



Speech by

BILL FELDMAN

MEMBER FOR CABOOLTURE

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COMMUNITY-BASED REFERENDUM BILL

Mr FELDMAN (Caboolture—ONP) (10.04 a.m.): I move—

"That the Bill be now read a second time."

It is a great privilege to introduce the Community-Based Referendum Bill 1999. The purpose of this Bill is to enable the electors of Queensland to have the opportunity to participate in the decisions that affect their daily lives. The essence of a democracy is that people have a right not only to elect persons to represent them in the Legislative Assembly but also to have a direct input into the laws that affect their lives. This is a fundamental right in a democracy, and is often called participatory democracy. The process is often called the popular initiative and referendum, and will enable the people of Queensland to exercise a constructive and positive role in making this great State a better place to live, and will positively enhance individual and collective community responsibility.

The Bill will enable the electors to positively address areas of community concern. It does so only after a proposal to address the concern is lodged with the Electoral Commission where it will be scrutinised to determine whether it is a proposal that may be addressed by a proposed law.

The Bill provides for the screening of proposals to ascertain whether they contravene the rule of law and the rules of natural justice, which are proposals that the Parliament can properly address by way of legislation. There are several matters that may not be addressed by a proposal under this Bill. For example, no proposal can be accepted by the commission if it proposes to block Supply. The Bill recognises that administrations do need moneys assured to them to perform their functions. Following acceptance of a legislative proposal, registration of that proposal may follow if there is sufficient support from electors. This Bill provides for matters of broad and substantial community concern to be presented to the Legislative Assembly following signature of a popular request by a broad and representative number of electors of the State. This requirement for a broad and representative expression of community concern promotes an environment for the community to work together positively, in consultation with each other and for factual, non-emotional discussion on matters of common concern.

There is a great need for our institutions to be people friendly. Participatory democracy is what people are looking for. The times have changed. We have one of the best educated populations in the world, and people want to be positive contributors to a better State. A healthy democracy means an active, positive community that works together, and institutions that enable people to work together.

The outstanding exponent of participatory democracy or community-based democracy, through the kind of process set out in this Bill, is the renowned Ted Mack. The people of the North Sydney Council responded when they knew that not only would they be treated with respect, they knew that they would be listened to and could vote on and decide issues that they considered important. In consequence, North Sydney boomed. Not only were important community assets not sold off, there was no need for them to be sold off. In fact, rates were able to come down, with community services going up because people—real people—were being listened to.

There are very important reasons why the process set out in this Bill is very important for re-establishing community confidence in our institutions. The last Queensland election saw vast numbers of electors so disenchanted that they voted for a change towards more accountability. They also voted

to have a direct say on matters that needed to be addressed and that were not being addressed by the Legislative Assembly. The election result should have come as no surprise. The people felt that they had been ignored for far too long, and that no one was really listening to them or to their genuine community concerns. Unless the process of participatory democracy is available to enable the electors, where necessary, to have a direct vote on matters that they consider important, it will not be long before we see a repeat of the situation in New South Wales where one ballot paper will be the size of seven newspaper tabloid pages in present estimations.

Many people believe that they are not being heard. Under the processes provided by this Bill, electors will have the opportunity to determine whether there is sufficient community concern for a common legislative proposal. Presently, genuine community concern is often ignored by elected representatives and the administration for various reasons. The biggest concern is the deficit in democracy. To quote the words of a famous Queensland Premier, this Bill will enable the "free and direct expression of the will of the people". He could not have said it clearer.

This proposal to recognise democracy is not new to Queensland. It lies at the very heart of democracy. There is an urgent need to reassure the people of this State that they will be heard, and taken seriously, that the community is more important than unelected lobby groups, etc., and that there is a need to provide for balanced and necessary input from the community—the real people. There is no substitute for democracy. There are alternatives to it, none of them satisfactory.

It goes without saying that representative democracy cannot really work if any unelected organisation can come between the elected representative of the people of the electorate, their parliamentary representative and themselves. If passed, this Bill will carry forward the democratic ideals and visions of a democracy which inspired the great T. J. Ryan, who had a profound confidence in the good sense and good judgment of the people.

The Popular Initiative and Referendum Bill 1917 was passed in this very Assembly not merely once but more than once, and the then Legislative Council also passed it with some amendments. These amendments did not affect the ordinary application of its provisions. Similar Bills were also passed in 1913 in the Western Australian Legislative Assembly, and in 1916 in the South Australian House of Assembly, only to be knocked back by the Upper Houses, which in those days opposed the concept of direct democracy.

