

March 24, 1981

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reason or other but I can't tell you right now why.

SENATOR CHAMBERS: Thank you. For some reason or other there are two provisions in the Constitution which are self-effectuating, initiative and referendum. You don't even need a statute to allow initiative and referendum. Other provisions of the Constitution are given effect by virtue of a statute enacted by the Legislature but there is nothing in the Constitution which says that such a statute has to carry every word in it which the Constitution has in it. There are provisions in the Constitution right now which allow there to be fifty members of the Legislature. Why are there only forty-nine? Why? Because there has been no law passed to say that there will be fifty. There are a lot of things that can exist in a Constitution and a state constitution imposes limits on the state. It does not grant authority. It imposes limits. So since the supreme legislative power, as far as enacting bills, is in the Legislature aside from initiative and referendum where it resides with the people, the Legislature is free to enact any bill not prohibited by the Constitution. So here is the question. Would the fact that certain language is included in an amendment to the Constitution require that a piece of legislation enacted pursuant to that provision have to have every word of that constitutional provision? I don't think anybody can answer the question right now. So maybe what we ought to do, since no vote has been taken on the bill, is to pass over it at this point until we get an answer. I think that we are in a position as a Legislature to take whatever portions of that constitutional amendment that we want and maybe what ought to be done is to strike that entire Section 9 from the bill. Then, Senator DeCamp, and all those others who say that even though a judge is under an indictment, that the judge is really just like an ordinary citizen, which I think is preposterous. The function of a judge is entirely different. This is why they can put in the law, "brings the judiciary into contempt," or whatever it is. There is no such thing that would allow a punishment to be placed on a citizen for bringing the human race into contempt. Judges perform a specific and elevated function. That is what they are supposed to do. Because of the nature of their work certain actions can be taken against them under circumstances where similar action could not be taken against a citizen and would not even be recommended. But what I would be prepared to do, if you want to say that a mere indictment or a mere information charging the judge with a felony is not sufficient to imply anything wrong with that judge, let us strike Section 9 and not allow the Supreme Court to even suspend such a person. Why isn't Senator Maresh upset about that? Why isn't Senator DeCamp upset about that? Because they have not thought the thing