

RS 9:17B-1 to 3

August 9, 1972

COPY 7

LEGISLATIVE HISTORY OF R.S.9:17B-1 to3  
(Age of Majority 18 years)

- P.L.1972 - chap.81 - 7/5/72 - S992, Turner et.al.
- May 4 - Filed; no reference; second reading.
- May 11 - Amended, second reading.
- May 15 - Passed Senate.
- May 15 - Received in Assembly; no reference; second reading.
- May 18 - Passed Assembly.
- July 5 - Signed.

The Bill had no Statement. Bill, Amendment, OCR enclosed.  
Governor's Statement enclosed

Prior Bills

- 1971 - A2085, Reported with Committee Amendment, Passed Assembly. Died in Senate. [Bill, Amendment, OCR enclosed]
- 1971 - S2066, same as A2085. Died in Committee.
- 1972 - A144, Reported with Committee Amendment. Passed Assembly. Died in Senate. [enclosed]
- 1972 - A296, same as 1971 S2066. Died in Committee.
- 1972 - A1217. Passed Assembly. Substituted by S992. [enclosed]
- 1972 - S26, same as 1971 S2066. Died in Committee.
- 1972 - S575, Died in Committee. [enclosed]

There were no hearings or reports on this law.  
For arguments pro and con compare prior hearings on 18 year Voting Laws.

- 974.90 New Jersey Legislature. Assembly. Judiciary  
C758 Committee.
- 1967a Public hearing on ACR18...  
March 20, 1967.
  
- 974.90 New Jersey Legislature. Senate. Judiciary  
C758 Committee
- 1969 Public hearing on SCR34...  
March 27, 1969.
  
- 974.90 New Jersey legislature. Senate. Judiciary  
C758 Committee.
- 1970 Public hearing on SCR5...  
April 27, 1970.
  
- 974.90 New Jersey Legislature. Senate. Judiciary  
C758 Committee.
- 1971 Public hearing on SCR2003...  
April 7, 1971

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PL 1972 Chapter 82 July 5/72

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[OFFICIAL COPY REPRINT]

SENATE, No. 992

STATE OF NEW JERSEY

INTRODUCED MAY 4, 1972

By Senators TURNER, MARESSA, CAFIERO and PARKER

(Without Reference)

AN ACT concerning the powers, obligations and legal capacity of certain minors in certain cases, and supplementing Title 9 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. The Legislature finds and declares and by this act intends,  
2 pending the revision and amendment of the many statutory pro-  
3 visions involved, to:

4 a. Extend to persons 18 years of age and older the basic civil  
5 and contractual rights and obligations heretofore applicable only to  
6 persons 21 years of age or older, including the right to contract,  
7 sue, be sued and defend civil actions, apply for and be appointed  
8 to public employment, apply for and be granted a license or au-  
9 thority to engage in a business or profession subject to State regu-  
10 lation, serve on juries, marry, adopt children, attend and partici-  
11 pate in horse race meetings and parimutuel betting and other  
12 legalized games and gaming, \*sell, purchase and consume alcoholic  
13 beverages\* act as an incorporator, registered agent or director of  
14 a corporation, consent to medical and surgical treatment, execute a  
15 will, and to inherit, purchase, mortgage or otherwise encumber and  
16 convey real and personal property.

16A b. Abolish the right of a person between the ages of 18 and 21  
17 years to disaffirm and be relieved of contractual obligations by  
18 reason of age.

1 2. The Legislature by this act does not intend to:

2 \***[a.]** Alter the statutory prohibition on purchase, possession or  
3 consumption of alcoholic beverages by persons under 21 years of  
4 age or the penalties for violating provisions of the alcoholic bev-  
5 erage law relating thereto;]\*

6 \***[b.]**\* \*a.\* Effect the release from confinement or transfer from

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

7 one institution to another of a person attaining age 18 rather than  
8 21 years;

9 \***[c.]**\* *\*b.\** Affect the right of a court to exercise its discretion in  
10 not sentencing a person between 18 and 21 years of age to a State  
11 Prison;

12 \***[d.]**\* *\*c.\** Alter the right of persons under 20 years of age to be  
13 eligible for enrollment in public schools;

14 \***[e.]**\* *\*d.\** Alter the provisions of the uniform law relative to  
15 gifts to minors;

16 \***[f.]**\* *\*e.\** Alter the provisions of N. J. S. 2A:14-21 with respect  
17 to the time within which a person under 21 years of age on January  
18 1, 1973 may commence an action or make an entry under a cause or  
19 right accrued prior to said date.

