof shall be equal to at least 8% of the votes cast in*  
 92 *the State in the preceding presidential election, provided that (1)*  
 93 *the petition signatures shall include signatures from the region*  
 94 *encompassing the eight southernmost counties of this State equal*  
 95 *in number to at least 8% of the total number of votes cast in that*  
 96 *region at that presidential election and shall also include signa-*  
 97 *tures from the region encompassing the other counties of this State*  
 98 *equal in number to at least 8% of the total number of votes cast*

99 in that region at that presidential election, and (2) any signatures  
100 from any one county which are in excess of 9% of the minimum  
101 total number of signatures required on the petition shall be dis-  
102 regarded in determining whether that minimum total number of  
103 signatures has been obtained.

104 2. (a) After verification, a petition with the required number of  
105 signatures shall be submitted to both houses of the Legislature.

106 (b) If an initiative petition proposes a constitutional amend-  
107 ment, the Legislature shall have six months from the date of sub-  
108 mission of the petition to pass a concurrent resolution placing on  
109 the ballot the constitutional amendment proposed in the petition  
110 or a constitutional amendment that is substantially similar to the  
111 proposed constitutional amendment. If the Legislature fails to  
112 pass such a concurrent resolution, the proposed constitutional  
113 amendment shall be submitted to the voters at the next general  
114 election held more than 120 days following the expiration of the  
115 six-month period.

116 (c) If, within six months of the submission of an initiative peti-  
117 tion which proposes a law or of a referendum petition which pro-  
118 poses a law to repeal an existing law or any section or part thereof,  
119 the proposed law or a law that is substantially similar to the  
120 proposed law is not enacted, the proposed law shall be submitted  
121 to the voters at the next general election held more than 120 days  
122 following the expiration of the six-month period.

123 3. A concurrent resolution passed by the Legislature placing on  
124 the ballot a constitutional amendment proposed in a petition or a  
125 constitutional amendment that is substantially similar to the pro-  
126 posed constitutional amendment shall be subject to the require-  
127 ments of Article IX of this Constitution. A proposed constitutional  
128 amendment placed on the ballot because the Legislature fails to  
129 pass a concurrent resolution shall be subject to the publication  
130 and effective date provisions of Article IX.

131 4. (a) No constitutional amendment shall be proposed by an  
132 initiative petition which removes or diminishes any of the pro-  
133 visions of Article I of this Constitution.

134 (b) No law shall be proposed by an initiative petition which the  
135 Legislature is prohibited from enacting under Article IV, Section  
136 VII of the Constitution nor shall a constitutional amendment which  
137 the Legislature would be prohibited under that section from  
138 acting as a law be proposed by an initiative petition.

139 (c) No constitutional amendment shall be proposed by an initia-  
140 tive petition which establishes, dedicates, alters, or eliminates any  
141 tax, fee, charge, or other source of revenue or which makes or  
142 provides for an appropriation of money.

143     *ed.* No constitutional amendment or law shall be proposed by  
 144 an initiative petition which requires or prohibits the siting of a  
 145 public or private facility in a specific county or class of counties,  
 146 or in a specific municipality or class of municipalities, and no law  
 147 shall be proposed by a referendum petition to repeal a law requir-  
 148 ing or prohibiting such siting.

149     *5.* (a) If conflicting laws or conflicting amendments to the Con-  
 150 stitution proposed by initiative petitions, or enacted by the Legis-  
 151 lature and the Governor or passed by the Legislature in response  
 152 to initiative petitions and submitted to the voters, are approved  
 153 at the same election by a majority of the total number of votes  
 154 cast for and against the same, the one receiving the highest num-  
 155 ber of affirmative votes shall be the law, or in the case of amend-  
 156 ments to the Constitution shall be the amendment to the Constitu-  
 157 tion.

158     *(b)* In the event that at the same election there are submitted  
 159 to the people laws proposed by referendum petitions to repeal an  
 160 existing law in its entirety and sections or parts of the same law,  
 161 or laws enacted by the Legislature and the Governor in response  
 162 to those referendum petitions, and those laws shall each receive  
 163 a majority of the votes cast thereon, the one receiving the highest  
 164 number of affirmative votes shall be the law.

165     *(c)* No law proposed by an initiative or referendum petition and  
 166 approved by the voters shall be subject to the veto power of the  
 167 Governor.

168     *d.* A law proposed by an initiative or referendum petition con-  
 169 cerning any tax, fee, charge, or other source of revenue or any  
 170 appropriation of money shall become effective at the beginning of  
 171 the fiscal year next following passage of the law.

172     *e.* No law which is enacted by a vote of the people and no law  
 173 which is enacted by the Legislature and the Governor in response  
 174 to an initiative or referendum petition and which is the same as  
 175 or is substantially similar to the law proposed by the petition shall  
 176 be amended or repealed, and no law or section or part thereof  
 177 which is repealed by a vote of the people or by the Legislature  
 178 and the Governor in response to an initiative or referendum peti-  
 179 tion shall be reenacted, by the Legislature and the Governor for  
 180 a period of two years following the effective date of the law en-  
 181 acted by the people or by the Legislature and the Governor, except  
 182 by a vote of three-fourths of all the members of each house after  
 183 at least 20 calendar days have elapsed following the introduc-  
 184 tion of a bill to amend, repeal, or reenact, as the case may be, and a  
 185 public hearing has been held thereon.

186 8. If, at a general election, a law or constitutional amendment  
 187 proposed by an initiative or referendum petition is not approved,  
 188 neither the proposed law or constitutional amendment nor one to  
 189 effect the same or substantially the same change shall be submitted  
 190 to the people by an initiative or referendum petition before the  
 191 third general election thereafter.

192 9. No law or amendment to the Constitution submitted to the  
 193 voters by an initiative petition and receiving an affirmative major-  
 194 ity of the votes cast thereon shall be held unconstitutional or void  
 195 on account of the insufficient number of signatures on the petition  
 196 by which the submission of the same was procured; nor shall the  
 197 repeal of any law or section or part thereof submitted to the voters  
 198 by a referendum petition be held invalid for the same insufficiency.

199 10. The filing of an initiative or referendum petition with respect  
 200 to any law or section or part thereof shall in no way affect the  
 201 effective date or the implementation of the law.

202 11. Nothing contained in this section shall be construed as  
 203 preventing from being submitted to the people at the same election:  
 204 (a) A referendum question with respect to a law in its entirety  
 205 and a referendum question with respect to any section or part of  
 206 the same law; or

207 (b) Two or more referendum questions with respect to different  
 208 sections or parts of the same law.

1 2. When this proposed amendment to the Constitution is finally  
 2 agreed to, pursuant to Article IX, paragraph 1 of the Constitu-  
 3 tion, it shall be submitted to the people at the next general election  
 4 occurring more than 3 months after such final agreement and shall  
 5 be published at least once in at least one newspaper of each county  
 6 designated by the President of the Senate and the Speaker of the  
 7 General Assembly and the Secretary of State, not less than 3  
 8 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-  
 2 mitted to the people at said election in the following manner and  
 3 form:

4 There shall be printed on each official ballot to be used at such  
 5 general election, the following:

6 a. In every municipality in which voting machines are not used,  
 7 a legend which shall immediately precede the question, as follows:

8 If you favor the proposition printed below make a cross (X),  
 9 plus (+) or check (✓) in the square opposite the word "Yes."

10 If you are opposed thereto make a cross (X), plus (+) or check

11 (✓) in the square opposite the word "No."

12 b. In every municipality the following question:

		<p><b>CONSTITUTIONAL AMENDMENT TO ESTABLISH THE INITIATIVE AND REFERENDUM IN THE STATE</b></p>
	Yes.	<p>Shall the amendment to Article I, paragraph 2 [.] and Article II of the Constitution, agreed to by the Legislature, [establishing the] "granting the <i>people the power of</i> initiative and re- ferendum in the State, be adopted?</p>
	No.	<p><b>INTERPRETIVE STATEMENT</b> The purpose of this constitutional amendment is to allow the people of the State of New Jersey to use the initiative and referendum process in directing the affairs of the State and in exercising their right to alter or reform the govern- ment of the State.</p>

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**STATE GOVERNMENT—GENERAL**

Proposes to amend the State Constitution to establish an indirect  
initiative and referendum process in New Jersey.

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**SENATE STATE GOVERNMENT AND FEDERAL AND  
INTERSTATE RELATIONS AND VETERANS AFFAIRS  
COMMITTEE**

STATEMENT TO

**SENATE CONCURRENT RESOLUTION No. 1**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 16, 1986

The Senate State Government Committee reports with committee amendments and without recommendation Senate Concurrent Resolution No. 1.

As amended, this concurrent resolution proposes to amend the State Constitution to establish an indirect initiative and referendum process in New Jersey.

The proposed constitutional amendment provides that an initiative petition proposing a constitutional amendment must have signatures in a number equal to at least 12% of the votes cast in the State in the preceding presidential election in order for it to be submitted to the Legislature. An initiative petition proposing a law or a referendum petition proposing to repeal an existing law or any section or part thereof must have signatures in a number equal to at least 8% of the votes cast in the State in the preceding presidential election in order for it to be submitted to the Legislature. Additional requirements are that at least 12% or 8%, as the case may be, of the signatures must come from the region encompassing the eight southernmost counties of the State and similar percentages from the region encompassing the remaining counties, and that any signatures from one county which exceed 9% of the minimum total number of signatures required shall be disregarded in determining whether the minimum number has been obtained.

After the required number of signatures has been obtained and verified, the law or constitutional amendment proposed by an initiative or referendum petition shall be submitted to the Legislature for its action, which must occur within six months of the date of submission. If the Legislature does not enact the same law or constitutional amendment, or one that is substantially similar, the proposed law or constitutional amendment shall be submitted to the voters.

Several restrictions are placed on the constitutional amendments and laws which may be submitted by an initiative or referendum petition:

(1) No constitutional amendment shall be proposed by an initiative petition which removes or diminishes any of the provisions of Article I of the Constitution.

(2) No law shall be proposed by an initiative petition which the Legislature is prohibited from entering under Article IV, Section VII of the Constitution nor shall a constitutional amendment which the Legislature would be prohibited under that section from enacting as a law be proposed by an initiative petition.

(3) No constitutional amendment shall be proposed by an initiative petition which establishes, dedicates, alters, or eliminates any tax, fee, charge, or other source of revenue or which makes or provides for an appropriation of money.

(4) No constitutional amendment or law shall be proposed by an initiative petition which requires or prohibits the siting of a public or private facility in a specific county or class of counties, or in a specific municipality or class of municipalities, and no law shall be proposed by a referendum petition to repeal a law requiring or prohibiting such siting.

Further provisions of the proposed constitutional amendment are:

(1) the elimination of the veto power of the Governor with respect to a law proposed by initiative or referendum and approved by the voters; and

(2) a restriction on legislative action for a two-year period following the effective date of a law enacted by the vote of the people or by the Legislature and the Governor in response to an initiative or a referendum petition when that law is the same as or is substantially similar to the proposed law, except by a vote of three-fourths of all the members of each house after at least 20 calendar days have elapsed following the introduction of a bill to amend, repeal or reenact, as the case may be, and upon the holding of a public hearing.

This concurrent resolution was pre-filed for introduction in the 1986 session pending technical review. As reported, the concurrent resolution includes the changes required by technical review which has been performed.

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**SENATOR GERALD R. STOCKMAN (Acting Chairman):** If I may have your attention, I think we will get started with the Senate State Government Committee hearing on Senate Concurrent Resolution No. 1. This is actually the second public hearing on this resolution. The first was held -- as some of you may know -- in Mount Holly some time back. This morning we are going to continue that public hearing, and hopefully complete it.

I have a list of scheduled speakers, and I will call them in the order that they apparently submitted their requests to speak. I have two speakers who apparently would like to speak who will be repeat speakers, having spoken at the previous public hearing. We will entertain that request, but I would hope that their remarks at this hearing will be different or some clear supplement to what they said last time.

But, we will start with Frank Haines. I see Frank is ready to enlighten the Committee with his views on this subject.  
**F R A N K W. H A I N E S, J R.:** Good morning, gentlemen -- Senator Stockman, Senator Haines, members of the staff. My name is Frank Haines. I am a resident and taxpayer of Ewing Township. I speak today as a private citizen with no particular organizational affiliation. But, I come to you with a background of over 34 years of close involvement in government and the legislative process in New Jersey.

I appreciate very much the opportunity to present a few facts in review about initiative and referendum. I do not appear before you as an advocate of a State initiative and referendum, and I must apologize to both you and the secretary here for not having a typed statement for you. I am working from notes.

Initially, I must say I prefer reliance on the legislative process as a way of formulating legislation and constitutional amendments, and oppose opening the Constitution to initiated constitutional amendments and statutes and referendums on statutes.

State legislatures, historically, have tended to emulate each other in a variety of ways. There are numerous governmental innovations and reforms in the form of either statute or constitutional amendment which achieve popularity and seem to be adopted from state to state. New Jersey has occasionally followed or taken the leadership in such a pattern, and probably one of the most outstanding was in the field of constitutional revision -- the 1947 Constitution with its strong executive and integrated court system. That probably is one of the most outstanding achievements in governmental change recognized by governmental scholars.

I would like to review initiative and referendum briefly from a historical perspective. In other words, is there a historical basis -- a historical basis now for concern over the desirability of having initiative and referendum in New Jersey? In other words, is there a sweeping trend among the states which New Jersey should join, and if we don't we would be singled out as being an exception? I think you will find that the answer is negative. We find that many of the states which have had initiative and referendum from the early part of the century are beginning to critically look at the process in their states, with a view to imposing greater controls in both procedures and subject matter.

With only 15 states in the country with initiative and referendum for both constitutional amendment and statute, and referendum for statute as being proposed in New Jersey, all but two of those date post-World War I. So I say, is there evidence of a national ground swell reflecting public demand for initiative and referendum and the return to the uncompleted reforms of the progressive era?

Many people view initiative and referendum as largely reform of an era long gone. Certainly, it must be recognized as largely a Western phenomenon. Only four states have been added to the overall I&R list in the post-World War II years,

and each of those is significant because the powers that have been authorized in those states have been limited in a variety of ways. Let me just quickly review these, if I may, because I think they are significant.

