

subject matter. The legislature would react to one 90,000-petition, would amend it, but not to the satisfaction of the proponents, however to such an extent that it becomes obnoxious to them and they then mount another 90,000-petition. I think it could happen, but I do not see that particularly as an abuse of the system. It would merely present two questions on the ballot.

I might add here that I do not think the people would have difficulty. The people participate in these questions before they go to the ballot. I heard a group of references that they cannot understand the small print in the ballot booth. I think we read papers and understand arguments and invite speakers, and this is how the issues are developed, not by going into the booth and voting blindly. I think in the circumstance you suggest there is the possibility, but I think this would simply stimulate debate to a greater extent than it would be if you only had the one issue. I do not see it as an abuse.

DELEGATE CARDIN: Do you have any knowledge of how often this happened in states that do now have initiative or direct initiative?

DELEGATE BYRNES: In surveying the use of the initiative nationally I did not find conflicts, and this was simply by reading the topics of initiative proposals, not by any expensive research into the matter.

DELEGATE CARDIN: I suggest that some constitutions have provided for a type of decision made on the ballot.

DELEGATE BYRNES: I think you are referring to a situation where there is a question presented by two conflicting proposals or two proposals that have conflicting sections; in that case there is a requirement in some constitutions that simply majority vote controls.

THE CHAIRMAN: Point of inquiry. Could you force the legislature to build a bridge at a particular point?

DELEGATE BYRNES: Would I see the legislature—

THE CHAIRMAN: Point of inquiry. Could you use the petition to force a legislature to build a road at a particular point or bridge or public facility?

DELEGATE BYRNES: We have exempted from our proposal all of the items that have been exempted from referendum, Delegate James. The answer is no.

THE CHAIRMAN: Not too sure of that. Delegate Wagandt.

DELEGATE WAGANDT: Delegate Byrnes, mentioned the requirement of 10 per cent of the total votes cast for governor in the last preceding election. Is this a common requirement, this high a total in the states that do have the initiative or indirect initiative?

DELEGATE BYRNES: Ten per cent figure?

DELEGATE WAGANDT: Yes.

DELEGATE BYRNES: It is not common. The average, as I understand it, if I may be very general, is about 6.8 per cent. I think that is the median. I have seen it ten, but more often ranging from five to eight, and it usually relates to the prior gubernatorial vote.

DELEGATE WAGANDT: How frequently is the initiative used in the states that have it at the present time? Do you have any figures?

DELEGATE BYRNES: Yes, I can again refer you to the memorandum we prepared to accompany Delegate Proposal 57. If I am not mistaken, it was used nationally during the period surveyed 72 times, 67 or 72. Initiative and referendum together were used 67 to 72 times. Of that number, I think a little more than half were one of the two types of initiative, either direct or indirect.

DELEGATE WAGANDT: Over how long a period of time was that?

DELEGATE BYRNES: I think it was from 1920's or 30's to the 60's. I do not have it with me, but I can get it.

THE CHAIRMAN: Delegate Hargrove.

DELEGATE BYRNES: I have the answer to Delegate Wagandt's question. It was used a total of 97 times in all nineteen states during the years 1956 to 1964, and of the 97, 62 were initiated measures and the balance were referred, but of that 62 I do not know how many were indirectly initiated and how many directly initiated.

THE CHAIRMAN: Delegate Hargrove.

DELEGATE HARGROVE: Delegate Byrnes, could you use this indirect initiative to have the legislature enact constitutional amendments?

DELEGATE BYRNES: Our answer to that would be no. We would think the people and the legislature would be con-