

the voters, as Senator Moore has indicated and as I had indicated earlier.

SENATOR CHAMBERS: You're saying that you feel that somebody, in putting together a referendum petition, could leave just the repealer clause off the petition and that would leave it in law.

SENATOR WITHEM: The statute...the Constitution gives people the opportunity to refer in whole or in part. I was not aware until a few minutes ago that they had that opportunity to do it in part. By the way, I've shut my light on if I take too long answering your questions...

SENATOR CHAMBERS: That's all right.

SENATOR WITHEM: ..will...I'll yield some time to you.

SENATOR CHAMBERS: Okay. The point that I would get to is that we will say things sometimes based on the ordinary meaning of words which we would ordinarily be entitled to do, but when courts construe laws and such things as petitions, they will not allow an irrational result to occur. That's what they say, although some of the rulings people might disagree with whether or not they followed that principle. And a repealer clause standing alone is not something that would go into statute. There would have to be a subject matter to which it would attach, and I'm just giving you my opinion. So if this repealer clause which says the original sections, and names them, would be repealed, I doubt that a court would allow that to be separated out for the purpose of repealing a preexisting law that's already on the books. They could do that if they wanted to. They could try to say we're going to take the first ten words of a sentence and only repeal that and then leave something that's ridiculous. That would not be allowed. I haven't seen a case where that was done, but I say, without fear of contradiction, that a court would not honor that. They would say a defectively drafted petition was done to achieve a result that is not allowable under the intent of a referendum statute or a referendum provision in the Constitution.

SENATOR WARNER: One minute.

SENATOR CHAMBERS: They would say that the purpose of a constitutional provision never is to reach an irrational result. The purpose of a statute is never to reach an irrational result