First, in 1959, Alaska, in its new Constitution, provided for statutory initiative and referendum -- statutory -- with significant restrictions on each, including dedication of revenues, appropriations, creation of courts, special and local legislation, laws necessary for preservation of the public peace, health, and safety.

In 1968, Wyoming followed almost an identical course. They authorized only statutory initiative and referendum, and the restrictions placed in that Constitution were almost verbatim to those Alaska had used in its '59 Constitution.

The next action came in Florida, starting in '68, with amendments in '72, where that state provided initiative for constitutional amendment only. Finally, in 1970, Illinois, which provided initiative for constitutional amendment only for the legislative article.

So, that is what has happened post-war in relation to additions to the initiative and referendum historical record. I am going to comment subsequently about a couple of states where the questions have gone to the ballot, and what has happened since then.

Direct democracy, as advocated in the early 1900s, was originally designed to curb government abuses. However, today it appears to be rarely used for such a purpose. Instead, petitioners are more concerned with highly controversial social and environmental issues -- school busing, abortion, the death penalty, bottle bills, control of nuclear energy, and so on. Too often, important questions are decided on the basis of the financial support of the advocates or opponents, rather than possibly on the merit. The cost, which is of great concern to a lot of the opponents in this State, is frequently extensive

rejected amendments involving initiative and referendum. Those two states are Minnesota and Rhode Island -- Rhode Island just in November. Both of those proposals had extensive limitations, probably so extensive that that is why they were turned down. But, they are two cases -- probably the only two cases -- that might merit staff evaluation as to the nature and the background and the reasons behind their rejection.

New Jersey takes pride -- and rightly so -- in being one of the original 13 colonies -- 13 states. An examination of the states of that number which have embraced both initiative and referendum, reveals only Massachusetts on that list. Is there a reason? I have not come across anything about that. But we know, again, that I&R is primarily a Western phenomenon, as I said. It started in the West, and has primarily stayed there.

A recent study in Massachusetts shows that the Massachusetts version has extensive limitations on powers, probably the most extensive of any state. The acknowledgment in the report says the state, "Has probably the most cumbersome and complicated procedures of any of the states," and has led to extensive judicial litigation.

In conclusion, I do not believe New Jersey needs initiative and referendum at this time. I am concerned about what it will do to program priorities of both the Executive and Legislative Branches -- the need to stop and try to either support or reject -- educate against questions, when the immediate matters at hand -- the problems at hand -- need intensive study and review of the solution. I certainly have no reservations that the State's reputation will be enhanced if initiative and referendum are added to the State's Constitution.

A young man testified in Mount Holly concerning the California situation, where the California ballot frequently has numerous questions for voter decision. I think he submitted a copy of the California ballot pamphlet in his

and far too costly and, I think, wasteful for what is accomplished. The record will show that a majority of questions initiated by the petition method are turned down by the voters.

I think one of the major concerns of anyone looking at initiative and referendum is that it can lead to legislation by a minority. Looking at SCR-1, an Official Copy Reprint, I find no requirement for a stated percentage of voter participation for the question to be adopted. That, I think, gives fuel to the argument that programs could be approved which are not in the general public interest.

A significant amendment to SCR-1 adds certain financial limitations to use of initiative for constitutional amendment only, and although it is probably far too late to consider any further changes, if we look at what a number of states recently have done in imposing limitations, they have imposed similar limitations for both initiative and referendum for statute and constitutional amendment for the purposes of consistency. That is what I think you should have in the New Jersey version if it is going to be submitted to the voters.

I think some of these limitations, even though in statute -- not in statute -- will come back to haunt the Legislature.

I just want to emphasize that if we have initiative and referendum in New Jersey, legislators should be forewarned that all three branches of government are subject to any effect of initiative and referendum. Approval may well lead to significant restrictions on the powers of the Legislative Branch and, indeed, even on possible qualifications for office.

The recent history of initiative and referendum -- as I pointed out -- is one of limitation of powers. No state, in recent years, has come close to enacting initiative and referendum amendments as broad as those proposed for New Jersey at this time. In recent years, voters in two states have

testimony, as a result of a study he was doing as part of his master's work at Eagleton.

California, this year, had 13 public questions -- 13; four bond issues that were legislatively initiated, four constitutional amendments, legislatively initiated, and five public-initiated questions. Three were constitutional amendments, and two were statutory referendum.

In testifying before the Assembly Committee, I raised a question of the possibility of the necessity of looking at our New Jersey voting system to determine the maximum number of questions that our voting machines could accommodate. Since I don't think we have ever had more than seven, maybe eight, at any time -- State questions -- unless there were some drastic changes made in the requirements that go on our machines or ballots -- particularly machines -- I don't think we could ever accommodate, at least at this point in time, without changes, 13 questions in the State of New Jersey, not that initiative and referendum is going to combine with legislative initiative -- it is going to develop that -- but, anything is possible.

Before I end -- and I probably should have said this initially -- I want to commend the Chairman of the Committee -- who isn't here, but who I think deserves a great deal of credit, and the members of the Committee, for the extensive public hearings that have been held on this question. That credit has to be shared, also, with the Assembly Committee. This subject has had, unquestionably, far greater examination and in-depth review this year than ever before in New Jersey. I think the changes that have come about, regardless of what side of the question that anyone is on, reflect a tremendous improvement for the initial legislation. I say that, again, with some objectivity, even though I am opposed to the basic question.

So, regardless of what happens, I think it is to the everlasting credit of the legislators for their in-depth review

of this subject at this time. Again, I want to thank you for the opportunity of appearing before you to present a few personal views on the subject.

SENATOR STOCKMAN: Senator Cardinale, any questions?

SENATOR CARDINALE: Mr. Haines, you have been very candid, and your testimony certainly has been well-thought-through. I take it were this issue on the ballot, you would vote against it becoming a part of our Constitution.

MR. HAINES: In the present form, I think I would, yes, because there are some things I just don't agree with.

SENATOR CARDINALE: Now, do you object to our giving the entire electorate of New Jersey an opportunity to make that same decision?

MR. HAINES: Yes, because that is part of the whole subject, for the reason that I think it would -- there is a likelihood that it would be a minority decision.

SENATOR CARDINALE: Do you think a minority of the people of the State of New Jersey favor this proposal, but that for some reason that minority would prevail in the election?

MR. HAINES: There has been testimony over the years -- and particularly this year -- to the effect that the people of New Jersey demand and want and feel that this is essential to good government in New Jersey. That is a broad -- in its broadest concept. I have found that very few people have an in-depth understanding of the ramifications and details of initiative and referendum. Accordingly, even with the broadest educational campaign on a short-run basis, I have grave apprehensions that there will be great misinterpretation of the potential and what this all means in terms of the future.

SENATOR CARDINALE: So, you appear then to me not to be against any form of initiative and referendum, but rather against this particular form.

MR. HAINES: At this time, I just think there are more important things that need attention, rather than opening this

subject up, which would mean that anything in the Constitution or the statutes would be fair game for the voting public, and could result, I say, in a detour from the matters at hand which may need more attention, things of lesser importance, but which may become in the limelight at some point.

SENATOR CARDINALE: Thank you very much. I have nothing further.

SENATOR STOCKMAN: Senator Haines, any questions?

SENATOR HAINES: Yeah. Frank, I'm sorry I was out for just a minute. Which four states were the four states that initiated I&R since World War II?

MR. HAINES: Alaska, Wyoming, Florida, and Illinois, and they are all far short of what is being proposed in New Jersey.

SENATOR HAINES: I see. Okay, thanks a lot, Frank.

SENATOR STOCKMAN: Frank, I want to thank you, too. I think your reputation for involvement in good government is well-known, and I think the committees benefit by hearing you.

I can't resist asking a question, although we do have some time constraints. You talked about more important issues. Let me look at the other side, because I am sure there are some people in the audience who strongly disagree with you. Let me put this question to you: What issues -- what problems -- facing the citizens of New Jersey, which are legitimately problems that ought to be the concern and the action of State government, and its branches, have not been attended to, to this point? What are the big issues facing us, because, of course, one could then argue -- query: Are those the questions that are likely to get a solution out of I&R, or not? What do you see as the--

MR. HAINES: Many of them have had attention, but are in the evolutionary stage; State planning, for example. The matter of controlling or governing growth -- this whole big subject, which then moves into the whole matter of governmental

finance, the property tax, and so on, for which there are no immediate solutions. Possibly the immediate problem of even balancing the State budget, in another year, which might be countered by extensive limitation type questions, by some drastic limitations on legislative power, which would cause real problems in trying to get solution, or at least deter you from looking at these things in terms of trying to put out brush fires caused by initiative and referendum.

SENATOR STOCKMAN: What about public finance of -- or finance of public education? That is a favorite concern or question of mine. I think that our court is about to say that we, as a Legislature, have failed to meet our responsibility constitutionally, that we are violating the Constitution in the way that we fund public education in New Jersey, and we are unwittingly aggravating that disparity, that rich, richer, poor, poorer, including in the realm of educational opportunity.

I think the court is going to do that soon. I have been saying that; I have been arguing to the Commissioner of Education, without much success, that the State should be responding to Abbott vs. Burke in a different way. Now, aside from whether you agree with that or not, it is a major issue that I think a lot of people are becoming--

Do you think that is the kind of issue that if we had an I&R we might move more quickly to respond to, or not?

MR. HAINES: Let me try to give a for instance here. Let's suppose that decision came down, and we had initiative and referendum, and a petition went around to change the thorough and efficient section of the Constitution -- or repeal it completely. Looking at the nature of the problem in New Jersey, you have to prove-- What then have you solved?

Now, maybe some people might say, "This is a better solution than trying to solve it, which may take more money or may not." But, I would much prefer that this go through the evolutionary legislative process with all the opportunities for

input and debate and so on, than to have a question where you have either yes or no, which might give a desired solution, but even then, might cause problems of delay, because you would have to wait until November to try to get something done. Not necessarily, but these are my concerns really. There is probably nothing that doesn't touch on finance, in some way, and local tax support, and all that.

SENATOR STOCKMAN: Okay. Well, I know the Committee appreciates your taking this time and effort. Apparently a question by Senator Haines.

SENATOR HAINES: Gerry, you have opened up something that you and I both agree on, and I think there are some people in this room that have a very deep concern; that is, the oppressive property tax in the State of New Jersey. This is a big concern, and when I compare it to other states -- and, Frank, you and I have talked about this over the period, and maybe you have answered the question; I think you have, but-- Can we solve the property tax situation with I&R? I don't think we can, but maybe there is a solution there that I am not looking at.

MR. HAINES: My first reaction is, do you want the people to solve that for the Legislature? Do you want to take it out of your hands and have them attempt to solve it? Or, is it much better, as a result of study, deliberation, or whatever -- our legislative initiated measures-- Is it much better for you to make the decision and submit it if it involves constitutional amendment? You know, we can look at all kinds of alternatives.

I recall one state where the attempted solution was a statewide property tax for education. That state has a form of initiative and referendum. That statewide property tax didn't stay in effect very long, because the haves were helping to finance the have nots, and that just wasn't popular.

So, there are some of these things where the Legislature has to make the decisions itself -- that is what it is elected to do -- without going back to the voters every time a toughy comes up, and then saying, "The voters decided. They took it off our backs." That is not what I think we elected our legislators to do -- to pass the buck back to the voters on all of the tough questions.

SENATOR STOCKMAN: Thank you; thank you very much, Frank. Next, Mr. Nick Alexander, who I know has been to our hearings faithfully, and who I suspect has a different view than Frank Haines. Welcome, Mr. Alexander.

NICK ALEXANDER: Thank you. I have to get my act together, because some other things have come up during the interim. I thought that you guys were going to finally shape up or ship out -- approve this legislation or disapprove it -- and leave us to go along our merry way and live a calm and peaceful life.

Certain things have been said here that kind of make me uncomfortable -- law by minority. Let me just tell you this, you guys-- There would be no need for I&R if the legislators did their jobs. I don't particularly say that we've got to have I&R if we have a legislative process that will address itself to the constituents. We have things like, for instance, the puttering around and bungling of this particular legislation. It started on June 10, 1981. Well, it started before that in about '79. On June 10, 1981, you had a lot of people who testified, both pro and con, and here we are still pussyfooting around with a bill that should have been addressed way back then.

Now, the other thing is limitation of legislative powers. I&R only comes into play when you guys don't do your job. Now, you might as well address yourselves to that issue, because that is the fact. The reason you now have people pushing for I&R is because some of you guys did not do your

job. Now, if you did your job, there would be no sweat. We wouldn't have to worry about it.

There have been some misleading references made to the California I&R by people who are either misinformed or uninformed, or just plain devious. For example, California is doing very well. I already testified on this, but I don't think it is going to hurt if I enlighten you a little bit. Proposition 13 in California was alive and doing well at last report. Over \$70 million has been saved. In spite of this Proposition, every city, county, and school district in the state has a greater amount of money to spend than they ever did before Proposition 13.

Now, we had testimony last time here by several people-- One of your colleagues made reference to the disastrous effect of I&R in California and Massachusetts. This is not true.

Now, let us address ourselves to the results of Proposition 2-1/2 in Massachusetts. In 1983, Massachusetts had nearly a 25% tax reduction. With the state's personal income soaring at double digit rates, Massachusetts' tax revenue grew at 13% to a 15% annual rate. This allowed the Governor to increase spending at nearly triple the national rate, and still pile up a huge budget surplus of \$500 million.

Testimony was given here that the schools would suffer, firemen would be fired, police would be fired, schools would be closed down. You know, I don't know what these people have in mind. In other words, be truthful unto thyself, if you can't be truthful to us. When presenting an issue, these people should do some research work on what is going on, not merely come in and try to scare people into swallowing something that doesn't exist.

Now, to continue with Proposition 2-1/2. As a result of the strength of 138,000 signatures on a statewide referendum demanding repeal of the 1975 temporary \$240 million income

surplus, it was given back to the people. Again, this is a situation that proves my point. If the legislators do their job, you don't need I&R. Here, if the Governor would have given the money surplus back to the people, this would not have had to come back to the people to make a decision, or to prod the Governor.

