

THE COMMITTEE TO RECALL	)	Supreme Court of New Jersey
ROBERT MENENDEZ FROM THE	)	Docket No. 065,803
OFFICE OF U.S. SENATOR,	)	
	)	<u>On Appeal From:</u>
Plaintiff-Respondent,	)	Superior Court of New Jersey
v.	)	Appellate Division
	)	Docket No.: A-2254-09T1
	)	
NINA MITCHELL WELLS, ESQ.,	)	
SECRETARY OF STATE, and	)	
ROBERT F. GILES, DIRECTOR	)	<u>Civil Action</u>
OF THE DIVISION OF	)	
ELECTIONS,	)	
	)	
Defendants-Respondents,	)	
	)	<u>Sat Below:</u>
and	)	
	)	Hon. Edwin H. Stern, P.J.A.D.
UNITED STATES SENATOR	)	Hon. Ronald B. Graves, J.A.D.
ROBERT MENENDEZ,	)	Hon. Jack M. Sabatino, J.A.D.
	)	
Indispensable Party-	)	
Petitioner	)	

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**OPPOSITION TO PETITION FOR CERTIFICATION  
ON BEHALF OF RESPONDENT THE COMMITTEE TO RECALL ROBERT MENENDEZ  
FROM THE OFFICE OF U.S. SENATOR**

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## STATEMENT OF THE MATTER INVOLVED

The Respondent Committee to Recall Robert Menendez from the Office of U.S. Senator (the "Committee") opposes the Petition for Certification filed by U.S. Senator Robert Menendez.

The New Jersey Constitution expressly establishes that all elected officials are public servants of the People, who retain full political power:

All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it.

N.J. Const., Art. I, Sec. 2(a). But a public servant is not a servant if he cannot be fired or recalled by his master. In section 2(b), the New Jersey Constitution expressly provides that the People can recall their federal representatives, and this provision is both presumptively valid and entirely consistent with the Seventeenth Amendment of the U.S. Constitution, which established the direct election of U.S. Senators. Many other states have recall provisions, none of which have been stricken as unconstitutional; Wisconsin, a birthplace of the Progressive Movement that enacted the Seventeenth Amendment, has had a federal recall provision in its Constitution since 1926, and has utilized this provision, as discussed *infra* Point II.

George Washington confirmed the power of the People to recall. Shortly after presiding over the Constitutional Convention in 1787, Washington wrote:

The power under the Constitution will always be in the People. It is entrusted for certain defined purposes, and for a certain limited period, to representatives of their own choosing; and whenever it is executed contrary to their Interest, or not agreeable to their wishes, ***their Servants can, and undoubtedly will be, recalled.***<sup>1</sup>

Letter from George Washington to Bushrod Washington, dated Nov. 10, 1787 (quoted in full in The Writings of George Washington from the Original Manuscript Sources 1745-1799, Section 29:311 (Ed. by John C. Fitzpatrick) (emphasis added)).

Petitioner Menendez evidently disagrees with President George Washington, and the Progressives who enacted the Seventeenth Amendment: Petitioner Menendez insists that no U.S. Senator can be recalled under any circumstances, no matter how compelling the need. That is not the law, as explained further below. Moreover, Petitioner's arguments would still not justify granting his Petition for Certification to block the Committee's efforts. No recall election has yet been scheduled; no signed petitions have yet been obtained; and Petitioner faces no cognizable harm unless and until there is an election *and he loses it, and fails to be reelected at that time.* Only then -

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<sup>1</sup><http://etext.virginia.edu/etcbin/toccer-new2?id=WasFi29.xml&images=images/modeng&data=/texts/english/modeng/parsed&tag=public&part=233&division=div1> (viewed 4/13/10).

many stages beyond the facts here - would judicial review be appropriate, and the question then would be whether the election should have a mandatory or advisory effect. The best Petitioner Menendez could hope for is "judicial surgery" to convert the outcome of such an election to an advisory effect, which would leave the petitioning process at issue here fully in place.