This Bill in effect recognises the Upper House of the people themselves directly, providing the necessary checks and balances from the community and ensuring community access to the democratic process, as the community does not surrender its democratic rights. Quite simply, if the required number of electors sign a popular request, this is evidence of substantial community concern. The requirement to submit verified monthly returns to the Electoral Commission demonstrating the quantity of support or lack of it will enable both the public and parliamentarians alike to assess the popularity or degree of support for the legislative proposal. This assessment may well lead to the Parliament addressing the issue before a referendum is held—a process that will enhance the democratic and parliamentary process. The whole of the process will reinforce open government in a democracy.

Mr Terry Gygar, a former member of this Assembly, made a personal investigation of the process and reported its beneficial contribution to good government in Switzerland, where the Parliament benefited from being credibly informed of genuine community concerns, demonstrated by the signing of the required number of electors. He reported that 60% of proposals saw legislative or appropriate action being taken to address these community concerns, with the result that no referendum was necessary.

The same process is what democratically spirited people of this State want to see. This is the only way in which there can be free and direct expression of the will of the people on any particular matter of concern—to enable it to be positively addressed by a direct vote. This direct vote on the specific issues presented by the electorate is called "direct democracy". The people of Queensland had wanted for years to have their say on daylight saving. This Bill would have allowed the people to put that specific issue on the referendum ballot paper, and would have resolved it years earlier. People take the long-term view of what is in the best interests of the State as a whole. They are not vying for the perks of office, and they are not trying to get into power. In a real democracy they do not have to.

Under this Bill, a legislative proposal would be set in Bill form following professional drafting by the Parliamentary Counsel. Naturally only the highest standards of drafting apply. The legislative proposal will be thoroughly checked for compliance with all fundamental legislative principles by the Parliamentary Counsel. It will then be tabled by the Speaker in the Assembly, and then examined by the Scrutiny of Legislation Committee, comprised of members of the Assembly, who will draw attention to any matters of concern in the legislative proposal, having regard to the criteria set out in the Legislative Standards Act 1992.

Similar to its great predecessor in this House, the Popular Initiative and Referendum Bill 1917 of the T. J. Ryan administration, this Bill does comply with fundamental legislative principles, which relate to legislation that underlies a parliamentary democracy based on the rule of law. It provides for proper recognition of the rights and liberties of individuals by ensuring that no legislative proposal is to be accepted if it contravenes the rule of law, the rules of natural justice, or which could not be properly made by the Parliament. In so doing it provides an up-front screening process which automatically applies the principles set out in the Legislative Standards Act 1992. There is no fear that this Bill would enable nuisance or vexatious proposals even to be accepted. The Bill also has sufficient regard to the institution of Parliament. The ability of the Parliament to legislate is in no way impaired under this Bill.

It is important to confirm what this Bill does and does not do, to ensure that there is no misunderstanding. This Bill does not—

- seek to radically change our present governing systems.
- seek to interfere with the right of Parliaments to legislate.
- seek to remove the incentive of elected representatives in the Parliament to show initiative.
- seek to slow or impede the legislative processes.
- seek to drive division between parliamentarians and electors.
- seek to damage our system of representative democracy.
- seek to be able to remove individuals from office.

However, this Bill does—

- seek to enhance the accurate representation of Governments.
- seek to ensure a credible voice for the community given the undue influence that non-elected individuals or groups may have with respect to Parliament.
- have a genuine desire to see Parliament take the initiative in legislation.
- seek to encourage the awareness of matters political within the community.
- seek to achieve a better working relationship between electors and parliamentarians.
- seek to increase the involvement, with knowledge, of the community in the decision-making processes.
- seek to make decision making of Parliaments both easier and more representative.
- allow for a greater input of ideas from the community.
- help to make the community more responsible for its decisions.
- encourage debate, thereby airing points of view that otherwise might not be presented.
- remove the heat from genuine debate.
- remove the energy-sapping pressure of non-genuine groups, and non-genuine issues from the genuine parliamentary process.

In short, the provisions of this Bill will enable the community to express its concerns on matters with broad representative support. This Bill will enable the Government and Parliament to make decisions knowing whether or not there is a substantial and representative mandate from the community on matters of expressed concern. In this way the process, because of its openness and consultative spirit, enhances the betterment of the entire community.

The community should have a set of reins to guide Government back onto the track if it should deviate too far from the purpose for which it was elected, particularly if that deviation was caused by minority pressure groups or non-elected powerbrokers who may desire to bring unreasonable or self-serving pressure to bear on members of Parliament, or who may attempt by various means to manipulate Parliament. The provisions of the Bill reflect the desire of the community to have a greater input into the decisions that affect the community than is presently available.

Other important provisions ensure that the processes are accessible to the community. At first the criteria of 2% of electoral enrolment would seem low. However, this does mirror Liberal and Democrat policy.

Honourable members interjected.

Mr SPEAKER: Order! There is too much audible conversation in the Chamber.

Mr FELDMAN: Mr Speaker, I will accede to the wishes of the House. I ask that the remainder of my speech be incorporated in Hansard.