Since 1983, Governor Dukakis has added six million full-time jobs, about 10% to the state direct payroll, and from 1976 to 1984, more than a half a million jobs were created. Now, if this is bad news, you guys give me that kind of bad news. The citizens of New Jersey would enjoy that. Here it proves that in spite of Proposition 2-1/2, all the garbage that we hear here, that we hear in Freehold, that we hear in Long Branch is not true. Stick to the facts.

Okay, the other item-- New Jersey needs I&R, not so much because we want to take your jobs away-- Do your jobs, then no one is going to challenge you. If you do a damned good job, I will be the first one to pat you on the back and shake your hand. I am sure that most of the other people here who are for I&R of some sort would do the same.

Who is afraid of I&R? I'll tell you who is afraid of I&R -- you guys. The New Jersey Education Association contributed \$194,000 to the political action groups to finance your political campaigns. Okay? So, they are afraid. We don't have that kind of money. I am the President of the New Jersey Federation of Senior Citizens. I am not on a payroll; I spend my own money getting around whenever I go to talk at these various sessions. So, we don't have any money. We couldn't even donate \$100 to any of your political campaigns. So, where do we stand? On the bottom of the totem pole. What is the influence? Is the influence in our legislative process the silent government? What do I mean by the silent government? Political action committees. They are the silent government. They are the people who prod you guys into either

'70s and early '80s, we of the senior population thought that being a registered Democrat and thus voting for a Democratic candidate, or being registered as a Republican and thus voting for a Republican candidate, was bad for our health and welfare and, indeed, it has been. Now our problems are compounded by a different breed of cat -- the legislators -- those who are not responsive to the needs of the voters, but are influenced by the silent government -- the political action committees, in fact.

SENATOR STOCKMAN: Mr. Alexander, I want to be patient with you. I want you to have an opportunity to share opinions or facts that you think will help us on this issue. I don't think you are helping us when you repeat the same thing. It is evident -- and I respect your right to have it -- that you have a very, very low opinion of the Legislature. I mean, I respect your right to come here and say that. But, you have said it three or four times, and I really don't think you are helping the Committee. I don't think you are helping yourself, in terms of what we do with I&R, when you keep repeating that.

MR. ALEXANDER: Not really. I have a great respect for you guys, except that you are not representing the people.  
(laughter)

SENATOR STOCKMAN: All right, I think that is the quote for the day.

MR. ALEXANDER: That's right, represent. If you and I look in the dictionary to get the definition of that, we should come up with the same answer. It means that you respond to the needs of the people. Now, when you don't do that, then something else happens.

You know, you put me in mind of a little story, and then I will close. This is a little story that has to do with a farmer in Iowa who had a horse and some chickens. He had a problem feeding them. So, at breakfast, he spoke to his wife, and said, "You know, I'm having a problem. I will not have

denying legislation or proposing legislation, depending upon whom it suits.

Okay, financing public education. I deal with a lot of people. I talked to some 30,000-some-odd people in three to four years. Their concern is-- When you take, for instance, a widow, who can just barely scratch the surface to keep a house going, she should have a right to say something about the dollars that are taken away from her; the milk and bread that are taken off that woman's table. She should have a right to be able to tell you guys, "Well now, look, this has got to stop." You have such a tremendous source of revenue within the State of New Jersey -- the Lottery, for example. When we didn't have a Lottery, what did the Education Department do? They got along, didn't they? Okay, so why, after they got millions of dollars out of the Lottery, do they continue to look to get more funds? The Commissioner of Education has unlimited powers, almost as much as God has, and surely more than you guys have, as far as enacting taxes to pay for education.

Okay, the evolutionary process. It takes too long. You know, we have been waiting here since 1981 for you guys to do something. That's evolution? Well, if that is evolution, let's do away with it. Let's, you know, take the matters that come up before you guys that you don't attend to-- We have a right to prod you a little bit. Whether we lose on the initiative or not may not be that important, but maybe you are going to start to listen.

SENATOR STOCKMAN: I agree with you on that. You want us to move on, on this bill.

MR. ALEXANDER: Yeah.

SENATOR STOCKMAN: All right.

MR. ALEXANDER: Now, in the outline that I made here (referring to his notes), I feel-- Excuse me for just a moment while I get my act together. Okay, here we go. In the late

enough grain to feed the chickens." So the wife said, "I have the solution for you. Why don't you tie the horse where the chickens are scratching and feeding. Then feed the horse just a little bit more grain. Some grain will go through his stomach, out his rectum, and fall to the ground, and the chickens are going to be fed." Well, my people say, "Good Lord, give our legislators the wisdom and kindness to give us a little fresh grain." Thank you. (laughter)

SENATOR STOCKMAN: All right. Thank you, Mr. Alexander. Our next witness will be Roger Schwarz, New Jersey Utilities Association. Roger?

ROGER M. SCHWARZ: Thank you, and good morning. I am Roger Schwarz, Executive Director of the New Jersey Utilities Association. As Mr. Haines did, I would like to give a little bit of history this morning, but I am going to go back in time just a little bit farther than Mr. Haines did.

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

As a result, Article 4, Section 4, of the United States Constitution guarantees to every state a republican form of government. The arguments for that form of government are found in "The Federalist Papers."

Writing in "The Federalist, No. 39," James Madison, asked "whether the general form and aspect of the new government should be strictly republican," answered: "It is evident that no other form would be reconcilable with the

genius of the people of America, with the fundamental principles of the Revolution, or with the honorable determination -- to rest all our political experiments on the capacity of mankind for self-government."

The reasons for Madison's insistence on a republican form of government are found in an earlier writing, "The Federalist, No. 10," where he demonstrated that only a republic could cure the "mischiefs of faction." Madison defined faction as: "A number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community."

Factions exercise their greatest power and create the greatest mischief in direct or pure democracies, which, in Madison's view: "Have ever been spectacles of turbulence and contention; and have ever been found incompatible with personal security or the rights of property."

A republican form of government avoids the mischiefs of faction because it refines and enlarges the public's views "by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations."

Now, it is argued that the resolution before you -- SCR-1 -- does provide for the refinement and enlargement of the public's views, that the resolution provides for indirect initiative and referendum. But take a look at section 2 of the proposed constitutional amendment. There, the Legislature is given six months to act on a petition calling for a change in our laws or Constitution. If the Legislature does not act or if it votes down the proposed change, the question will go on the ballot. Even if the Legislature does act, but the new law

or amendment is not deemed by the faction which proposed it to be substantially similar to the original proposal, the question will still go on the ballot. Under this system, the Legislature cannot change, cannot refine, cannot compromise.

This diminished responsibility for the Legislature is echoed in section 7 of the proposed amendment, which provides that laws adopted by the I&R process -- which, as Mr. Haines noted, can be adopted by less than half of the voters -- can then for two years be amended or repealed only by a super-majority of three-fourths of the Legislature. Leaving aside the one man/one vote implications of this provision, one must ask what initiative and referendum says about the role of the Legislature.

One of the responsibilities of legislators is to screen out the extreme demands of factions, to guard the rights of minorities and reflect the long-term interests of the people they represent. Under initiative and referendum, State legislators would give up that responsibility. They should not.

SENATOR STOCKMAN: Thank you, Roger. Any questions?

SENATOR CARDINALE: Yes, I have a question. Mr. Schwarz, do you recognize, or not, that in our present form of government in New Jersey, factions have probably more to do with what comes out of the legislative process -- whether it be items that are put on the ballot or items of statute, which we enact -- than the general public does?

The previous witness was accepting that proposition, and it was stated exactly that way. You seem to be stating the opposite, but I am not sure you are stating the opposite.

MR. SCHWARZ: Well, without conceding the question of whether or not factions exercise a greater power under the present form -- or under the current situation -- what I was trying to point out here was that in Madison's view, in any event, factions exercise less influence in a republican form of government -- that is, a representative form -- than in a

direct democracy, where we see, if we look to the California example again, that a group that gets an initiative on the ballot, then is the one who is carrying that message through 30-second television spots directly to the voters, without the opportunity for any public debate other than through the medium of commercials.

SENATOR CARDINALE: Everything you say is true, but I am asking for the balance in this situation. The prior witness was very negative about the Legislature. He said the Legislature only responds to factions. He didn't use the word "factions." You introduced that language.

You seem to be saying that there is less factionalism, or that there would be more factional influence, if the public as a whole had the right to vote on whatever came out of this process and was put on the ballot -- however it gets there. I don't see that, and I don't understand how you come to that conclusion, given all of the historical notes and everything else. I don't see how you draw that conclusion, because this has always appeared to me -- this proposal for initiative and referendum -- as a diminishing -- not an elimination of -- but a diminishing of the influence of factions on the governmental process.

MR. SCHWARZ: Well, I think the problem would be that under I&R, it is the factions which control what goes on the ballot, not the public as a whole.

SENATOR CARDINALE: But, the enactment-- What goes on the ballot -- isn't that really very secondary? Isn't it the enactment? Are we concerned that items are put up for public vote, or are we concerned about the laws that we end up with? This argument is made by many witnesses. I haven't questioned any others, so forgive me if I am over-questioning you on this point -- but I just haven't done it with any of the other witnesses.

It just seems to me that you stopped your thinking at the point of getting something on the ballot. Getting something on the ballot is of no effect, in terms of the law, under this specific proposal. Reaching the ballot does not make it a law. Only when the public affirms it does it become the law. So, how does that increase the ability, increase factionalism, increase the influence of factions? Now a faction can get to the legislators and the public may never know about it. There are myriad examples of that that I could point to in my very short legislative experience, and these things become law. Sometimes the public would probably not support some of these measures.

MR. SCHWARZ: Well, again, without conceding your description of the influence of factions at present, what I am trying to say is, under SCR-1, and apparently true in other states where I&R exists, the factions can directly put -- let's forget this indirect I&R because of the save-all provision that allows a question to go on the ballot in any event -- an issue on the ballot exactly as it would like it to be. There is no compromise; there is no debate; there is no amendment. The issue goes on drafted exactly as the proponents like, without regard to any of the other competing interests or wishes, and then the public at large is stuck with voting up or down that one particular question, and voting it up or down on the basis of what is going to be information gleaned from newspaper ads or television ads or direct mail.

But the public, either individually or through its representatives, at that point, is stuck with the question as proposed. They can't enter into any debate through the legislative process, which, although some of the witnesses certainly have characterized the present legislative process as flawed, certainly it at least provides that opportunity for competing interests to be heard.

SENATOR CARDINALE: Then, would it be fair to characterize your view as one which would say that the process which you describe is a negative process, factions putting it on the ballot and being able to send out direct mail, and so forth; that that is really an argument for the fact that we should not have elected legislators, elected a Governor? We have the exact same process to select the people -- to select me, to select my colleagues. We have been selected through that process. Now, is it somehow wrong? Is it a bad process? Would you want to change it, and perhaps have someone appoint us?

MR. SCHWARZ: No.

SENATOR CARDINALE: Why?

MR. SCHWARZ: We are obviously too--

SENATOR CARDINALE: If it's bad for the enactment of laws, why is it--

MR. SCHWARZ: --large a society to vote on everything by dropping shards of pottery into a jar.

SENATOR CARDINALE: We'll agree on that.

MR. SCHWARZ: So, since we are too large to operate on that basis, the representative form of government provides the opportunity for all of the citizens to be represented through a body sitting in Trenton. But then you have here, the luxury of time, the opportunity, the resources, and the opportunity to research issues and consider all interests that come before you on those issues, which, again, we are probably too big to do it any other way. So I am certainly not knocking the representative form, nor was Madison, of course.

SENATOR CARDINALE: You must concede that Madison had at least 200 years less experience with this form than we have had today, and that we may have learned something along the way. But, I don't want to prolong--

MR. SCHWARZ: I'll concede that, and say that my guess is that if Madison were alive today and could see the

television commercials that are used to promote or defeat ballot questions, he would probably be even stronger in his beliefs.

SENATOR STOCKMAN: All right, Roger. Thank you very much. We appreciate it. Our next witness will be James Sidie, New Jersey Soft Drink Association. Mr. Sidie?

J A M E S M. S I D I E: Good morning.

SENATOR STOCKMAN: Good morning, Mr. Sidie.

MR. SIDIE: I am James Sidie, Director of the New Jersey Soft Drink Association. I have been a resident of New Jersey for 46 years, and for 40 of those years I was the Vice President and General Manager of the Boller Beverage Company in Elizabeth, a manufacturer of soft drinks.

Many good and sound reasons against I&R were presented to this Committee down in Mount Holly in November, and it is not my intention to repeat them here. There is, however, one aspect of I&R that should be examined. That is the over-simplification of solutions to complex problems and a lack of detailed, vital information on referenda submitted to the voters.

Let us examine one referendum that would appear on the ballot -- a bottle bill. It would likely read: "Should the State of New Jersey impose a deposit of five cents on all soft drink and beer containers?" For months before the election, this proposal, backed by well-organized pressure groups, would be subject to a massive media campaign and a deluge of editorial comment.

Let me quote from a flyer of New Jersey PIRG's campaign of 1985 pushing a bottle bill: "The can and bottle bill is a simple, effective, and common sense solution to problems of litter, overburdened landfills, and energy waste. It is also an important step toward changing our society's throwaway mentality.

"The issue is now represented by a full-time professional lobbying staff. A door-to-door canvass is reaching new members of the public. A sophisticated volunteer bank has been established and the measure is being spearheaded by strong legislative leadership."

Letters to the editor and editorials, too, will lack facts and all too often contain misinformation. Permit me to quote from a letter to the editor of The Star-Ledger in May, 1985: "The beverage containers in Vermont are almost all glass. There are very few plastic bottles or cans." I wrote to the largest bottler in Vermont for a breakdown of their container figures. The answer I received did not surprise me. They were: Cans 41%, plastic, 32%, and glass, 25%.

I wrote a letter of rebuttal to The Star-Ledger citing these figures, but it was never published.

Let us explore a deposit system as it once existed and the difficulty the public would have in reaching proper decisions because of lack of information. In an I&R campaign for a deposit system, will the public know and understand what such a system was really like when we had it, or want to know the history and working of that system?