Allowing the petitioning to proceed conforms to this Court's rulings in favor of greater "public participation in the electoral process." See, e.g., N.J. Democratic Party, Inc. v. Samson, discussed infra Point II. The recall process enfranchises voters in a manner consistent with the rationales expressed in the 5-4 decision by the U.S. Supreme Court invalidating term limits. See U.S. Term Limits, discussed infra Point II. Justice Kennedy's concurrence there indicated that the defect of term limits lay in how they disenfranchised voters. Such is not the case here: recall petitions enfranchise voters, and are therefore valid under the U.S. Constitution.

Senator Menendez claims there will be "real harm to the state, Senator Menendez, and the citizens of New Jersey" if this Court does not hear this case. (Petition for Certification<sup>2</sup> at 2). But nowhere does he actually identify any "real harm." The mere possibility of being listed on a future ballot is not a

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<sup>2</sup>Citations to Senator Menendez's Petition for Certification are abbreviated as "Pet. at \_\_\_".

justiciable harm. There may not be any more harm to Senator Menendez from the circulation of a recall petition against him than there would be from publishing an unfavorable private poll or from critical newspaper editorials. Meanwhile, as noted by the court below, there is obvious value in allowing civic participation in elections "even if later found unconstitutional." (Pet. 30a) (citing Herbst Gaming, Inc. v. Heller, 141 P.3d 1224, 1230-31 (Nev. 2006)). The Committee's activities reflect the constitutional rights of the People to speak and participate in government, and Petitioner Menendez's attempt to silence "civic discourse" (Pet. at 7) does not justify granting the Petition for Certification here.

**REASONS WHY CERTIFICATION SHOULD NOT BE GRANTED**

Petitioner Menendez has no grounds to obtain a Certification prior to the scheduling of any recall election and without any factual record that the following provision of the New Jersey Constitution is unconstitutional:

The people reserve unto themselves the power to recall, after at least one year of service, any elected official in this State or representing this State in the United States Congress. The Legislature shall enact laws to provide for such recall elections. Any such laws shall include a provision that a recall election shall be held upon petition of at least 25% of the registered voters in the electoral district of the official sought to be recalled.

N.J. Const., Art. I, Sec. 2(b). The purpose of and justification for the recall provision are clearly stated above: "All political power is inherent in the people." Id. Sec. 2(a). See also The Declaration of Independence ("Governments are instituted among Men, **deriving their just powers from the consent of the governed**") (emphasis added). These provisions would be meaningless if the People could not express their consent - or rather, lack thereof - by petitioning for a recall. A mechanism for recalling a public official has both functional and symbolic value. If rarely or even never exercised, the recall mechanism reflects how the People hold the ultimate power, and how the representatives are "public servants" of the People.

Petitioner Menendez's claim is premature. He is not yet facing a recall election, much less voted out by one. Yet he seeks a declaration of unconstitutionality that would disenfranchise New Jersey voters by revoking their right to petition, although their own Constitution expressly establishes this right. Petitioner fails to recognize that a recall process provides a vital safety valve to help ensure the responsiveness and peaceful operation of a democratic system of government.

There are four specific reasons why the Petition for Certification should be denied. First, Certification should be denied because it would interfere with the Committee's

constitutional Rights to Petition. Second, George Washington expressly confirmed the right of the People to recall officials, shortly after the Constitutional Convention, and Petitioner Menendez concedes that the Seventeenth Amendment did not alter this right. (Pet. at 12). Third, Petitioner's claim consists of a disfavored "facial" challenge to the New Jersey Constitution, which does not overcome the presumption of constitutionality. Fourth, "judicial surgery" would in any event preserve the recall election process for at least its advisory value, just as most States held advisory elections for U.S. Senators prior to ratification of the Seventeenth Amendment.

**I. CERTIFICATION SHOULD BE DENIED BECAUSE IT WOULD INTERFERE WITH THE COMMITTEE'S CONSTITUTIONAL RIGHTS TO PETITION.**

The New Jersey Constitution provides two rights in its recall provision: the right of the People to petition for a recall election, and the right to compel removal of a representative if he loses this election. The first right to petition can hardly be doubted. The second right is simply not before this Court, and may never be. Accordingly, Petitioner's request for intervention by this Court should be denied.