1 3. Except with respect to the provisions of N. J. S. 2A:14-21,  
2 \***[with respect to the provisions of the Alcoholic Beverage Law,**  
3 R. S. 33:1-1 et seq., applicable to all persons under 21 years of  
4 age,]**\*** with respect to the right of a court to take any action it  
5 deems appropriate and in the interest of a person under 21 years of  
6 age, or to require a change in action heretofore taken by a court  
7 with respect to a person under 21 years of age, or with respect to the  
8 provisions of the "New Jersey Uniform Gifts to Minors Act,"  
9 (P. L. 1963, c. 177, C. 46:30-13 et seq.), every person 18 or more  
10 years of age shall in all other matters and for all other purposes  
11 be deemed to be an adult and, notwithstanding any other provision  
12 of law to the contrary, shall have the same legal capacity to act  
13 and the same powers and obligations as a person 21 or more years  
14 of age. Except as herein otherwise provided, every act or action  
15 of any such person shall be as valid, binding and enforceable by  
16 or against such person as if, at the time such act or action was  
17 performed or undertaken, such person was 21 or more years of  
18 age and no act or action by any such person performed or under-  
19 taken on or after the effective date of this act shall be subject to  
20 disaffirmance because of minority.

1 4. This act shall take effect January 1, 1973.

SENATE, No. 992

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INTRODUCED MAY 4, 1972

By Senators TURNER, MARESSA, CAFIERO and PARKER

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AN ACT concerning the powers, obligations and legal capacity of certain minors in certain cases, and supplementing Title 9 of the Revised Statutes.

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1 1. The Legislature finds and declares and by this act intends,  
2 pending the revision and amendment of the many statutory pro-  
3 visions involved, to:

4 a. Extend to persons 18 years of age and older the basic civil  
5 and contractual rights and obligations heretofore applicable only to  
6 persons 21 years of age or older, including the right to contract,  
7 sue, be sued and defend civil actions, apply for and be appointed  
8 to public employment, apply for and be granted a license or au-  
9 thority to engage in a business or profession subject to State regu-  
10 lation, serve on juries, marry, adopt children, attend and partici-  
11 pate in horse race meetings and parimutuel betting and other  
12 legalized games and gaming, act as an incorporator, registered  
13 agent or director of a corporation, consent to medical and surgical  
14 treatment, execute a will, and to inherit, purchase, mortgage or  
15 otherwise encumber and convey real and personal property.

16 b. Abolish the right of a person between the age of 18 and 21  
17 years to disaffirm and be relieved of contractual obligations by  
18 reason of age.

1 2. The Legislature by this act does not intend to:

2 a. Alter the statutory prohibition on purchase, possession or  
3 consumption of alcoholic beverages by persons under 21 years of  
4 age or the penalties for violating provisions of the alcoholic bev-  
5 erage law relating thereto;

6 b. Effect the release from confinement or transfer from one in-  
7 stitution to another of a person attaining age 18 rather than 21  
8 years;

9 c. Affect the right of a court to exercise its discretion in not  
10 sentencing a person between 18 and 21 years of age to a State  
11 Prison;

12 d. Alter the right of persons under 20 years of age to be eligible  
13 for enrollment in public schools;

14 e. Alter the provisions of the uniform law relative to gifts to  
15 minors;

16 f. Alter the provisions of N. J. S. 2A:14-21 with respect to the  
17 time within which a person under 21 years of age on January 1,  
18 1973 may commence an action or make an entry under a cause or  
19 right accrued prior to said date.