Over a century ago, when soft drinks were first sold in bottles, the glass container industry was quite different than it is today. Bottles were hand-blown. Mechanization of the industry was far off. Bottles were very expensive. They cost a good deal more than the cost of returning and refilling them. As a result, the deposit system was born.

This system used millions of gallons of fuel oil to heat a sterilizing solution that used thousands of tons of caustic and other chemicals and ran a billion gallons of waste into our sewers. To control the flies and roaches, enormous quantities of insecticides were needed. It was a system that our own State Board of Health wanted to abolish. It was truly a horse and buggy arrangement.

Will the voter know that it changed because a better system came along, one that used new kinds of containers -- lightweight glass, aluminum, and plastic -- and that the savings from these efficient containers have helped to keep the price of soft drinks near that of years ago?

For example, the best known package of all time was the 6-1/2 ounce Coca-Cola bottle. It weighed 13 ounces. Seventy percent of the load on the truck was in containers; only 30% was in product. By comparison, today a two-liter plastic PET bottle holds 67 ounces of product, but the bottle weighs only two ounces. Six of these weigh less than one single 6-1/2 ounce Coke bottle. Weight to product, they are 60 times as efficient. On a truckload of these containers, the product is more than 90% of the load, and the containers less than 10%.

Will the voter know that this means that one truck can do the work of three, or that when waste-to-energy plants are operating these plastic containers can return the energy in them to produce electricity?

When one considers the labor of collecting, returning, sorting, storing, checking and rechecking, shipping and reshipping of the empty containers, the additional trucks and the fuel for those trucks, the question arises, "How can anyone logically say that a deposit system will save energy or be economical?"

In all this I have made no mention of the agony of the retailers in coping with the problems of dirt, vermin, labor, and space in this matter. That is better left to the food industry to demonstrate.

Whether the I&R proposal calls for a reusable or a recyclable deposit system, many of the public problems and those of our industry would still exist under either system. And, because the proponents would want to argue their case from only one side in an I&R campaign, our industry would be forced to spend millions of dollars to make its case to the voters.

And yet, there will be special interests telling the public that there is nothing to it. Just return the bottle and get your nickel back, and litter and solid waste will miraculously disappear.

The legislative process, with its system of checks and balances, offers greater guarantees of fair consideration to all views. Your committees will ask questions and get answers. There will be an exchange of views and a weighing of the facts so that the issue will be molded and shaped in a balanced and comprehensive manner, something not possible in a campaign that promises unrealistic solutions.

Perhaps H. L. Mencken best characterized initiative and referendum when he said: "There's always an easy solution to every human problem -- neat, plausible, and wrong."

Thank you.

SENATOR STOCKMAN: Thank you very much.

SENATOR HAINES: I have a question.

SENATOR STOCKMAN: Oh, I'm sorry, Senator.

SENATOR HAINES: What is the current cost, on a wholesale basis, of a gallon jug? You said that glass was more expensive years ago. What is the cost today of a gallon jug, on a wholesale basis?

MR. SIDIE: I don't think they are making any more gallon jugs, Senator.

SENATOR HAINES: Well, I'm buying about \$100,000 worth of them a year. I just thought-- They cost about 85 cents, in case you don't know. I remember when you used to buy them for 12 cents.

MR. SIDIE: Oh, yes.

SENATOR HAINES: So, to say that glass was more expensive-- And, it was hand-blown, too, when they were 12 cents. Actually, the cost of glass has gone up tremendously.

MR. SIDIE: As all things have.

SENATOR HAINES: Well, not that much; I mean, not from 12 cents to 85. That's a tremendous price increase. I make apple cider, and we used to sell cider for 50 cents a gallon. You can't even buy the jug-- You can hardly buy the jug for twice that today.

MR. SIDIE: That is when we used to bring our own jugs, Senator, if you recall.

SENATOR HAINES: Well, we still do, some of us.

MR. SIDIE: Yeah.

SENATOR HAINES: I think that particular point in your statement is incorrect.

SENATOR STOCKMAN: All right. Thank you very much, Mr. Sidie. Mr. and Mrs. Thomas Warner? Are Mr. and Mrs. Warner here? (no response) All right, Robert Franklin, Citizens for Representative Democracy?

R O B E R T H. F R A N K L I N: Good morning, Mr. Chairman and members of the Committee. My name is Robert H. Franklin, Secretary of Citizens for Representative Democracy. I appreciate the opportunity to appear before the Committee to express the strong opposition of our organization to legislation establishing an initiative and referendum system of lawmaking in New Jersey.

Citizens for Representative Democracy is a broad-based coalition including three former New Jersey governors, a bipartisan group of former legislators including leaders of both houses of the Legislature, distinguished scholars, and a wide spectrum of more than 40 statewide and regional organizations.

The members of our group have joined together in the past year in the common belief that I&R would seriously undermine New Jersey's system of representative government, threatening it with all-or-nothing propositions written by narrow interest groups. At best, we believe that I&R is a way for fringe groups whose views have been rejected by the

Governor and the Legislature to circumvent the representative process. At worst, to quote one New Jersey newspaper, "I&R is a vehicle for demagogues."

Allow me to expand on these concerns by sharing with you some of the views of various members of Citizens for Representative Democracy:

Former Governor and Chief Justice Richard J. Hughes stated, "New Jersey has had 200 years of experience with representative democracy. It has served us well. We should not undermine it with the initiative process."

Raymond Bateman, former Senate President and former Republican candidate for Governor, described initiative as "A governmental play-toy for rich and powerful groups. The multi-million dollar cost of campaigns to produce the necessary votes discriminates against the poor, minorities, and smaller regions."

Coalition member Richard McGlynn, a former Superior Court judge and former Public Utilities Commissioner, stated, "It doesn't make governmental sense to have issues of great import become objects of yes or no votes and a public relations campaign. I don't want to live in a world where we have single issue people running around getting petitions signed to put a lot of emotional issues on the ballot."

Alan Rosenthal, Director of the Eagleton Institute of Politics at Rutgers called I&R "less democratic than the legislative system." "The legislative process," stated Rosenthal, "works to build consensus -- by listening, by deliberations, by compromise. Some consensus is necessary if policy is to be really effective. The initiative process works to emphasize divisions and confrontational politics. There are winners and losers, and the losers have no stake whatsoever in making the policy work."

A common misconception and a fundamental flaw of SCR-1 and all the I&R proposals, is that the objective of I&R is to

stimulate action in the Legislature on a particular issue. In reality, the objective of the I&R legislation is to permit a group of promoters and profit seekers to require the Legislature to enact a law or constitutional proposal that is either identical or "substantially similar" to their proposed initiative. If the Legislature does not pass a law substantially similar to their initiative within six months of the proposal, the initiative would then be placed on the ballot. Regardless of how controversial an initiative may be, there would be no options given to the voters except a straight yes or no vote. In effect, the I&R process kills the fine art of compromise.

Another serious misconception I would like to correct is that one form of I&R can somehow be better than another form. This is absolutely wrong. The signature requirements and subject exclusions proposed in SCR-1 give only the illusion of protection. Any of these purported protections can be expected to be erased through the initiative process itself.

Representative government has made great strides in New Jersey, particularly over the last 20 years. Our system of representative democracy is a process in which issues are carefully weighed, studied, and considered with the benefit of public input and a wide range of informational resources.

Representative democracy allows the widest possible disbursement of power within the system, enhancing its responsiveness to local constituencies.

Citizens for Representative Democracy encourages this Committee and all members of the Senate to oppose any attempt to dilute our system of government through passage of an initiative and referendum process.

I would like to say, personally, that I am against I&R because I think you people are doing -- in direct opposition to the statement just made here before -- your job, and I think you should continue to do it.

I thank you for your consideration.

SENATOR STOCKMAN: Thank you, Mr. Franklin. Mark Laurenti? Is Mark here? (affirmative response) Mark is with Shop-Rite Supermarkets. More importantly, he and his family are longtime friends of the Acting Chairman of this Committee, and I am delighted to see him here. Welcome, Mark.

MARK LAURENTI: Good morning, Gerry, and Committee.

SENATOR STOCKMAN: Good morning.

MR. LAURENTI: Thank you for allowing me to say a few words. I have a short prepared statement I would like to read to you to express our views on this particular bill.

Most of the extreme views of segments of our society are filtered out or modified through the legislative process of review and study. The time involved and the careful scrutiny lawmakers give each proposal may be lengthy, but are necessary to prevent bad law.

The I&R process allows for no modification, and reduces complex issues to simple yes and no answers. The voters elect representatives to investigate diligently proposed laws which can alter our lives. The average citizen has neither the time nor the resources to fully study each proposal. They are forced to vote yes or no based on sketchy and catchy public relations slogans, without adequate information upon which to base their decisions.

It seems to me that I&R is a way to shift important lawmaking decisions to uninformed voters who do not understand the full impact of the legislation.

Finally, I happen to think, Gerry, with you, our State Senator, and with the Assembly people, that we can come and talk to you directly, and have fine representation. I don't think the voters, who may not be as well informed on issues, know how important they are. So, we would like to see this bill defeated.

Thank you. Are there any questions?

SENATOR STOCKMAN: Thank you. I think not, Mark. I think we understand your position. Thank you very much.

MR. LAURENTI: Thank you, Gerry.

SENATOR STOCKMAN: Okay. Bill Hanley? Is Bill Hanley here? (affirmative response) Mr. Hanley, did you speak previously to the Committee on this bill?

WILLIAM HANLEY: No.

SENATOR STOCKMAN: No, okay. I wasn't sure. I thought you had been--

MR. HANLEY: This is my first time before any committee.

My name is Bill Hanley, and I would like to testify on behalf of initiative and referendum as a citizen, because I believe it is a citizens' bill, and we do appear to be under-represented here today in Trenton.

FROM AUDIENCE: Please raise your voice so we can hear you.

MR. HANLEY: I will begin again. I would like to testify on behalf of initiative and referendum as a citizen, because I believe it is a citizens' bill, and I am afraid that we appear to be under-represented here today in Trenton.

There are so many forces at work with regard to I&R, that the basic concept of the bill has been distorted by its opponents. It is a bill which in its most basic form embraces the most cherished principles and precepts of our free and democratic society.

Initiative allows us, the citizenry, to petition our Legislature; a right guaranteed us in the First Amendment of our Constitution. Though we may feel fundamentally opposed or even threatened by the concepts or philosophy of a group, we must defend and protect their right to freedom of expression, another First Amendment right. You cannot amend this bill to the point of precluding fringe or radical group involvement, without making a mockery of the bill and its intentions.

A free society must tolerate the vagaries it creates by the very nature of the personal freedoms it holds most high. So what if some nut gets enough signatures to qualify an initiative to quarantine all AIDS victims, as LaRouche's people did in California this past November; or a group in Oregon to legalize marijuana; or some Midwestern state to abolish taxes. All of these initiatives were soundly defeated by the voters in referendum.

It is of equal importance that the citizens of these states not only had the ability to directly enact legislation, but as in the cases above, to publicly repudiate these groups as not being a part of mainstream American philosophy.

Referendum, the second half of this bill -- one person/one vote; the majority rules -- is the keystone of our democratic process. It is the heart and the power of I&R. Am I implying that I&R could or should replace our representative form of democracy? No, but I am suggesting that I&R will improve our representative form of legislation.

All power is inherent in the people. The further our legislators and representatives are led away from that concept, the closer we move toward totalitarianism. Our legislators must be more directly accountable to the people they represent, in order to be more effective. Our legislative process cannot be a closed club.

Special interest groups, which just about unanimously oppose I&R, consider it a threat to their influence peddling in Trenton. Let's not all sit here today and act like babes in the woods. We all understand the political and economic realities of our system which allow groups to lobby on behalf of their respective sponsors, but when these groups unite in opposition to a bill that would open up the political and legislative process in this State to its citizens, something is very, very wrong.

I challenge you today to look around you at the groups in opposition to I&R. Do they best represent the interests of New Jersey and its citizens?

Regardless of the misleading arguments distributed by the opposition, this is a very simple issue -- the citizens of New Jersey and the basic principles of democracy versus the special interest groups and their desire to protect and cement their influence on our legislative process. If that is oversimplification, I'm sorry; but that is how simple it appears to me and to most average citizens,

In its present form, Senate Concurrent Resolution No. 1 is nothing more than obstructionist legislation. It has been amended to the point where it would be ineffectual and non-implementable should it ever pass, because of the restrictive petition requirements. There is no danger in abuse of initiative because it possesses no legislative power of its own. So, why amend it into oblivion unless you are attempting to effectively kill this bill?

An initiative and referendum bill that cannot be implemented or used by its citizenry, is a victory for the special interest groups, and an embarrassment to this State. I request that this Committee produce an I&R resolution more in keeping with the other states that have adopted this form of legislation, and not perform a disservice to the citizens of this State and cave in to the pressure of the special interest groups, as it would appear you have done so far.

SENATOR STOCKMAN: Thank you very much, Mr. Hanley. Any questions?

SENATOR HAINES: Yeah. Your first statement says that your viewpoint is under-represented at this hearing. There is plenty of opportunity for anybody to come before this group and represent their case. In fact, I have heard this said before, and I have not gotten one letter in my legislative office supporting I&R.

MR. HANLEY: I would say that holding hearings -- which is necessary -- on a weekday, mid-morning, makes it very difficult for anyone other than someone who is professionally employed to do so, to attend.

SENATOR HAINES: Well, we held a meeting -- a previous hearing in my district. It was held on a Wednesday, but it was an all-day hearing. We only had a couple of people who represented your point of view at the hearing, so, you know, I wonder where you get this statement about being "under-represented."

MR. HANLEY: As I just said, at both of your hearings this side was under-represented. It is also -- because of the realities of the issue -- amazing how few people are aware of the issue -- how many citizens, I think, are unaware of the actual issue. I am not saying that is something that is purposely done, but I am saying that, in effect, most people are not aware. Most people, when you raise the issue, have no idea what I&R is. Now, if that is a shortcoming in our legislative process, then it should be rectified.

SENATOR STOCKMAN: Let me ask you this, Mr. Hanley, on that question. Isn't that really an argument against I&R?