No one doubts that a U.S. Senator can resign from office, and many have. Similarly, no one should doubt that the People

can petition for his removal from office, which may cause him to resign. The New Jersey and U.S. Constitution expressly establish the right of citizens to petition. In this case, the People are petitioning for a recall election. While Senator Menendez could one day file a legal challenge if such an election were held and he lost, he has no plausible argument to impede the petitioning activity by the Committee to hold such an election. Such petitioning activity falls squarely within rights granted by the New Jersey and U.S. Constitution. See N.J. Const., Art. I, Sec. 2(b) (quoted supra); Id. Art. I, Sec. 18 (further establishing a right to petition); U.S. Const., First Am. (establishing a right to petition).

This Court has a long tradition of restraint in political matters, as emphasized in a per curiam decision declining to interfere with the practice of senatorial courtesy - even when that practice interfered with the judiciary. De Vesa v. Dorsey, 134 N.J. 420 (1993) ("A court must stay its hand if the public and its elected representatives are to assume their responsibilities for an independent judiciary."). If a significant percentage of the public feel it is inappropriate or unconstitutional to hold a recall election about Senator Menendez, then the high number of signatures required to trigger an election will not be obtained and the People will have resolved this issue without judicial intervention.

This Court has repeatedly favored First Amendment rights, such as the right to petition, over less defined rights, like the right to stay in office. "Where a court is dealing with a First Amendment right (here the political involvement of the non-judicial spouse), fears that its exercise will have undesirable consequences cannot inhibit judicial vindication thereof." Application of Gaulkin, 69 N.J. 185 (1976).

Senator Menendez may one day challenge in court the *effect* of a recall election, but he cannot constitutionally impede the petitioning activity itself. He has no constitutional right to be sheltered from critical petitioning activity. The constitutional rights belong to the Committee here, not to the Senator.

Put another way, Senator Menendez's challenge is premature. He has not yet been harmed in any way, and may never suffer any judicially cognizable injury. The recall election, if it occurs, would be followed by another election to fill the seat, and Menendez may campaign and win to fill the same seat that he holds now. Petitioner Menendez will retain his seat if there are insufficient signatures for a recall election, or by winning the recall election if one is held, or by losing the recall election but winning the subsequent election to fill his seat. None of this has even begun yet. As Petitioner has no

constitutional right to be free of mere petitioning against him, his Petition should be denied.

**II. RECALL PROVISIONS ARE CONSTITUTIONAL BECAUSE BOTH GEORGE WASHINGTON AND PROGRESSIVES WHO RATIFIED THE SEVENTEETH AMENDMENT STATED THAT THE PEOPLE RETAIN THE POWER TO RECALL.**

George Washington, who presided over the Constitutional Convention, wrote shortly afterwards that:

The power under the Constitution will always be in the People. It is entrusted for certain defined purposes, ... and whenever it is executed contrary to their Interest, or not agreeable to their wishes, ***their Servants can, and undoubtedly will be, recalled.***

Letter from George Washington to Bushrod Washington, dated Nov. 10, 1787 (quoted supra p.2, emphasis added). This letter is virtually dispositive of the issue at bar. By analogy, Thomas Jefferson's letter about "a wall of separation between church and State" was written over a decade later, yet was accepted by the Supreme Court as "almost as an authoritative declaration of the scope and effect" of the Establishment Clause. Reynolds v. United States, 98 U.S. 145, 164 (1879). George Washington's letter shortly after the completion of the Constitutional Convention, over which he presided, should carry far greater weight.

The Seventeenth Amendment came later, but Petitioner Menendez expressly concedes that it did not take power away from the People: there is "no reason to conclude that the Seventeenth

Amendment in any way affects a state's ability to recall a U.S. Senator." (Pet. at 12). The progressives, through their ratification of the Seventeenth Amendment, empowered the People. "[T]he Progressive movement's agenda for reform at the turn of the 20th century [was] advanced as a means of ... restoring electoral power to the voters." Buckley v. Am. Constitutional Law Found., 525 U.S. 182, 226-27 (1999) (Rehnquist, C.J., dissenting) (citing numerous authorities).

Wisconsin - a birthplace of the Progressive Movement - added a recall provision to its own Constitution in 1926, not long after ratification of the Seventeenth Amendment:

**Recall of elective officers. Section 12.** The qualified electors of the state, of **any congressional**, judicial or legislative district or of any county may petition for the recall of any incumbent elective officer after the first year of the term for which the incumbent was elected, by filing a petition with the filing officer with whom the nomination petition to the office in the primary is filed, demanding the recall of the incumbent.