1 3. Except with respect to the provisions of N. J. S. 2A:14-21,  
2 with respect to the provisions of the Alcoholic Beverage Law, R. S.  
3 33:1-1 et seq., applicable to all persons under 21 years of age,  
4 with respect to the right of a court to take any action it deems  
5 appropriate and in the interest of a person under 21 years of age,  
6 or to require a change in action heretofore taken by a court with  
7 respect to a person under 21 years of age, or with respect to the  
8 provisions of the "New Jersey Uniform Gifts to Minors Act,"  
9 (P. L. 1963, c. 177, C. 46:38-13 et seq.), every person 18 or more  
10 years of age shall in all other matters and for all other purposes  
11 be deemed to be an adult and, notwithstanding any other provision  
12 of law to the contrary, shall have the same legal capacity to act  
13 and the same powers and obligations as a person 21 or more years  
14 of age. Except as herein otherwise provided, every act or action  
15 of any such person shall be as valid, binding and enforceable by  
16 or against such person as if, at the time such act or action was  
17 performed or undertaken, such person was 21 or more years of  
18 age and no act or action by any such person performed or under-  
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SENATE AMENDMENTS TO  
**SENATE, No. 992**

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**STATE OF NEW JERSEY**

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ADOPTED MAY 11, 1972

Amend page 1, section 1, line 12, after "gaming," insert "sell, purchase and consume alcoholic beverages,".

Amend page 1, section 2, lines 2-5, omit in their entirety.

Amend page 1, section 2, line 6, omit "b.", insert "a.".

Amend page 2, section 2, line 9, omit "c.", insert "b.".

Amend page 2, section 2, line 12, omit "d.", insert "e.".

Amend page 2, section 2, line 14, omit "e.", insert "d.".

Amend page 2, section 2, line 16, omit "f.", insert "e.".

Amend page 2, section 3, lines 2-3, omit in their entirety.

July 5, 1972

FOR RELEASE: IMMEDIATE

STATEMENT BY GOV. WILLIAM T. CAHILL ON SIGNING OF "AGE OF MAJORITY" BILL

Gov. William T. Cahill today signed into law the "Age of Majority" Bill granting virtually full adult rights to persons 18 years old and older. The law takes effect on January 1, 1973.

The Governor said it was particularly appropriate that the signing came only one day after the Fourth of July holiday celebration. He declared that the law would give young adults independence from the double standard under which they have been told they were old enough for some adult responsibilities but not old enough for others.

"Our young citizens have already demonstrated the maturity with which they have handled one of the most precious rights and responsibilities of a democracy --- the right to vote," Gov. Cahill stated. "And they have long been considered old enough to serve in the military and fight for their country."

"By this signing today," Gov. Cahill continued, "they will achieve full adult status with all its attendant rights, duties, obligations and responsibilities."

"This is landmark legislation for New Jersey," the Governor said, "which acknowledges the contributions to society that our young people between 18 and 21 have made in the past, are making today and, I am confident, will make in even greater measure in the future."

Gov. Cahill commended Senator James Turner and Assemblyman Thomas Deverin for their sponsorship and efforts in winning passage of the legislation in both houses.

The Governor reminded the young people of New Jersey that the legislation passed both houses with overwhelming bi-partisan majorities.

He urged them to remember this in resisting the cynicism and distrust of government and the men and women who serve in public office that now mark too many older adults.

"The members of the Legislature, Republicans and Democrats alike, and this Governor refused to listen to the doubters, the cynics, who argued that young people are not ready and do not deserve the privileges and responsibilities of legal adulthood," Gov. Cahill declared.

"We, in public life, need and welcome your enthusiasm, your open-mindedness, your fresh viewpoint," the Governor told the group of young people who attended the signing ceremony.

The Governor said David DuPell and his group, the Voting Age Coalition, had set a fine example of the impact young people can have on government by their successful lobbying effort for the "Age of Majority" bill.

The legislation extends to persons 18 years of age or older the basic civil and contractual rights and obligations heretofore extended only to persons 21 or more years of age.

Among the rights granted by the legislation are the right to contract, to sue and be sued, to serve on juries, to marry and adopt children, to sell, purchase and consume alcoholic beverages, to consent to medical and surgical treatment, to execute a will and inherit property and to purchase, mortgage and convey real property.

The bill does not affect the right to drive at 17, the right of a person under 20 to enroll in public schools, the right of a court not to sentence a person between 18 and 21 to a State Prison or the release from confinement or transfer from one institution to another of a person between 18 and 21.