MR. HANLEY: No, I don't think so; I don't think so. I think-- If you are saying that--

SENATOR STOCKMAN: You could see how I could make it, though, or try to make it?

MR. HANLEY: Right. The assumption is that the citizens have abdicated their ability to control themselves. I'm saying I think I&R would again put the citizen back-- A top issue on initiative would, I think, reinvoke the citizens in referendum. If you had a fringe group who had enough petitions for an initiative to legalize marijuana, don't you think the citizens of the State would become involved again, and vote it down?

SENATOR STOCKMAN: Well, the thought in my mind is, if there is so little awareness or interest in that issue, one can certainly argue whether it is fair or not that it suggests that the people of the State are basically satisfied that the representative form of government that has been in effect and that has been functioning, is meeting their needs. I am not saying that is necessary, but it seems to me that one could be tempted to conclude that.

MR. HANLEY: No, I would say that most people I speak to do agree, and feel generally that our representative Legislature -- our representatives generally -- are doing a reasonable job. But, by the same token, the fact that our Legislature would formulate, or choose not to pass legislation allowing the citizens a role in that process-- Most people do take offense to that.

I don't think the bill is casting any aspersions upon our Legislature, nor should it. But, by the same token, I think it is legislation that will, hopefully, force the citizens of this State to become more involved.

SENATOR STOCKMAN: I agree with you on that, incidentally. You may or may not be aware I am not convinced on the proposition of I&R, but I certainly don't think it ought to be looked at as a reflection on the Legislature. You can make that argument, and some of the proponents do. I think it is just a question of whether the people in the State would be better off with it than without it. I certainly don't think it necessarily means any individual legislator has been derelict in his or her responsibility.

Thank you very much. The Committee appreciates it.

Phoenix Smith? We are coming toward the end of-- I believe we have three other witnesses to hear from, in the event anyone is wondering about that. How do you do, Ms. Smith.  
**P H O E N I X S M I T H:** Good morning. I'm sorry I don't have my printed testimony with me, but I will get you copies after the hearing.

SENATOR STOCKMAN: All right. Would you speak up a little? I know there are people interested in hearing, and it is a little tough.

MS. SMITH: My name is Phoenix Smith, and I am here to speak on behalf of the Consulting Engineers Council of New Jersey. We have 114 member firms in our association, including 18 of the largest firms in the country. We don't usually speak out or participate in the State's routine public policy-making. We do, however, provide expert advice in the areas of transportation, infrastructure, and environmental policy planning and implementation. As a general rule, we do not get involved in public policy issues which do not directly affect or impact on our profession as consulting engineers and the work we do.

However, the issue of initiative and referendum is one that we feel is hardly routine, and could directly impact on what we do and how we conduct our business. During one of our recent meetings, the issues of wetlands and initiative and referendum were discussed simultaneously, and the question was posed: "What if a special interest group circulated a petition at a shopping mall calling for the immediate preservation of all existing and remaining wetlands areas?" Who could say no to that wonderfully simple statement which envisions lush vegetative life and warm fuzzy animals? We would all sign it. But, consider the ramifications if it got on the ballot and passed. The shopping center policy-making would have severe and detrimental effects on New Jersey's building and trades industries, real estate owners, developers, State and local planning and zoning laws, and even the average property owner. Jobs could be lost, and any property where water collected after a rainfall could be made unusable.

The petition so simply worded lacks the appropriate research, definition of terms, and expert environmental input and planning. The process of input in political compromise by all sides affected by that sort of legislation would be denied.

But the point I am trying to get across is not a question of which side of an issue wins or who has a correct argument or whether even an initiative has any merit. My point is that the process of initiative and referendum is not about who is right or wrong, but who can wage the better financial campaign to win their argument right or wrong.

The Consulting Engineers Council of New Jersey thinks the implementation of such shopping center policy-making, common if initiative and referendum is law, would not only by-pass the legislative process and the safeguards built into that process, but could also be the beginning of a government by the minority, an oligarchy of those with the most money. It takes money to initiate and sell an issue; it takes money to defeat an initiative, and whoever has the greatest war chest, or whoever has the resources to conduct the most convincing advertising campaign will prevail, not the merits of any individual initiative. Is this what initiative and referendum is all about? Is it the money question?

It is also true that multiple initiatives on the ballot can only work against an initiative's passage or defeat, regardless of what side you are on, and regardless of the merit of the initiative. For example, in California, educational pamphlets on state initiatives can be hundreds of pages, inches thick, with arguments both pro and con. Would you read this small novel to become more educated on ballot initiatives? It is doubtful that any of us would read the entire thing word for word, and we are supposed to be political insiders who have a supposed interest in policy-making in the political process.

Again, we ask you to reconsider this piece of legislation, and have concern for its ramifications if passed. Thank you.

SENATOR STOCKMAN: Thank you. Questions?

SENATOR HAINES: I have one question.

SENATOR STOCKMAN: Yes?

SENATOR HAINES: Are you aware of the fact that in California, on Proposition 65, that they paid 75 cents a signature to get this on the ballot? You know, it is common knowledge out there that they paid 75 cents. They went to shopping centers and set people up with little tables, and for 75 cents a signature-- You could get a heck of a lot of signatures from people coming out of Acme Markets or something. That is what they did.

MS. SMITH: That's an expensive campaign.

SENATOR HAINES: To me, that isn't good government.

MS. SMITH: Right.

SENATOR HAINES: I think this is part of what you are talking about.

MS. SMITH: Right.

SENATOR STOCKMAN: Thank you.

MS. SMITH: Thank you.

SENATOR STOCKMAN: Ernest Latieri? (phonetic spelling) Mr. Latieri, you have already spoken to the Committee, I believe, but we will be happy to have you speak again.

ERNEST LATIERI: I have been speaking at these hearings since 1973, I believe. I think it is one of the longest running serials -- this initiative and referendum deal.

You know, the initiative and referendum process works very well on municipal and county levels. I'm sure you people, as legislators, know that. If there is a question on the local level -- a pay raise, or whatever -- the citizens have the right, by circulating petitions and garnering a sufficient number of signatures, to put that question on the ballot.

Are the citizens of the State, who are not governed under certain municipal acts -- such as the Faulkner, the Walsh, and the Board of Aldermans-- Certain ones of these do not permit the initiative, but the Faulkner Act does. If we have these rights as citizens living under the Faulkner Act in

our municipalities, why is our Legislature so hesitant about giving the citizens of the whole State the same right?

Now, it doesn't seem logical that we, living in the society that we live in -- and I often hear it referred to as our "democratic society"-- We happen to live under a republic, because I can't remember ever getting up before any group and saying, "I pledge allegiance to the democracy of the United States." Gentlemen, I wish you would remember that, and I wish everyone else would remember that.

I did not come here with a prepared speech, but I have listened to the people who have testified, and, you know, sometimes it makes you wonder why we have what we have.

However, the length of these hearings goes on and on and on. You had one down in Mount Holly. I could not attend that one because of the fact that I was ill, but I have attended, I would say, 95%, or more, of the hearings that were held by the Senate and the Assembly. I think, also, that you gentlemen ought to start hearing people up in the north part of the State. You had one in Mount Holly. Why not come up to Essex, or Hudson, or Bergen County, and have a hearing? Okay?

SENATOR STOCKMAN: Mr. Latieri, I represent to you that this is the last public hearing on this bill. It is going to be voted on shortly. I can't imagine that even our good friend, Mr. Alexander, would suggest that we ought to schedule another one of these up in North Jersey in the future.

MR. LATIERI: Well, I am saying that, sir-- It may sound facetious, but truthfully, since 1973 or '74 when these hearings started, another hearing, more or less, is not going to hurt. But then again, it would--

SENATOR STOCKMAN: That depends on where you are sitting. (laughter)

MR. LATIERI: It would be repetitive, ridiculous, redundant, and revolting, and there are a couple more "r's" I might throw in there.

SENATOR STOCKMAN: All right. I think we have your message.

MR. LATIERI: Okay?

SENATOR STOCKMAN: Okay.

MR. LATIERI: Thank you very much.

SENATOR STOCKMAN: Okay, Mr. Latieri. Thanks very much for coming to see us.

MR. LATIERI: Just let's get on with the job.

SENATOR CARDINALE: Mr. Latieri, you recognize that the bill has been released by the Committee.

MR. LATIERI: It has been?

SENATOR CARDINALE: This hearing is a formality required with respect to any constitutional amendment.

MR. LATIERI: I understand that.

SENATOR CARDINALE: So, the bill has been released by this Committee. Subsequent to this hearing -- in a certain number of days -- it will be in position for a vote.

MR. LATIERI: Then it will go to the full body for a vote, right?

SENATOR STOCKMAN: Yes.

MR. LATIERI: I hope you will give it a nod so that it can go back to the Legislature and get kicked around a little bit more, and then they will have a couple a dozen hearings, and then they'll kick it around a little bit more. Then it will go back to you for another vote next year. This is a bouncing ball -- did you ever see it in the movies? -- Senate, Assembly, Senate, Assembly. That is the way we have been treated. Thank you.

SENATOR STOCKMAN: All right, Mr. Latieri. We appreciate it.

We are down to our final three witnesses. The next one will be Ed McCool, from Common Cause.

ED McCOOL: Thank you, Senators. I won't take up much of the Committee's time. My position on I&R is well-known. I

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would just like to take this opportunity to formally introduce a more lengthy statement for the record.

SENATOR STOCKMAN: Do you have extra copies of that, or just one?

MR. McCOOL: I have two others.

SENATOR STOCKMAN: Why don't you hand one up here?  
(Mr. McCool complies with Senator Stockman's request.)

MR. McCOOL: And, also, just to verbally comment that, while the Committee has indicated its support for the concept of initiative and referendum, we would ask it to follow through and also reconsider and release ACR-53, so that the full Senate would be able to decide which of the two proposals it would like to see in effect. If, in effect, the Committee is on record as believing in the concept of I&R, then there is no problem in it releasing both versions and allowing the Senate to make the decision as to which is the more viable path for that I&R.

I point out that the Committee did exactly that same thing with the concept of Lieutenant Governor. Having agreed to the concept itself, but unable or unwilling to choose between two bills that were before it, it released both versions and allowed the Senate, in its wisdom, to decide whether, in fact, it wanted either version. As it turned out, it didn't, but that is the full Senate's fault, not the Committee's.

We would ask you to follow the same pattern with the concept of I&R as well. Thank you.

SENATOR STOCKMAN: Thank you very much. Marlene Asselta, Southern New Jersey Development Council?

MARLENE Z. ASSELT A: Is there anyone after me, Senator, that I might--

SENATOR STOCKMAN: Yes, there is. David Lloyd, I think, has asked to speak.

MS. ASSELTA: All right. My cameraman is here. I would like to thank you for allowing NYT Cable to come and film this. Now that I see he has arrived, I will continue. Thank you.

SENATOR STOCKMAN: All right. Then we will hear from Mr. Lloyd. Are you ready?

MS. ASSELTA: Yes, I am.

SENATOR STOCKMAN: All right; fine.

MS. ASSELTA: Good morning. Thank you for allowing me to be here this morning. My name is Marlene Asselta. I am the Executive Director of the Southern New Jersey Development Council. The Southern New Jersey Development Council is a regional nonprofit economic development organization representing business/industry, county and municipal government, and academic institutions within the eight southern Counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem.

I might add that we are a nonpartisan organization with no political action committee, thus offering no contributions to a particular party. We like to believe that although we are a lobbying association and join proudly with our colleagues who are arguing against I&R, it cannot be said that we are a "special interest group with an unfair advantage by virtue of our heavy campaign donations." A criticism, I might add, that I have heard throughout the past several months.

On the contrary, the Southern New Jersey Development Council believes it is the strongest unified voice speaking and being heard for all of South Jersey. Having said that, I would like to proceed with the question before this Committee, SCR-1, sponsored by Senator John Dorsey of Morris County. This Committee has heard most, if not all, of the arguments against I&R, including, and I will be brief with this:

The I&R process is easily abused by one-issue groups whose views have been rejected by the Legislature precisely

because they are extreme and uncompromising. Being elected by no one, they are accountable to no one, even for gross misrepresentations. Elected lawmakers must always face the next election.

I&R serves as a vehicle for confrontational politics. There is little chance for dialogue, compromise, or accommodation on diverse interests. Rather than serving to coalesce opinion and interest, initiative campaigns pit group against group, each feeling compelled to outshout and outspend an opponent.

Under the initiative process, voters frequently must decide complex and difficult issues on the basis of inadequate information. Issues are debated through one-sided, oversimplified advertising which fails to provide a balanced view of the issues. Legislators have the advantage of professional staff and open debate to aid them in reaching sound decisions.

The initiative process is more likely to result in badly drafted and inequitable laws because proposals are drafted without the benefit of public input, professional analysis, multiple reviews by specialized committees, and debate on the issues which molds law and screens out unsound proposals in the legislative process.

These are but a few points that form the basis of the argument being presented by the Southern New Jersey Development Council. However, even more immediate to us is the issue of the ability or inability of the South to initiate its own proposals or to overcome those that may originate in the North.

I do not wish to infer that there is any divisive attitude between the North and the South in New Jersey; however, to overlook the differences in these regions would be unrealistic.

If, for example, the proponents of the infamous bottle bill, typically a North Jersey issue, were to gather the

required number of signatures on a petition to place this question on the ballot, what chance would South Jersey have in defeating the proposed legislation? This ballot question is not merely seeking public opinion, but binding legislation that becomes law by virtue of sheer numbers. This is a numbers game that South Jersey could not overcome, even if every county had each registered voter at the polls on election day. That is to say, the total number of registered voters in the eight southern counties is 985,881, or 25.37% of the total number of registered voters in New Jersey.

Conversely, what if South Jersey wanted to place a question on the ballot, perhaps to protect its water resources, and even suppose that the required number of signatures were gathered to place this question on the ballot -- a percentage, I might add, that changes with each new amendment -- given the number of votes in this region, and the emotion on each side of the issue, what chance would South Jersey have in winning the election?

It seems to me that the best mechanism we have to ensure equality statewide is the one we have -- representative government.