Wisconsin Const., Art. XIII, Sec. 12 (emphasis added).<sup>3</sup> A recall effort against the two sitting U.S. Senators from Wisconsin was initiated and widely accepted as legal, but failed to attain the number of signatures needed. See Wisconsin GOP Congressman Backs Drive to Recall Senators, Washington Post A04 (Apr. 22,

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<sup>3</sup> <http://www.recallcongressnow.org/wisconsin.php> (quoting the Wisconsin Constitution as it reads today; the relevant portion was in the original 1926 version also) (viewed 4/12/10).

1997).<sup>4</sup> An opinion by the Wisconsin Attorney General upheld the constitutionality of this recall provision with respect to U.S. Senators in 1979. See 68 Op. Atty Gen. Wis. 140, 1979 Wisc. AG LEXIS 61, \*11 - \*12 ("Wisconsin's recall provisions are wholly consistent with Congress' statutory scheme for regulating the times and manner of elections ... [and] nothing in connection with the recall would in any way impinge upon the regular election.").

In addition to New Jersey and Wisconsin, these states also have recall provisions for *federal* representatives: Colorado, Louisiana, Michigan, Montana, North Dakota, Oregon and Washington.<sup>5</sup> Idaho's law, the basis of the decision upon which Petitioner Menendez now relies (but did not cite below), never had a provision authorizing the recall of U.S. Senators. (Pet. at 11). The Court in Idaho rejected an attempt at recall by interpreting its provision to apply solely to state officials and not to U.S. Senators. (Pet at 49a-50a). It has no weight as precedent here.

While there are no U.S. Supreme Court precedents deciding the constitutionality of the recall of U.S. Senators, the reasoning in the two closest precedents supports a right of

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<http://www.recallcongressnow.org/downloads/WisconsinRecallWashPost.pdf> (viewed 4/12/10).

<sup>5</sup> <http://www.recallcongressnow.org/> (viewed 4/12/10).

recall. The New Jersey recall provision does not add any qualification as to who may serve, as the recalled senator can be immediately reelected. Thus the holding in U.S. Term Limits - that term limits add an unconstitutional qualification for service - is inapplicable here. See U.S. Term Limits, Inc., v. Thornton, 514 U.S. 779 (1995). The rationale of this decision supports the power to recall.

"[W]here the Constitution is silent, it raises no bar to action by the States or the people," held four of the Justices in U.S. Term Limits. Id. at 845 (Thomas, O'Connor, Scalia, JJ., and Rehnquist, C.J.). The fifth Justice, Anthony Kennedy, sided against term limits because of how they "burden the rights of resident voters in federal elections by reason of the manner in which they earlier had exercised it." Id. at 844 (Kennedy, J.). The recall provision, in contrast, *empowers* voters. The other four Justices relied on how the Tenth Amendment had not yet been added to the Constitution with respect to issue at stake in U.S. Term Limits, thereby denying the States the presumption of having retained powers on this issue. Id. at 800; Pet. at 9. In contrast, the Tenth Amendment was part of the Constitution when the Seventeenth Amendment was added, creating the opposite presumption in favor of retained powers in the States for this issue.

The reasoning in another precedent is also relevant here. In Powell v. McCormack, 395 U.S. 486 (1969), the U.S. Supreme Court held that Congress itself is limited in its ability to exclude someone based on alleged criminal activity. A Senator could be indicted for murder and it is not clear that the U.S. Senate could or would do anything about it. "A fundamental principle of our representative democracy is, in Hamilton's words, 'that the people should choose whom they please to govern them.'" Id. at 547. The power resides with the People, and the recall provision facilitates proper exercise of that power.

Petitioner Menendez argues that a recall provision was suggested at some point to be expressly included in the Constitution and again in the Seventeenth Amendment, but was rejected both times, and that this exclusion somehow makes recall unconstitutional. (Pet. 9, 12). But if that logic prevailed, then a national Bank would have been unconstitutional as would be a whole array of other powers that were likewise rejected for inclusion. See, e.g., Vasan Kesavan & Michael Stokes Paulsen, "The Interpretive Force of the Constitution's Secret Drafting History," 91 Geo. L.J. 1113, 1210-11 (2003) (noting that many constitutional provisions were rejected as "superfluous" or "unnecessary"; the power of "Congress to grant charters of incorporation" was expressly rejected for inclusion in the Constitution, then voted into law by many congressmen who

had participated in the Constitutional Convention). The right of recall could have easily been understood as too obvious to include, as Washington's letter quoted above implies.