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Department of Law and Public Safety



Inter-Communication

*File with  
N.A. to file*

From: Donald M. Altman To: ALL DEPARTMENT HEADS  
Assistant Attorney General  
October 13, 1972 (Institution or Department)  
Re: P.L. 1972, c. 81 - 18 year olds

This office has received a number of requests for advice from several State departments concerning the applicability of P.L. 1972, c. 81 which confers various rights and obligations upon 18 year olds. Previously such rights and obligations were only applicable to persons 21 years of age or over.\*

Section 3 of chapter 81 provides, with certain exceptions not applicable here, that:

" . . . every person 18 or more years of age shall in all other matters and for all other purposes be deemed to be an adult and, notwithstanding any other provisions of law to the contrary, shall have the same legal capacity to act and the same powers and obligations as a person 21 or more years of age." (Emphasis supplied.)

Section 1 of the act makes explicit that which is implied by the underscored portion of section 3. As of January 1, 1973, the effective date of chapter 81, an individual who is or attains the age of 18 years will be treated as an adult in all respects notwithstanding that particular statutes\* may continue to refer to age 21. Section 1 provides that the Legislature intended the act to be effective "pending the revision and amendment of the many statutory provisions involved."

Chapter 81 is clear and unambiguous. It "extends to persons 18 years of age and older the basic civil and contractual rights and obligations heretofore applicable only to persons 21 years of age or older, including the right to contract, sue, be sued and defend civil actions, apply for and be appointed to public employment, apply for and be granted a license or authority to engage in a business or profession

\*e.g. N.J.S.A. 39:3-10.1 (bus drivers); N.J.S.A. 40A:14-127 (municipal policemen); N.J.S.A. 40A:14-12 (municipal firemen); N.J.S.A. 53:1-9 (state troopers); N.J.S.A. 45:6-3 (dentists); N.J.S.A. 45:9-6 (physicians); N.J.S.A. 45:15A-3 (certified shorthand reporters); N.J.S.A. 30:4-165.5 (guardianship for mentally retarded).

subject to State regulation, serve on juries, marry, adopt children, attend and participate in horse race meetings and pari-mutuel betting and other legalized games and gaming, sell, purchase and consume alcoholic beverages, act as an incorporator, registered agent or director of a corporation, consent to medical and surgical treatment, execute a will, and to inherit, purchase, mortgage or otherwise encumber and convey real and personal property."

By force of this legislative declaration, the several existing statutory references to age 21 are no longer viable, not upon the ground of repeal or because of inconsistency, but by way of substitution. In Board of Education v. Tait, 81 N.J. Eq. 161 (E. & A. 1913), this principle was succinctly stated as follows:

"The doctrine in question is that when a general rule is provided by the Legislature to cover an entire subject matter, all earlier and different legislative rules touching such matter are to be discarded in favor of such later rule."

It should be noted, of course, that notwithstanding the general applicability of chapter 81 to existing statutory age requirements, its immediate consequences in particular instances may be minimal. For example, notwithstanding that physicians would henceforth be eligible for licensure at age 18 rather than at 21 (N.J.S.A. 45:9-6), other requirements pertaining to education and training would seemingly mitigate against a candidate for licensure applying at age 18 (N.J.S.A. 45:9-7, 8).

You are further advised that should there be compelling reasons for seeking additional exceptions to chapter 81, these would have to be accomplished by further legislation enacted prior to January 1, 1973.

If you have additional questions pertaining to your department, please call upon me.

*Donald M. Altman*

Donald M. Altman

DMA:emw



RS 9:17B-1403

## State of New Jersey

### DEPARTMENT OF LAW AND PUBLIC SAFETY

GEORGE F. KUGLER, JR.  
ATTORNEY GENERAL

DIVISION OF LAW  
STATE HOUSE ANNEX  
TRENTON 08625

MARILYN LOFTUS SCHAUER  
FIRST ASSISTANT ATTORNEY GENERAL

February 3, 1971

Honorable Raymond Bateman, President  
New Jersey Senate  
21 East High Street  
Somerville, New Jersey

Re: 18 Year Old Vote

Dear Senator Bateman:

A question has arisen concerning the resubmission of the question of lowering the voting age of the residents of the State of New Jersey to 18 years of age. In 1969 the voters of New Jersey rejected a proposed Constitutional Amendment which would have lowered the voting age in this State to 18 years of age.