To elaborate on that point for just a moment, representative government is the basis on which this country was founded. Schools of higher education, which teach the pure science of public policy, have stated openly that: "It is the purpose of elected officials -- the Governor and the Legislature -- to represent the people, to provide a process for resolving conflicts and reaching consensus, and to produce policy decisions that further the overall interest of the State." Many of these schools are represented within the Southern New Jersey Development Council and support the position being presented here today.

Finally, we have reviewed this issue from both sides of the political aisle. Initially, I&R appeared to be an

administrative policy statement. In the recent past, we've seen early supporters fall away from both the Assembly and Senate versions of this legislation. This lack of resolve may be a warning signal. If our elected representatives, of both parties, who are involved in the running of State government on a daily basis, grow more and more unsure of the need for initiative and referendum, then perhaps it is time to defeat this legislation and focus on issues that will continue to move all of New Jersey ahead.

The Southern New Jersey Development Council stands ready to assist you towards that goal, and respectfully urges you and your colleagues in the Senate to vote no to SCR-1.

SENATOR STOCKMAN: Thank you very much.

SENATOR HAINES: Mr. Chairman, I do have a question.

SENATOR STOCKMAN: Yes?

SENATOR HAINES: Marlene, it has been said by many supporters of this legislation that basically they have made amendments to it to make it so that South Jersey could support this. I question this very seriously. How do you feel about this? Do you think the amendments that have been put in the legislation have really protected South Jersey?

MS. ASSELTA: I am sure that they were well-meaning and well-thought-out amendments, but I might add that the deliberative amendment process is something that I think this particular piece of legislation by-passes. So, I am a little afraid of that respect right there.

Secondly, I frankly don't think we have the numbers in South Jersey. The number of people who reside in South Jersey is far less than the people who reside in North Jersey. Therefore, the voters are fewer in number than we find in North Jersey. So, again, we are afraid of initiative and referendum, and we are here to say to you today that we think it would be catastrophic for South Jersey, insofar as the numbers game is concerned, which we know we cannot win.

SENATOR HAINES: Well, the question that goes with that, of course, is, if we have not amended it satisfactorily so far, can this bill be amended to really protect South Jersey?

MS. ASSELTA: I don't think so; I really don't think so.

SENATOR HAINES: I don't either. Thank you.

MS. ASSELTA: Okay. I'm glad to know that. Thank you.

SENATOR CARDINALE: Mr. Chairman, may I?

SENATOR STOCKMAN: Yeah, sure.

SENATOR CARDINALE: It occurs to me to ask you, do you represent the general populace or a particular group within South Jersey? Is your group representative of the general will of the people of South Jersey?

MS. ASSELTA: We certainly like to think so, Senator. I can't say to you that we have private individuals as members of the organization. We represent business/industry, county government, municipalities, academic institutions, and a gathering of others. But, it is not a--

SENATOR CARDINALE: Well, that sounds like a broad group of people.

MS. ASSELTA: Yes, it is.

SENATOR CARDINALE: Has this kind of measure been on the ballot, in any form, in any of the eight counties you classify as South Jersey?

MS. ASSELTA: I think I heard that it was on the ballot several years ago. I think I will ask Senator Haines to help me out with this because, as I recall, it might have been in Burlington County.

SENATOR CARDINALE: I believe it has been on several ballots, and I think some of them at least were within the eight counties. I have not heard of one where the people defeated it. Do you know of any where the people defeated it?

MS. ASSELTA: They have not defeated it, to my knowledge, and I am sure that is because they truly do not understand what is being asked of them.

SENATOR CARDINALE: So, even in the southern counties, people, when given the opportunity to vote on this, have accepted the idea.

Let me propose something else to you. Do you think those of us who come from the north are unique in having things passed and become law in the State that have a detrimental effect on our own regional interests?

MS. ASSELTA: Well, those of you who come from the north are certainly unique. I will be the first to admit that. I think that in some cases you are far more sophisticated than those of us who come from the south. I think, therefore, you have an ability to move ahead, your proposals or your projects or your programs. We would like to learn from you, but we would also like to join with you, shoulder to shoulder, rather than one slightly ahead of the other.

SENATOR STOCKMAN: I can't resist the prerogative of the Chair, as someone from Central Jersey, to ask, "Where does that leave us?" (laughter)

MS. ASSELTA: You are doing very well.

SENATOR STOCKMAN: All right.

SENATOR CARDINALE: I would just like to observe for you that very often the people who live in the area -- specifically the district I represent, or in my general area in Bergen County, or the general area you might consider North Jersey, and I consider that a lot more north than some people consider it -- have all the same fears, that people in other parts of the State impact on the legislative process in such a way that it is very detrimental to our peculiar interest on any given issue. It is not a unique fear.

I don't believe there is any reasonable expectation that we are suddenly going to come down on all of you because we have greater numbers in the north -- whatever you categorize as north, that somehow this is a plot to take advantage of the

people in another part of the State. I would like you to know that I very frequently, personally -- and I am as north as any legislator in this State; I border New York State -- have supported some of the things that Senator Zane has brought to our attention.

I don't think I am unique among the people from our area. I think when you make your case, the people in all of this State understand that farming is important. They understand that there are different conditions that you will face. I don't think that we are about to-- I don't think you should really be so sensitive to the fact that someone might present something that we would not understand was going to terribly impinge on a way of life. I think if we ever made that mistake -- we make mistakes in the Legislature, and I am sure in the initiative and referendum process we will make similar mistakes, if it ever gets to be part of our law -- it is reversible. If we were to do something that caused farming to stop, I think we would recognize that. It might be a little trying, but, on the other hand, you might support something that someone else might put up, that might cause District 39 to have a serious problem. But, I also have confidence that we would see the error of that, once we had experience, and would correct it.

SENATOR HAINES: Mr. Chairman, may I rebut my colleague's argument here with a very short rebuttal?

SENATOR STOCKMAN: Surely.

SENATOR HAINES: As a matter of fact, Gerry, you and I are both very concerned about an issue, and we are both on the same side of it, but it has hurt South Jersey pretty badly. When South Jersey has no representation on the Supreme Court, and New York City has two representatives on the New Jersey Supreme Court, we got a real problem, and there are some other things we could go into. But, I don't intend to--

SENATOR CARDINALE: Boy, I would love to have initiative and referendum so we could address that problem, Senator.

SENATOR STOCKMAN: All right; okay. Thank you very much.

MS. ASSELTA: I just want to add to that comment, Senator -- all of you. We have abundant confidence in our representatives -- in each of you. Our fear is that we don't talk to -- if initiative and referendum is law -- you; we talk to masses, and that is a little more unmanageable. So I want you to understand that South Jersey has real confidence in the job you're doing. We only would like to see it stay exactly the way it is. That is how I would like to conclude.

SENATOR STOCKMAN: Thank you. Our final witness today will be David Lloyd. Is David still here? (affirmative response)

DAVID LLOYD: Are you sure I am the final witness?

SENATOR STOCKMAN: As Chairman, I am positive you are the final witness. I shouldn't say that. I suppose there may be others here.

MR. LLOYD: Thank you, Mr. Chairman and members of the Committee. My name is David Lloyd. I am Executive Director of the Employer Legislative Committees of New Jersey. Today, I am appearing on behalf of one of the chairmen of the E.L.C., namely Joe Mullen, who is Director of Public Affairs for the RCA Corporation in Camden County. Mr. Mullen is Chairman of the Camden E.L.C., and was originally scheduled to testify in Mount Holly. He was unable to be here today, so I am going to read his remarks on his behalf.

"I&R could supplement our system of representative democracy. We elect legislators who take the time to analyze complicated issues and make decisions for us. As individuals, we have neither the time nor the inclination to undertake the necessary study of legislative issues, which are rarely questions which can be answered initially with a flat yes or no.

"Though imperfect, the present system allows for deliberation and compromise. Those concepts which eventually become law are filtered and refined by the Legislature and the Administration under the present system. I&R does not really accommodate that process, even under the guise of an indirect initiative and referendum.

"I&R could become government by the well-organized minorities. The I&R process could force onto the books laws which are the cause of single-issue fringe elements in the community. It could force voters to make a "take-it-or-leave-it" decision on an issue, without the benefit of thoughtful deliberation or consensus.

"Business would be a likely target of I&R questions. We are concerned that narrowly focused interest groups, capitalizing on a general public mistrust of business, could use I&R to challenge the right of business to decide how to conduct its operations, where to conduct them, and so on. In many states, I&R has been the forum for attempts to raise business taxes. In others -- such as California just this year -- proposals have been adopted which have had seriously negative impacts on, among others, the farming and chemical industries.

"In sum, I&R would replace the current deliberative representative governing process with one that would respond to the frustration of groups which are usually unable to command legislative majorities."

Thank you, Mr. Chairman. If there are any questions, I will try to answer them.

SENATOR STOCKMAN: Thank you. I believe--  
L O U I S E. M E D V E D (speaking from audience): Mr. Chairman, I would like to comment, just briefly.

SENATOR STOCKMAN: All right. Why don't you come forward? This was the last witness who requested to speak before. I know you have been in the audience, Mr. Medved.

MR. MEDVED: I don't have any prepared statement or anything with me. In fact, I didn't even--

SENATOR STOCKMAN: Why don't you identify yourself?

MR. MEDVED: I am Mr. Medved from Wrightstown, New Jersey. I had a personal experience with the legislative process, and with the courts, and with referendum questions.

I am a veteran whose wife was also a veteran of military service. My wife was discriminated against and, after her death, I was discriminated against. It was a long, drawn-out legislative process which took four years. It was to correct an inequity where we were discriminated against. The Constitution was changed. It was placed on the ballot as a referendum question.

What I want to point out to you is, I also fought this through the courts, and through the court system -- they sat on it. It went from the courts in Mount Holly up to the Superior Court, and they sat on it until such time as the referendum question was voted on in November. It received a high plurality. In fact, there were eight questions, and the question which dealt with my particular problem received the highest plurality.

So, all that I have been hearing here is about the ability of the public to make judgments on issues. I question that. I feel that the public is pretty well-informed. As one witness said, "It is going to be a yes or no situation, and you are trusting the public to do this." Well, I submit to you, and the Committee here, and to the public at large, that if I didn't understand a question, and I was in a booth, I would not vote on it. I would leave it up to the other people who made themselves familiar with the issue, and let them make the decision.

I am very favorably disposed to see the referendum issue passed and placed in the hands of the public, so they can address issues which concern them, because I got the short end

of the stick. The benefits that we were entitled to were never paid to us. In fact, there is a reluctance now to even go back, from the local community to the Veterans' Administration to the State--

SENATOR STOCKMAN: All right, Mr. Medved.

MR. MEDVED: --on tax issues and everything else. So I think this is an issue that we definitely need. I hope that it will be passed.

SENATOR STOCKMAN: All right, fine.

MR. MEDVED: Thank you.

SENATOR STOCKMAN: That completes the-- Yes, Reverend Sarfaty? (speaking to gentleman in the audience)

R E V E R E N D   D U D L E Y   E.   S A R F A T Y: Mr. Chairman, I apologize. I think my office must presume I have a lifetime application to appear at your hearings. That is why your office didn't hear about it.

SENATOR STOCKMAN: Okay. You weren't on our list. No one told us you wanted to speak.

REVEREND SARFATY: I was told I was, but I will go home and politely say something about that.

I am Dudley Sarfaty from the New Jersey Council of Churches. I understand that this hearing was not convened for the purpose of releasing the Assembly bill.

SENATOR STOCKMAN: That's right. It is a public hearing that is required. The bill has already been released.

REVEREND SARFATY: That is what I understand. Because of lines 131 through 133 -- which this Committee has added on page 4 of the bill that protect the civil liberties of the citizens of New Jersey -- I would have to suggest that we support this amendment in contrast to the Assembly amendment -- or the Assembly constitutional amendment. We are not worried if it takes another year to get action, or another two years to get action. Certainly an issue as important as this deserves serious consideration. Some of the details need to be fleshed

out. I have a private preference for the Supreme Court deciding whether or not the requests of the petitioners are properly met, as to the 16 of the original petitioners having absolute authority to decide that themselves. I realize that something like that cannot be settled probably short of two years.

The New Jersey Council of Churches is a party to the lawsuit you mentioned, Mr. Chairman, and we are very concerned that there is over a \$1000 difference, and maybe more than a \$1000 difference in need, between the money spent on children in urban schools and suburban schools.

If I understand the last paragraph on page 4, what happened in California could never happen under this version, because legislation might be proposed, but no constitutional amendment could be proposed like Proposition 13. So, although we did have a lot of sympathy for the enabling legislation on the Assembly bill, we haven't seen it for this bill, and that would obviously affect our final decision. However, we do want to put in our appreciation to the Committee and our plug for adopting the constitutional amendment that does protect the Bill of Rights.

SENATOR STOCKMAN: Okay, thank you.

REVEREND SARFATY: Sorry for the confusion.

SENATOR STOCKMAN: That's all right. Are there any other members of the public who would like to be heard? (affirmative response) All right, do you want to come forward and identify yourself?

G E R T R U D E R E E D: I am Gertrude Reed from South Jersey. I am a member of the Federation of Senior Citizens. I only want to say a few words.

If the people were intelligent enough to vote for you people in your offices, why are we afraid to put something on the referendum to be voted on? Why are we afraid that people are not intelligent enough to vote for what they want? Tell me why.

SENATOR STOCKMAN: Is that a rhetorical question, or do you want my reply?

MS. REED: I just want an answer. How do you-- Here is what I want. How do you feel--

SENATOR STOCKMAN: Well, of course, some people think that they weren't too intelligent electing me, so, you know, you can take that both ways.

MS. REED: Yeah, but we can't go on that assumption. This is America, and we are supposed to vote on what we want. We wanted you; we put you in.

SENATOR STOCKMAN: Ms. Reed, I appreciate that. We have heard many arguments for this bill and, of course, Senator Cardinale, alongside of me, supports the bill. I can understand, and I think it is a very good thing that you have come here to express yourself as a citizen. I think that has to be taken into consideration, and there are a lot of people who feel the way you do.

MS. REED: We have a lot of intelligent people in South Jersey, too.

SENATOR STOCKMAN: Oh, yeah. Well, that South Jersey, North Jersey-- We ought to get away from that anyway.