This Court's own precedents fully support voter enfranchisement, and weigh entirely in favor of the constitutionality of recall. See N.J. Democratic Party, Inc. v. Samson, 175 N.J. 178, 190, cert. denied, 537 U.S. 1083 (2002) (holding that the election laws "will be interpreted to allow the greatest scope for public participation in the electoral process, to allow candidates to get on the ballot ... and most importantly to allow the voters a choice on Election Day") (citing Catania v. Haberle, 123 N.J. 438, 448 (1990), (quotations omitted)). The recall provision enables the public participation that this Court has repeatedly upheld.

**III. CERTIFICATION SHOULD BE DENIED BECAUSE PETITIONER'S CLAIM IS A "FACIAL" CHALLENGE TO THE NEW JERSEY CONSTITUTION, AND PETITIONER CANNOT OVERCOME THE PRESUMPTION OF CONSTITUTIONALITY.**

It is axiomatic that "every possible presumption favors the validity of an act of the Legislature," and all the more so for a provision of the New Jersey Constitution. N.J. Sports & Exposition Auth. v. McCrane, 61 N.J. 1, 8, appeal dismissed, 409 U.S. 943 (1972). This Court "will not declare void legislation unless its repugnancy to the Constitution is clear beyond a

reasonable doubt." In re P.L. 2001, 186 N.J. 368, 392 (2006) (internal citations omitted). The party challenging the constitutionality of a provision bears the heavy burden of proof. See Bd. of Educ. of Piscataway Twp. v. Caffiero, 86 N.J. 308, 318, appeal dismissed, 454 U.S. 1025 (1981).

Petitioner Menendez attempts here to invalidate the provision in the New Jersey Constitution *on its face*, for all possible scenarios and all future Senators: "At issue here is whether Article I, paragraph 2b of the New Jersey Constitution, regarding the recall of United States [S]enators, is valid under the U.S. Constitution." (Pet. 9a). Although Petitioner mentions "as applied" in his brief, he cites nothing meaningful about the application of the challenged law to his situation, and he presents virtually no factual record. He identifies no specific injury to him that would justify court intervention.

"A facial challenge to a legislative Act is ... the most difficult challenge to mount." United States v. Salerno, 481 U.S. 739, 745 (1987). "The fact that [a law] might operate unconstitutionally under some conceivable set of circumstances is insufficient to render it wholly invalid." Id. The Court emphasized that in order to succeed in a facial challenge, "**the challenger must establish that no set of circumstances exists under which the [law] would be valid.**" Id. (emphasis added).

See also Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc., 455 U.S. 489, 494 n.5 (1982).

"Facial challenges are disfavored for several reasons." Wash. State Grange v. Wash. State Republican Party, 552 U.S. 442, 450 (2008). First, they "raise the risk of 'premature interpretation of statutes on the basis of factually barebones records.'" Id. (quoting Sabri v. United States, 541 U.S. 600 (2004)). Second, "[f]acial challenges ... run contrary to the fundamental principle of judicial restraint that courts should neither 'anticipate a question of constitutional law in advance of the necessity of deciding it' nor 'formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.'" Wash. State Grange, 552 U.S. at 450 (quoting Ashwander v. TVA, 297 U.S. 288, 347 (1936) (Brandeis, J., concurring)). Third, "facial challenges ... prevent[] laws embodying the will of the people from being implemented in a manner consistent with the Constitution." Wash. State Grange, 552 U.S. at 451.

All these reasons require denial of the Petition for Certification. There is an inadequate record to support Petitioner's claims that a recall could *never* be justified. He complains about a possible removal from office that is several contingency steps and perhaps a year away, even if all the requirements for a recall were satisfied. But most of all, he

seeks to deny the People the right of recall for all future situations and Senators, including ones where the case for a recall may be dramatically compelling.

Suppose that after a year on the job a U.S. Senator tires of it and stops casting votes. It is unlikely that he will be expelled in a timely manner, if at all, because his own party will likely support him and the other Senators will have relatively more power due to the absence of a colleague. A right to recall would be essential to ensure representation.