The new proposal which is contained in Senate Concurrent Resolution No. 2003 would (a) reduce from 21 to 18 years the age qualification for a citizen to vote; (b) reduce the State residence requirement to vote from six months to 30 days; (c) reduce the County residence requirement to vote from 40 days to 30 days; and (d) authorize the Legislature to provide that a citizen who moves out of the State or County within 30 days of a presidential election may vote for president and vice-president in person as well as by absentee ballot in the county from which he moved.

The proposed Amendment, as incorporated in Senate Concurrent Resolution No. 2003, would result in conforming the New Jersey Election Laws with the provisions of the 1970 Voting Rights Act which were held to be constitutional with respect to federal elective offices in all of the states in the United States v. Arizona, decided December 21, 1970 by the United States Supreme Court. United States v. Arizona, 39 L.W. 23, (December 21, 1970),  
\_\_\_\_\_ U.S. \_\_\_\_\_.

The question presented is whether Senate Concurrent Resolution No. 2003 is substantially different from the constitutional amendment proposed in 1969 to reduce the voting age from 21 to 18 years so as not to violate Article IX, paragraph 7 of the New Jersey Constitution and if the proposed amendment does violate the above mentioned constitutional provision a question remains whether any constitutional means exist to permit submission to the people in New Jersey the question of reducing the voting age to 18 years in state and local elections.

Article IX, paragraph 5, of the New Jersey Constitution provides as follows:

"If more than one amendment be submitted, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly."

The initial question presented is whether the proposals contained in Senate Concurrent Resolution No. 2003, being multiple in nature and resulting in four changes in the election laws of the State, should be submitted as four amendments so that a voter may vote for or against each amendment separately and distinctly.

In Bott v. Secretary of State, 63 N.J.L. 289, (E.&A. 1899), the court concluded that the above mentioned language was ambiguous as applied to votes on three separate amendments concerning woman's suffrage, appointment to office and lotteries as follows:

"The other objection urged by the prosecutors is that the act providing for the submission of the amendments to the people prescribed such a method of voting--that while every voter was at liberty to vote for any amendment and against the others, or vice versa, no elector could vote on any amendment unless he voted on all. This it is contended, was not submitting the amendments "in such manner and form that the people might vote for or against each amendment separately and distinctly.

Assuming the effect of the statute to be as alleged, it is not clear that it would antagonize the constitution. There is, indeed, a sense in which, under such a law,

the people could not vote for or against each amendment separately and distinctly--that is, they would be required to determine how they would vote on any amendment in conjunction with a determination as to how they would vote on each of the others. But in another and an important sense they could vote for or against each separately and distinctly--that is, a determination to vote for or against any one left them entirely free to determine how they would vote on each of the others.

In which of these senses the constitution should be taken is doubtful, and the members of the court are not as one about it; and, under the established rule that courts will not condemn a statute as unconstitutional unless its repugnancy to the constitution be clear, we would hesitate to adjudge this enactment invalid."

This single subject requirement appears in thirty-two State Constitutions in forms that vary slightly. Index Digest to State Constitutions, p. 16 (Second Edition 1959). The proposals contained in Senate Concurrent Resolution No. 2003 consist of multiple changes in a single article of the New Jersey Constitution. These provisions are all contained in Article II, section 3 of the New Jersey Constitution. The four changes are all related to the subject of election qualifications and germane to a single area of the Constitution. It is the majority opinion in cases relating to this issue that a proposal incorporating multiple changes in a single article is one amendment. Gottstein v. Lister, 88 Wash. 462, 115 Pac. 595 (Sup. Ct. 1915); State ex rel. Adams v. Herried, 10 S.D. 109, 72 N.W. 93 (Sup. Ct. 1897); State ex rel. Hudd v. Timme, 54 Wis. 318, 11 N.W. 785 (Sup. Ct. 1882); and OKLA. CONST. Art. XXIV, §1, contra, State v. Powell, 77 Miss. 543 (Sup. Ct. 1900) and Moore v. Brown, 350 Mo. 256, 165 S.W. 2d 657 (Sup. Ct. 1942).