MS. REED: Yes, yes.

SENATOR STOCKMAN: I absolutely agree with you about that.

MS. REED: Thank you very much.

SENATOR STOCKMAN: Thank you for coming in to talk to us. I think there is someone else. Yes? Please come forward.

M A R I E C U R T I S: I have a written statement that I am not going to read. (Ms. Curtis hands copies of statement to Committee.)

SENATOR STOCKMAN: Thank you. This is an update of the League's position.

MS. CURTIS: Yeah. I am Marie Curtis from the League of Women Voters. You have all heard from us before. Like Mr.

Latieri here, we sort of have an ongoing thing with initiative and referendum.

Very briefly, I will just state that SCR-1 is much improved from the last time we saw it, when it had far more exemptions than are now contained in the act. We are still not completely happy with it. We would like to reiterate the request that you heard just a little bit ago from Ed McCool of Common Cause. We would strongly urge the Committee to consider sending both ACR-53, as well as SCR-1, to the full Senate for a full hearing.

The League does believe that ACR-53 is a better bill at this point, and we would prefer to see that. However, our statements are on record, and I think you know where we stand. We do strongly support indirect initiative and referendum.

Thank you.

SENATOR STOCKMAN: I understand that. Thank you very much for coming in. Yes? (in response to gentleman in the audience)

ROB STUART: I thought I was on the list -- Rob Stuart from NJPIRG?

SENATOR STOCKMAN: Yes, Rob. I didn't see it on here. I thought maybe you had testified earlier. Okay.

MR. STUART: I have a written statement. I won't run through the whole thing. I just want to reiterate our position, which has been in favor of strong initiative and referendum legislation -- or constitutional amendment for New Jersey, as a way to enliven and engage the public in what we feel is a necessary component of their lives; that is, the legislative process in the State.

I feel, having spent a number of years down here, that there is a lacking presence of the public. The experience of other states where we see the public engaged, not only in legislation and the development of initiatives, but at the ballot box voting for initiatives at an average of 17%--

Voting is as high as 17.6% higher in those states which have initiatives, as opposed to those states which don't. We see great involvement by citizen groups.

SENATOR STOCKMAN: Let me back you up, because you know this has been a question I have been posing to the proponents. Will you give me that statistic again, and where you got it from?

MR. STUART: From the Initiative Resource Center, in midyear elections, where states that have initiative questions on the ballot were compared to states which don't-- There have been as high as 17.6% more people turning out in those states that have questions than in those states which don't. I have the preliminary numbers from this past election. It is kind of hard to compare to New Jersey, since we did not have a Senate election, so the statewide figures are somewhat sketchy, although The Star-Ledger did provide us information that showed that in counties which had initiative questions in New Jersey, as opposed to counties which did not, voter percentage turnout was higher in those counties than where there were not questions.

So, obviously, the State would be enlivened. Public interest in voting and in issues would be enlivened with the initiative process that could be used. That is why we are somewhat in a quandary here, because we see SCR-1, as amended, as something that the public may never use at all. The excessive signature requirements, the distribution requirements, and the subject exemptions make this I&R on paper, but not an I&R that people will end up benefiting from.

We echo the call of Common Cause and the League of Women Voters for the Committee, and if not the Committee, then the full Senate, to act to release ACR-53 so that Senators who want to stand up and be counted for the real I&R have that opportunity.

I can only respond to some of the testimony I have heard here today. I almost thought it was a different issue. I think when it comes to environmental legislation, when it comes to consumer legislation, that oftentimes the Senate and the Assembly -- the legislators -- are put in a difficult position of having to tell their constituents that they are voting their interests, but also looking into the eyes of those industries and those special interest representatives who, for the most part, benefit greatly, oftentimes from profit, from not doing what may be in the best interest of the environment or the consumer. In that case, I am afraid it is oftentimes easier not to do anything, or to pass a law that, in a sense, does nothing, because it has been compromised, or weakened in the name of compromise.

I think that oftentimes facts are not recognized or, if they are recognized they are not included in the decision-making process. Oftentimes it is the politics of a given session or a given election that dictate the way a vote will go.

So, again, I thank the Committee for taking up this issue and for holding as many hearings as you have held, because our sense of this is that the benefit of I&R is not necessarily from any one issue that is going to come to light, but the fact that people will be exposed to the fact that the Legislature -- the governing body of the State -- is something that they have a role to play in. Actually, because we have had discussions about initiative and referendum, they realize -- as they would if we had initiative and referendum -- that that role can be increased, and that is something that we certainly support.

SENATOR STOCKMAN: Thank you very much.

Is there anyone else who wishes to speak? (no response) In view of that, I think we will end this public hearing which was required by the Constitution on the

resolution. It will be posted for a vote in the Senate. I am not sure of the date. I don't think that has been announced, but it will be in the near future.

Thank you very much for coming, for speaking, and for being polite and listening. The hearing is adjourned.

(HEARING CONCLUDED)

New Jersey State Library



## **APPENDIX**



# NEW JERSEY SOFT DRINK ASSOCIATION, INC.

209 SCOTCH PLAINS AVENUE WESTFIELD, NEW JERSEY 07090

Telephone 201-232-0632



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PETER McDONOUGH

June 17, 1985

The Editor  
The Star-Ledger  
Star-Ledger Plaza  
Newark, N. J. 07101

Dear Editor:

We grow weary of the many false statements made by those who favor a bottle bill. One such was made by Bruce Medway in a letter to you on May 12th. In it he says "The beverage containers (in Vermont) are almost all glass. There are very few plastic bottles or cans."

I wrote to the largest soft drink manufacturers in Vermont and asked for their sales by various containers. The following is the summary I received:

Cans	41.4%
Plastic	32.9%
Glass	25.7%
	100%

He further states that "the glass industry special interest lobby should check this fact out, instead of spending so much time lobbying against a bill which would greatly increase demand for reusable glass containers."

Again, Mr. Medway is way off base. In every state where a bottle bill has been passed, the sale of soft drinks in glass containers has been greatly reduced. Where every container has a deposit, both the retailer and the consumer have turned to the lightweight containers of aluminum and plastic.

He makes another false statement when he writes "Retailers do not seem to mind the extra hassle as they get to keep all unredeemed deposits (approximately 20 percent.)

Retailers do not keep deposits of unredeemed containers. They pay the distributors the deposit when they buy the soft drink and get it back when they sell it.

The Star-Ledger

What the retailer gets is two cents to handle the empty containers. For this money, he redeems, sorts, stores and checks them out when they are picked up.

A modest size store selling about 50 cases of soft drinks a week has to handle about 1000 empty containers, or about 200 a day. At 2 cents a container he receives \$4.00 for his handling of these 200 empties. More than likely it takes at least two hours a day for this chore. This works out to \$2.00 an hour for his time and labor. I ask your readers "Would you do all this work and clutter up your household with this assortment of used containers?"

The storekeeper does it because the law compels him to do so. He has no choice. He is not reimbursed for his space, heat, light, taxes or maintenance. He minds very much. He knows he is the goat. All he can do is raise his prices to cover the additional costs.

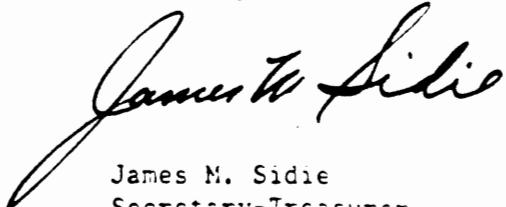
Bottle bills are supposed to be a simple answer to the problem of litter and solid waste. In New York city Mayor Koch has asked for \$60,000,000. for more people to sweep streets because the litter has gotten out of hand. This, after New York has had a bottle bill for over a year.

In New Jersey a bottle bill would cost \$150,000,000. a year without reducing litter or solid waste significantly. For this amount of money the state could erect a waste-to-energy plant every year or two. This money is the equivalent of the \$1.00 a case it would cost those who drink soda and beer.

The per capita consumption of soft drinks and beer in the United States is about twenty cases per year. In my town of Westfield, we have a population of over 30,000. Their purchases of these products would come to about 600,000 cases each year, and the hidden tax resulting from a bottle bill would come to \$600,000.

If any member of the town council would vote a tax of this amount to eliminate the few containers that litter our streets, he would be voted out of office and laughed out of town.

Sincerely,



James M. Sidie  
Secretary-Treasurer

JMS/l's

110 WEST STATE STREET

TRENTON, NEW JERSEY 08608

609-396-1150

## Testimony Before N.J. Senate State Government Committee

Ed McCool, Executive Director

November 6, 1986

With all the negotiations to make I & R acceptable to its opponents, the purpose of the initiative seems to have been forgotten.

The difficult petition requirements have been made even more so. Common Cause has always supported a fair election percentage petition requirement -- the gubernatorial figures in ACR 53 -- with moderate geographical distribution -- the original provision in ACR 53 for no more than 10% of the signatures from any one county. The Senate proposal has taken the highest election percentages offered in New Jersey and added two layers of increased distribution requirements. New Jersey will have the most burdensome petition requirements in the country. The high petition qualifications are not in the interest of New Jersey voters.

Attempts to limit subject matter of I & R show fundamental misunderstanding of the value of I & R to New Jersey and distrust of the intelligence and sensitivity of New Jersey voters. I & R gives concerned voters an additional route to participation in government when their needs are not answered. It is a call to government to govern. It has worked successfully in 23 states over a period of 80 years. Reducing the subject matter of I & R undermines the process and questions the ability of New Jersey voters to deal with crucial issues.

While we have opposed the introduction of exceptions in the I&R process, the protection of Article I is valuable. The adoption of 4(c) excluding constitutional amendments that "establish, dedicate, alter, or eliminate any tax, fee, charge, or other source of revenue or which makes or provides for an appropriation of money" does reflect a lack of confidence in the voters of New Jersey and their ability to decide difficult issues and questions.

Unfortunately, S-1, the enabling legislation was passed by the committee with no discussion and with the need for important revision. ~~There is no specific time frame given for signature gathering.~~ The difficult petition requirements should be matched in the constitutional amendment with at least a two year period for petition signing. Furthermore, the long and arduous task of qualifying an I & R proposal for the ballot -- over two or three years -- and the approval by the voters should be protected from easy amendment and repeal for more than two years. Two years barely gives the law the opportunity to work. Please extend the requirement of a supra-majority for amendment and repeal in SCR 1.

The Assembly offered you a very careful and thoughtful proposal for I & R with ACR 53. It evolved from SCR 1. ACR 53 is more comprehensive and well-balanced. It is based on a strong belief in the process of I & R and the capability of New Jersey voters to identify what is best for New Jersey.

ACR 53 and its companion legislation A 1028 and A 1029 are an I & R proposal of which New Jersey legislators could be proud. ACR-53 needs to be released by this committee(Senate State Government). SCR-1 needs to be amended to reflect ACR-53.



# LEAGUE OF WOMEN VOTERS OF NEW JERSEY

204 WEST STATE STREET, TRENTON, NEW JERSEY 08608 / TELEPHONE 1-800-792-VOTE / 609-394-33

Testimony before the Senate State Government Committee  
Hearing on SCR.1, Initiative and Referendum  
December 4, 1986

The League of Women Voters of New Jersey is here once again in support of the concept of indirect initiative and referendum. League members strongly endorsed initiative and referendum in their consensus position reached in 1982.

In the past we have heard much testimony presented as to why the voters of New Jersey should be denied the privilege shared by 23 sister states and the District of Columbia. Our response to these concerns is our firm belief in government of and by the people. The citizens of New Jersey understand issues; they already vote on ballot questions that place the disposition of millions of dollars in their hands every November. Will the complexity of a question be greater because it did not originate in the Legislature? We think not. Will the judgement of the electorate be more susceptible to pressure and "hype" than that of the Legislature? Again we think not. We believe that the citizens of this state will be able to sort out the facts just as they do now on candidates before elections.

Further, the League does not believe that indirect initiative and referendum diminishes the Legislature in any way. On the contrary we see I and R as another conduit, another means of communication, between the Legislature and the electorate. If, indeed, Jefferson was correct in stating that government rests on the consent of the governed, then

Continued

the citizens of New Jersey themselves should have the opportunity to decide on this concept. Let the matter be decided at the polls by the people.

This committee has looked at two I and R measures. ACR.53 is the proposal supported by the League of Women Voters of New Jersey. While SCR.1 is much improved, it still remains encumbered with exemptions and with percentages based on presidential election turn-out. The resulting figures from the latter almost insure a prohibition against practical usage of the process.

ACR.53, on the other hand, is not overly obstructive. It safeguards the process without disabling it. We urge the committee to reconsider ACR.53, and to release both bills to the full Senate. If a full and realistic debate on initiative and referendum is truly desired, ACR.53 cannot be ignored. The citizens of New Jersey deserve nothing less.

I&R TESTIMONY  
BEFORE THE  
SENATE STATE GOVERNMENT COMMITTEE  
BY ROB STUART  
NJPIRG LEGISLATIVE DIRECTOR  
DECEMBER 4, 1986

I&R TESTIMONY  
BEFORE THE SENATE STATE GOVERNMENT COMMITTEE  
BY ROB STUART  
NJPIRG LEGISLATIVE DIRECTOR  
DECEMBER 4, 1986

Madam Chairwoman, members of the Senate State Government Committee, my name is Rob Stuart and I am Legislative Director of the New Jersey Public Interest Research Group, (NJPIRG). NJPIRG is a non-profit non-partisan research and advocacy organization supported by over 70,000 New Jersey citizens. NJPIRG has been outspoken in favor an Initiative & Referendum Constitutional amendment so citizens could use I&R as a means to strengthen the legislative system and democratic process in New Jersey.

I had hoped to speak in favor of the initiative proposal but NJPIRG believes SCR-1 sets forth an initiative process that will make it extremely unlikely people would ever use the power of I&R. In fact, if it is adopted by the legislature and placed on the ballot, it may represent the ultimate sham the legislature could perpetrate upon the voters. SCR-1 is not the real I&R proposal. It is the product of the same insidious corruption true I&R seeks to address. Plainly put, the compromises, the excessive signature requirements, the distribution requirements and the subject matter exemptions would make NJ's I&R the most restrictive in the Country and in our opinion would put the initiative process out of reach of New Jersey citizens.