Petitioner Menendez cannot possibly satisfy the Salerno test that "the challenger must establish that no set of circumstances exists under which the [law] would be valid." 481 U.S. at 745. Petitioner has not shown that the recall of a U.S. Senator could never be constitutional.

"The power and obligation inherent in this State's constitutional doubt doctrine begins with the assumption that the [L]egislature intended to act in a constitutional manner." State v. Johnson, 166 N.J. 523, 540-41 (2001) (internal quotations omitted), overruled in part on other grounds by State v. Stanton, 176 N.J. 75, 90, cert. denied, 540 U.S. 903 (2003)). The recall provision is presumptively constitutional, and should not be invalidated by this facial challenge.

Moreover, the venue for Petitioner's claim would best lie in the U.S. Supreme Court itself, and it could grant *certiorari*

to review the Appellate Division's decision. See, e.g., Crawford v. Bd. of Ed., 458 U.S. 527 (1982) (the U.S. Supreme Court directly affirming an intermediate state appellate court decision that upheld the constitutionality of a state initiative). This Court's role is not to predict how the U.S. Supreme Court might rule, and it would be awkward for this Court to invalidate its own State Constitution only to have the U.S. Supreme Court then uphold the State Constitution.

Petitioner Menendez relies on an unrelated free speech decision by the U.S. Supreme Court. (Pet. at 16, citing Citizens United v. FEC, \_\_ U.S. \_\_, 130 S. Ct. 876 (2010)). But free speech rights are entirely on the side of the Committee here, as Petitioner tries to quell criticism of himself. The U.S. Supreme Court does not uphold facial challenges to laws that interfere with free speech, as Petitioner is doing here.

**IV. AT A MINIMUM, "JUDICIAL SURGERY" WOULD STILL ALLOW THE RECALL PROCESS TO MOVE FORWARD, FOR AN ADVISORY IF NOT BINDING ELECTION.**

It is well-established that this Court applies "judicial surgery" to salvage any constitutional defect in a law. At a minimum, "judicial surgery" would still require the recall election process to continue. See, e.g., State v. Fortin, 198 N.J. 619, 630 (2009) ("In appropriate cases, a court has the power to engage in 'judicial surgery' or the narrow construction

of a statute to free it from constitutional doubt or defect.") (quoting N.J. State Chamber of Commerce v. N.J. Election Law Enforcement Comm'n, 82 N.J. 57, 75 (1980)); Town Tobacconist v. Kimmelman, 94 N.J. 85, 104 (1983) ("When a statute's constitutionality is doubtful, a court has the power to engage in 'judicial surgery' and through appropriate construction restore the statute to health.").

"Judicial surgery," if needed at all, would preserve the recall election as advisory. The Committee would still have a right to petition for a recall election.

Petitioner Menendez has no argument against an advisory recall election, because an analogous device was used in most of the States in order to enfranchise voters with respect to U.S. Senators in the early 20<sup>th</sup> century. Prior to ratification of the Seventeenth Amendment, progressives had passed state laws requiring elections to select U.S. Senators despite how the U.S. Constitution mandated selection by state legislators. "By 1912, when the Senate approved the Seventeenth Amendment, nearly sixty percent of the senators were already selected by virtual direct election." Vikram David Amar, "The People Made Me Do It: Can the People of the States Instruct and Coerce Their State Legislatures in the Article V Constitutional Amendment Process?" 41 Wm and Mary L. Rev. 1037, 1070 (2000). State legislators

respected their voters' wishes, just as U.S. Senators may voluntarily respect the voters' wishes in a recall election.

An advisory recall election would be just as constitutional now as the common advisory senatorial elections were then, and the Committee's petitioning activity should proceed even in the unlikely event that "judicial surgery" were needed.

But this puts the cart miles ahead of the horse. This Court should not address any of this yet, because there are no petition signatures, there is no scheduled recall election, and Senator Menendez has not yet lost anything.

#### CONCLUSION

The right of the People to recall was allowed under the Constitution, as confirmed by George Washington's letter, and Petitioner Menendez has no right to impede the petitioning process. His Petition for Certification is premature and unjustified. It should be denied.

Respectfully submitted,

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BY: \_\_\_\_\_  
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