In view of the ambiguity noted in Bott, supra, and the tendency of the courts in this area, it is my conclusion that the proposals contained in Senate Concurrent Resolution No. 2003 constitute a single amendment which may be submitted to the people in its entirety.

The remaining constitutional question concerns the effect of Article IX, section 7 on the submission of Senate Concurrent Resolution No. 2003 to the voters. Article IX, section 7 of the New Jersey Constitution provides as follows:

"If at the election a proposed amendment shall not be approved, neither such proposed amendment, nor one to effect the same or substantially the same change in the constitution shall be submitted to the people before the third general election thereafter." (Emphasis supplied)

The provisions of Article IX, section 7 of the New Jersey Constitution originated in the New Jersey Constitution of 1844, Article IX, which contained a "time lock" provision as follows:

". . .but no oftener than once in five years."

This provision was taken directly from the Pennsylvania Constitution of 1838. II Proceedings of the Constitutional Convention of 1947 at 1761, (Goldman and Chrystal eds. 1949). The Constitution of Pennsylvania retains the above provision at the present time. Constitution of the Commonwealth of Pennsylvania, Article XI, Section 1. "Time lock" provisions similar to New Jersey's are contained in the Constitutions of Illinois, Indiana and Kentucky. Index Digest of State Constitutions, supra, at 16.

A question was presented to the Pennsylvania Supreme Court in 1969 as to whether the "time lock" provision in its Constitution was violated by a proposed amendment to the Judiciary Article of its Constitution. Stander v. Kelley, 433 Pa. 406, 250 A. 2d 474 (Sup. Ct. 1969).

The facts were that the voters of Pennsylvania adopted an amendment to the Constitution completely revising the Judiciary on April 23, 1968. In 1965 an amendment to the Judiciary Act was approved which provided for the assignment of former Judges by the Chief Judge. The court held that since the vehicle of a special constitutional convention was used rather than the amending provisions of the existing constitution the "time lock" provision did not apply and further stated:

"The amendments here in issue were, we repeat, not adopted pursuant to Article XVIII but were adopted in and by a different lawful manner. Furthermore, in Commonwealth ex rel. Margiotti v. Lawrence, 326 Pa. 526, 193 A. 46, this Court said (pages 534-535, 193 A. page 50): "\* \* \* The clause "but no amendment \* \* \* shall be submitted oftener than once in five years" \* \* \* clearly refers to such as has already been submitted and rejected in light of the language used \* \* \* it refers to an amendment that has been submitted before and rejected and not to one that was never before submitted" Accord, Commonwealth v. King, 278 Pa. 280, 122 A. 279.

The prior proposed amendments which were adopted by the people were different from the 1968 amendments to the new Judiciary Article and do not preclude or prohibit the 1968 amendments."

In a prior decision the Supreme Court of Pennsylvania had interpreted the "time lock" provision to prohibit only amendments on related subjects from being submitted to the people oftener than once every five years. Commonwealth ex rel. Margiotti v. Lawrence, 326 Pa. 526, 193 A. 46, (Sup. Ct. 1947).

These two cases appear to be contrary since in Stander, supra, the court was considering two related subjects, i.e., the Judiciary, and held that even if the amendment provision of the Constitution were applicable the "time lock" provision would not have barred the submission of the Judiciary Amendments in 1968.

The proceedings of the 1844 Constitutional Convention produced little debate concerning the "time lock" provision and the rationale of the provision was discussed as follows:

"Mr. Parsons, for the purpose of preventing the constant agitation which appeared to be so much dreaded, offered an amendment, that no amendment to the constitution should be proposed oftener than once in five years, which was accepted by Chief Justice Hornblower." Proceedings of New Jersey Constitutional Convention 1844, p. 74, (State House Commission ed. 1942).

The "time lock" language of the 1844 Constitution was retained in the proposed constitutional revisions of 1942 and 1944 and proposed in the 1947 convention. III Proceedings of Constitutional Convention of 1947, supra, pp. 16 and 35. Numerous objections were raised that the "time lock" provision of the 1844 Constitution made the process of amendment cumbersome and was contrary to present constitutional theory. III Proceedings of New Jersey Constitutional Convention of 1947, supra, pp. 218, 356, 405, 429.