SCR-1 was amended and released by the committee instead of ACR-53, sponsored by Assemblyman Zimmer and passed by the Assembly in June. ACR-53, while restrictive, represented a viable I&R proposal that had gained the endorsement of a wide range of municipal, professional, environmental, good government, senior citizen, and public interest organizations. NJPIRG hopes that the full Senate will realize the mistake the Senate Committee made in holding ACR-53 and acts as a body to release the real I&R from the Committee's jurisdiction.

NJPIRG believes the time has come for New Jersey citizens to have the benefit of I&R. The specter of special interest power in legislative activities has evolved since the 1890's, and at times special interest lobbies play a useful role by providing information that the legislators would not have at their disposal, but their influence often goes unchecked and can be negative force in the legislative proceedings. We believe the current process would be improved if New Jersey citizens had the right to initiate and approve public questions. Numerous speakers representing lobby groups have testified that the public has access to legislators and that if people really want to influence the process all they have to do is to pick up a phone. We believe those statements are naive. In comparison to professional lobby and industry organizations, it is very difficult for citizens to make an impact inside the legislative arena.

With all due respect to the members of the committee I submit that the intention of the lobby groups opposing I&R is to preserve their inside route to legislators and the legislative process. In the past citizens have organized behind important issues, polls have shown support for enactment of legislation, yet often issues, such as I & R, remain idle due to special interest opposition. Worse, the original intent or focus of a proposed law may be lost in weakening amendments that can be passed in the name of compromise.

Legislators are also put in the awkward position of having to accept large contributions from moneyed interests to fund their campaigns knowing that these interests are opposed to legislation that their constituents support. In those cases it is easier to satisfy both by doing nothing or passing a bill that does nothing.

If government is perceived as dominated by special interests, apathy and alienation among voters develops. In the last state election primary, only 10% of the registered voters cared to cast votes for party nominations for governor and assembly. Clearly it is in the public interest to increase the public's interest in elections and the governmental process. Numerous speakers have mentioned the results of an Eagleton/Star Ledger 1/86 survey. The poll asked a number of questions about I & R. When asked if they agreed with the statements:

"I & R would allow the public to decide issues where public officials are hesitant to act for fear of offending certain groups." 78% supported, while only 15% disagreed.

"If people had a chance to vote on issues they would become more interested and participate more in government and politics." 80% supported, the highest in the survey, only 18% disagreed.

In fact national and state evidence supports the public's opinion. Over the last decade voter turnout has been as much as 17.6% higher in states where initiative questions appear on the ballot compared to states without questions.

Here in New Jersey this November's election brought a higher percentage of New Jerseyans voting in counties where counties had referendum questions on the ballot than in counties without questions.

NJPIRG encourages the Senate to act in the interest of the constitution by releasing ACh-53. When the public finally gets to vote on the question of I & R they should be voting on an I&R that they could use, not a sham substitute.

For the record:

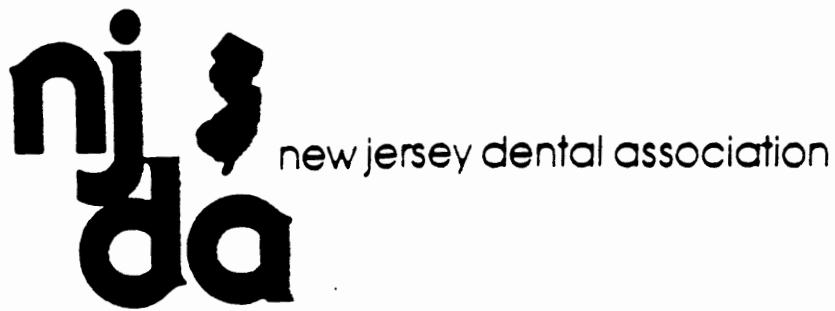
NJPIRG supports reasonable but not excessive signature requirements based on statewide turnout and on average with the requirements of other states. ACR-53 would require 200,000 and 300,000 for statutes and constitutional questions respectively. The Dorsey proposal puts the requirement at 257,000 signatures and 368,000 if accepted it would be the highest in the country.. NJPIRG opposes the Dorsey proposal because if the process is to used it must be accessible to average citizens. A figure of 100,000 signatures, or 5% of statewide turnout would be more reasonable. A figure of 257,000 is virtually impossible.

NJPIRG opposes the distribution requirements for signatures as proposed. The danger of decreasing the amount of signatures allowed from any one county to 9% and preserving the dual state requirement for geographical distribution is that the initiative could never be used by common citizen groups.

In earlier testimony business groups have said that they would have to spend large sums of money to "make their views known", other witnesses have warned that large sums of money may influence the outcome of public debate. I & R is designed to increase public information about issues of public debate and in no way should speech be limited by one side or another supporting or opposing public questions. But the public should be aware of which side of the issue that speech has come.

NJPIRG supports the increased disclosure and information provisions for groups supporting or opposing an initiative or referendum question. Amendments requiring truth in labeling for political committees and political advertisements contained in A-1028 should be included in S-1. The provisions would complement the disclosure requirements for those organizations supporting initiative campaigns, and allow for greater public knowledge of who spent how much money, where, and why in any given initiative or referendum campaign. We support provisions which will allow for the financial activity by those supporting and opposing I & R campaigns to be known to the public before that election.

To sum up I want to quote an observation made by one of our countries most famous educators. In 1820, Thomas Jefferson said "I know of no safe repository of the ultimate power of society but the people. And if we think them not enlightened enough, the remedy is not to take power from them, but to inform them by education." Recognizing the educational, social, and political value of I & R, we encourage the committee heed Thomas Jefferson's words and release ACR-53.



new jersey dental association

**SENATE STATE  
GOVERNMENT COMMITTEE  
PUBLIC HEARING  
ON  
INITIATIVE AND REFERENDUM  
DECEMBER 4, 1986**

ONE DENTAL PLAZA, NORTH BRUNSWICK, NEW JERSEY 08902 201 821-9400

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Madam Chairwoman and members of the Committee, thank you for the opportunity to address you today on Initiative and Referendum. I am Adam Kaufman, Director of Government Relations for five thousand citizens of this state whose profession is dentistry and who maintain membership in the New Jersey Dental Association.

NJDA concurs with the many speakers who have eloquently and accurately expressed the multitude of reasons why and how I&R would subvert both our democratic and public processes of government.

Throughout this debate we have continually heard that the citizens know best. NJDA believes that events from this past election speak for themselves.

On election night last month, NBC News Anchor Tom Brokaw, introducing a segment on ballot referendums, said that some states have more questions on the ballot than a three-year old at bedtime. In that segment it was reported that tiny Rhode Island, had twenty five propositions on the ballot, and that it took voters on the average fifteen minutes in the voting booth.

After all the national and state hysteria on drugs and drug abuse, the citizens in Oregon want to legalize marijuana; are the citizens right?

In California, where ballot questions run as thick as a Kansas wheatfield, the citizens have proposed an interesting menu of issues that range from intolerance to paranoia. Included on the ballot was an English only initiative directed at Asians and Hispanics. There was a proposition to limit the top salary of state and local officials to \$64,000, but if the citizens want

a government brain-drain are they right? Finally heading this three-ring circus they call citizens rights, there was a proposal from the followers of extremist Lyndon LaRouche which would have established draconian AIDS testing and possible quarantine requirements. Citizens rights, but at what cost?

Last month an article appeared in the Wall Street Journal headlined "Four Old Ladies In Tennis Shoes Push For Radical Tax Initiative In Montana." This initiative proposed abolishing all property taxes and stipulated voter approval for any increases in the income or sales tax. Not so incidently, Standard & Poors even before the election, downgraded the state's general obligation debt rating. NJDA has to wonder when is the public interest not in their best interest?

Proponents of I&R vehemently argue that these types of questions can't happen here. They say protections have been built in to guard against the types of issues that would divide our state region against region, or emasculate our tax structure.

Let's take the I&R debate and put it into the context of another issue, the reconvening of the Constitutional Convention. By all accounts a Constitutional Convention has to be considered the quintessential forum of citizens rights in a participatory democracy, yet New Jersey Common Cause and the League of Woman Voters are opposed. According to published reports, Common Cause fears a Constitutional Convention because as their Executive Director states, it could "easily get out of hand." The State

President of the League of Woman Voters recently stated in a letter to the editor that, "well-meaning delegates to the convention could jeopardize our individual liberties." She went on to say that, "once a convention is called anything could happen." Do these groups fear that a Constitutional Convention could be turned into a runaway train at the hands of single issue groups whose self-interest may be contrary to our national well being?

According to the opponents, you are buying a can of worms with a Constitutional Convention. They say it would be a Pandora's Box, and that you would have no idea what would come out of it. Proponents of a Constitutional Convention say there would be safeguards and protections to prevent proposals such as those that would officially designate the United States a, "Christian nation."

How bad a proposal can a Constitutional Convention be, after all the citizens of thirty two states, more than the number of states with I&R, have approved it. You have the guarantee of proponents who promise there are safeguards, so why are the League of Woman Voters and Common Cause opposed. Isn't the spector of a citizens mandate and guarantees of protection enough for these groups. NJDA asks fundamentally how you can support citizens rights (I&R) on one hand, and oppose citizens rights (Constitutional Convention) on the other.

Maybe Common Cause and the League have good reason to suspect the integrity of those who promise safeguards at a Constitutional Convention. After all if experience is any teacher one need only look to New Jersey

where both the proponents and the sponsor of I&R have already indicated that they will use the I&R process once in place, to strip away protections the legislature built in.

The irony is that maybe opponents of I&R and a Constitutional Convention aren't too far apart. Both understand that citizens have "basic unalienable rights" but that governments, legislatures and the Constitution were still created to provide certain basic safeguards. Both have fears and concerns that transcend assurances of it can't happen here, and that there are protections. Maybe both believe that noble lofty ideals can hang perilously close to the edge of uncertainty, and that maybe protections don't work, and that yes, just maybe it could happen here.

NJDA has grave concerns that health issues such as quarantining AIDS patients, and arbitrary caps on health care costs could find their way onto the ballot. Complex health care issues with wide ranging ramifications would defy interpretive statements and simplistic yes or no votes. This is not to say the general public is uneducated, but we believe that bumper sticker democracy is not compatible with issues where the quality and integrity of health care is at stake.

Maybe I&R isn't working the way it should. In Florida, which was the last state to adopt I&R, apparently all is not well. In an article which appeared in the Wall Street Journal in late 1984, Peter Butzin, Executive Director of Common Cause, stated and I quote, "If you hire the right people and put together a very polished campaign, I'm, convinced you can qualify just about anything for the state ballot. And that to me, is an abuse of the initiative process."

Last month Newsweek Magazine reported that both the AIDS and English-only propositions in California have led some observers to conclude that, "initiatives originally designed as a tool for grass-roots citizen involvement have been taken over by what one individual called, a small band of gadflies, promoters and profit seekers." The article goes on to say that "some experts are calling for the abolition of California's initiative process."

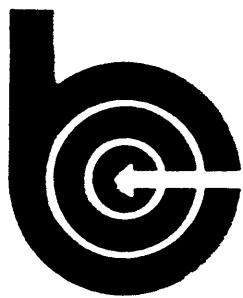
On the issue of I&R the State Chair of Common Cause, in a recent editorial column indicated that state legislators, "don't want the bill."

This fact supports the oppositions contention that beyond some small pockets of support there is absolutely no groundswell, no uprising for this measure and three Eagleton Polls paint a profile of a citizenry that at best is indifferent.

On the issue of a Constitutional Convention, the President of the League of Woman Voters stated that the "concept is dangerous to our way of life" and that the "League believes in representative government." The Executive Director of Common Cause stated, "now that we're only two states shy of having something that apparently nobody wants to happen, it's time to call a halt."

Based on the facts, doesn't this same logic apply to I&R?

Thank you Madam Chairwoman for giving the New Jersey Dental Association this opportunity to speak before you.



# burlington county chamber of commerce

POST OFFICE BOX 2006  
WILLINGBORO, N.J. 08046  
609-877-6879

Madam Chairwoman and members of the committee, I am Barry Lefkowitz, speaking today as President of the Burlington County Chamber of Commerce. We would like to voice our concerns regarding the potential passage of Senator Dorsey's SCR-1, Initiative and Referendum. It is our belief this measure is fraught with many dangers and long-range problems.

On the surface, the issue of I & R seems to be a question of the extension of basic democracy...Greater Citizen Voice and Participation. It is our concern that with the passage of I & R, the voters will go to the polls with a naive concept of an issue. We have little faith in the statement that the New Jersey voter is very learned, understands the pros and cons of I & R and can be informed well enough to answer a simple "Yes" or "No" question as it appears on the ballot. Thirty and sixty second television and radio commercials or glossy brochures do not and cannot provide the public with an understanding of complex issues. The recent political campaigns clearly demonstrate the potential danger of a public relations nightmare created by moneyed interests.

It is our belief that the safeguard of the interests of all citizens of the State of New Jersey will not prevail and the majority of the citizens in our state will be at the mercy of "self-interest" advocates.

Organizationally, we do not believe I & R is really a tool of the citizens. Would the citizens who direct petitions really facilitate and compromise as committees presently do? Would they enhance the debates? Would they go statewide? Would they seek amendments? We believe the answer to all these questions is no.

It is also very possible that people will become so confused by issues they may decide not to vote at all! In New Jersey we have already had 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 10 - 15% turn out. On State Bond issues or questions, less people pull levers than for candidates on the same ballot.

We also seriously question if the voter is aware that I & R could end up being the most expensive method of law-making ever devised by the mind of a legislator. The Burlington County Chamber of Commerce is concerned that the public will be required to fund significantly higher budgets for the state agencies responsible for monitoring and maintaining an I & R system, as well as for the printing and mailing of sample ballots with a potential for an unlimited number of petitions, all of which will require massive expenditures.

We believe 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 under which our representative form of government was founded? I think not.

We therefore, on behalf of the Citizens for Representative Democracy, ask you to withhold any support for SCR-1 when the full Senate votes.