

make, execute, and adjudge the law. Is it a display of lack of confidence? No, I do not think so. I think a refusal to elect or re-elect is the only true sign of no confidence in a legislator.

Indirect initiative and referendum round out the picture of governmental checks and balances by giving the people a check and balance against deficient government. Does it lend itself to promiscuous use? No.

We have already addressed ourselves to this by suggesting 90,000 signatures under our suggestion would be required for anybody to go to the legislature. They must undergo a rigid legislative scrutiny. It must be submitted ninety days before the General Assembly convenes and there must be a sixty day intervention before it goes on the ballot. All of this is designed to increase to the extent humanly possible all the public deliberation, dialogue, and discussion that is possible.

It is impossible to believe that any other than those really with an issue justifying public scrutiny would survive. With less stringent requirements, since 1915, it has been noted that only twelve measures have been used by way of the referendum.

There are some objections raised to our particular proposal and I should like to deal with those quickly if I may. The first is, once you give the proposal to the legislature and it agrees that it is a good idea or that it will consider it with amendments how does a group of people take it back and take it away or out of this indirect initiative process? The answer is we give the legislature the power to enact laws to facilitate that kind of inter-reaction and dialogue so if the legislature responds favorably, it would seem to us, that the proponents who perhaps might number ten could submit this law to the legislature and then withdraw and it never goes on the ballot.

The second question is is this necessary since reapportionment? Malapportionment is only one cause of failure of the legislature to respond to majority interests. There are others: first, there is reluctance on the part of the legislature to initiate broad or narrow changes without a display of significant interest by the citizens and they certainly are not to be blamed for that. Secondly, there are political problems such as reapportionment or reforms affecting political interests, which often are involved in some of the critical and sensitive issues. And third, there is the simple lack of time and interest by the strong legislative leadership.

This very Convention, I submit to you, ladies and gentlemen, is a monument to the needs for some mechanism to be placed in the hands of the people for change and renewal which does not rely exclusively on the legislature.

We cannot deny the possibility of needed change of the same fundamental nature even though not of constitutional quality in the future. We suggest that people should have the opportunity to respond to these problems, jointly with the legislature, to meet the problems and to make a decision at the polls if that is necessary.

There is a great advantage to a democracy if the people know they have a continuing authority over their own welfare. Every time the people participate in an election in a referendum or in an initiative proceeding, they must feel a greater confidence in their right and ability to participate and influence their government. This confidence psychologically encourages additional participation in the future in ways perhaps less dramatic but more effective.

The essence of indirect initiative and referendum, which are usually considered in tandem, is public participation in government, participation both real and potential. Knowing one has the right and the ability to participate directly is as important as the actual participation.

In a Constitutional Convention we are concerned with fundamental power, and checks and balances among those powers. The people are a factor in these constitutional equations. What are their powers vis-a-vis their formal structural government? We submit that three formal powers are or should be vested in the people: election, referendum, and initiative.

The elections deal with choice of personalities. Referendum and initiative deal with policies. Why should the people not have this right to participate so long as we design a method which will discourage frivolous use and assure that only important issues will survive to the polls. Thank you.

THE CHAIRMAN: Any questions for purpose of clarification? Delegate Winslow.

DELEGATE WINSLOW: Mr. Chairman, did your group take into account the idea that a law might be submitted by petition and be amended by the legislature and then passed? What would the status be then?