The present "time lock" provision passed as a compromise in its present form and the underlying rationale appears to have been that once the people have spoken the question should remain dormant for three general elections. III Proceedings of Constitutional Convention of 1947, supra, pp. 36, 197.

Although there are no New Jersey cases concerning the interpretation of Article IX, paragraph 7, the issue of the "time lock" provision was discussed collaterally by the New Jersey Supreme Court when reapportionment was considered. In Jackman v. Bodine, 43 N.J. 453, 476-477, (1964), the court stated as follows in a footnote:

"That the amendatory process is not suited to meet this imperative need is evident from the procedure whereby the Constitution deliberately encumbered that process. If a proposal is "agreed to by three-fifths of all the members of each of the respective houses," it may be submitted to the people, but failing that measure of agreement, the proposal must have the vote of "a majority of all the members of each" house in two successive legislative years. Art. IX, par. 1. The proposal shall be submitted "at the next general election." Par. 4. If a proposed amendment shall not be approved, "neither such proposed amendment nor one to effect the same or substantially the same change in the Constitution shall be submitted to the people before the third general election thereafter." Par. 7.

These restraints, designed to slow the amendatory process to discourage imprudent measures, make the process inappro-



priate for the urgent need at hand. It might take years to muster the exacting vote required to put a proposal on the ballot, and if the proposal should be rejected by the people, the provision in paragraph 7 quoted above relating to submission of proposals "to effect the same or substantially the same change" might present serious difficulties."

The Appellate Division has considered a five year racing law moratorium and concluded as follows in Jersey Downs, Inc., v. Division of N.J. Racing Comm., 102 N.J. Super.451 (App. Div. 1968):

"The cited section of the racing law provides, among other things, "that the same public question [whether race meetings shall be permitted in a county] shall not be submitted to the legal voters of the same county oftener than once in five years." A referendum occasioned by a provisional permit granted appellant by the Commission in 1967 for a harness race meeting in the Town of Secaucus, Hudson County, was defeated at the general election that year as a result of an adverse poll thereon by the voters of Secaucus, although approved by the voters of the county at large. This had the effect of defeating the 1967 application, as the statute requires a county referendum as a condition of ratification of any provisional original permit granted by the Commission, and further declares that in the event that a majority of the votes cast in either the county or the municipality where the race meeting is proposed to be held shall have been cast against the public question the provisional license shall be cancelled. N.J.S.A. 5:5-39.1.

Appellant has mounted several constitutional attacks against the statute as interpreted by the Attorney General, and initially suggests these questions can be avoided if the statutory five-year moratorium aforementioned is held not applicable on the ground that the proposed 1968 referendum would concern a different "public question," because involving a track in a different municipality from Secaucus. This approach cannot be indulged as the statute itself (N.J.S.A.

5:5-39.1) frames the public question for all such referenda as:

"Shall . . . (insert running race meetings or harness race meetings, as the case may be) be permitted in the county of . . . (insert name of county)?

The statutory intent is thus seen to be to pose to the county voters the question whether the county should have a race meeting, whether of the "running" or "harness" variety. The fact that only the proposition of a Secaucus meeting was pending before the Commission is irrelevant to the correctness of the thesis that it was the object of the Legislature to have the county voters determine whether there should be a race meeting in the county. Also irrelevant to the issue as to what public question the voters were passing upon is the circumstance that the Legislature in the same statute ordained for itself (not leaving the matter to the voters, whether of Secaucus or the county) that the pending application should be denied if a majority of the voters, either of the town or of the county, should vote against the public proposition (i.e., whether the race meeting should be permitted in the county)."

The question presented to the court is distinguished from the issue herein considered since the above question was the same as had been previously considered by the voters of the county. Senate Concurrent Resolution No. 2003 is a different amendment than that which was previously submitted because of the language of Article IX, paragraph 5 and Bott, supra.

The remaining question is whether the "time lock" provision prohibits Senate Concurrent Resolution No. 2003 because it effects the same or substantially the same change in the New Jersey Constitution. It is our conclusion that it does not because a different question would be presented to the voters in 1971 than that which was presented in 1969.