Leave granted.

This Bill provides the added safeguard of ensuring that the support must reflect the wishes of electors spread throughout the state. A minimum of 2% of electors on the electoral roll in a majority of electoral districts is an essential to demonstrate a geographical spread.

This ensures that only proposals with widespread community support throughout the State could qualify. Further, it ensures cross-section support, ensuring that the proposal is a genuine issue. It avoids "city versus country" arguments, and it should be mentioned that the required support to trigger a referendum is among the highest in the world.

This Bill has been developed over a period of many years specifically for Australian Parliaments and it combines the best features of all the direct democracy systems in the world. The process is not at all new to this State. We had local option polls under the Liquor Acts, in which the people of the area were able, on consideration of all the issues, to determine what kind of environment they wished for their community. For example, the people of Buderim twice rejected a hotel, but welcomed the tavern which is still there and doing well.

They were concerned justifiably also with reducing the death toll and accidents given the state of the roads up and down the mountain. The community was the clear winner through this very same kind of process.

We also had similar provisions in the Local Government Act for complete enfranchisement of the electors by direct democracy from 1920. It is now time to restore that direct democracy back to the electors so that they can fully participate in the promotion of what they consider to be in the best interests of the whole of their community.

The cost of a referendum held at the same time as a State election or a State referendum poll is minimal. The provision of 5% of electors is a "safety valve" which would enable the holding of a poll at an earlier time, if the concern were not sooner addressed by the Parliament. Approval requires the vote of a majority of electors of the State voting in favour of the legislative proposal, which will have already been thoroughly scrutinised by the Scrutiny of Legislation Committee, and subjected to any appropriate amendments. In addition, a majority of electors voting on the proposal in a majority of electoral districts is necessary for approval. Proposed legislation can become law only with the assent of the Governor, which presently depends on the advice of the Premier to assent to any Bill, and the passage of this Bill would not change that situation. If, however, the electors approved at referendum an amendment to the Constitution to require the Premier to recommend the giving of assent, that would be a different matter.

The Bill will enable the community to address matters it considers important. Notwithstanding that the clear vote of the community is not formally binding on the Premier to advise assent, It would be a brave Government indeed to ignore a successful referendum.

A local community referendum poll in New South Wales saw a council reposition a waste disposal facility which would have had the potential to contaminate the Darling and Murray Rivers with carcinogens all the way to the Adelaide water supply. The local votes were so decisive that the council repositioned the facility to a suitable location. The people were concerned not for themselves but for their fellow human beings, and this vote persuaded the council to do the right thing in repositioning the facility. This is a simple illustration of how minimum expenditure avoided irreversible harm, including the very real possibility of birth defects. It only happened because the people were able to exercise their "free and direct expression" on this matter that had been concerning them for years. Democracy saved the day, and in this instance the poll was held informally with the State election and did not cost the Government a cent!

The proposal contained in this Bill has strong support of well-known Australians. These include Bryce Courtenay, Thomas Kenneally, Morris West, Colleen McCullough, Reg Murray, Kate Carnell, Cheryl Kernot, Peter Reith, and former Senators, Colin Mason and Michael Macklin. Russell Cooper declared his unequivocal support for the proposal, and is sure to honour his word. Ted Mack enjoyed the positive support of Frank Walker, former Attorney-General of New South Wales in the Federal Parliament, whose community backed him to represent them following his genuine support of direct democracy. What is important is that there is very strong widespread support for the principle and the process in the community, as well as from members of Parliament. Barry Mackinnon of Western Australia has also publicly stated his support.

The principle of direct democracy was strongly espoused by Sir John Grey, then Prime Minister of New Zealand, but previously Governor of South Australia and of New Zealand. It was also strongly supported by Sir Isaac Isaacs, Mr Higgins, Mr Deakin and Dr Maloney who were prominent and far seeing democrats of the time. Alexander Fisher also supported it for inclusion in the Governor-General's speech. It is necessary to ensure that representative Government remains representative.

The Italian people, through this process, broke the back of corruption that was so entrenched that one-third of the politicians went to jail for corruption. The trigger in Italy was 1. 1 % of the number of persons eligible to vote, and the vote in every electoral district was well over 90% to get rid of the corrupt electoral laws which enabled the corruption of the Parliament. This process empowers ordinary people against those who can bring undue influence to members of Parliament. It ensures openness and accountability, and ensures that decisions have to be explained to the people. Surely this is overdue.

It is asserted by some that sufficient community consultation is now occurring through Cabinets holding court at various places through the State. This is only token community consultation, and also costly.

The process set out in this Bill will operate with less expense, and will ensure that real community concerns are presented from the real community. It is necessary to ensure that the community is not continually disadvantaged against professional and special interest lobby groups whose objects and goals are in many

cases quite adverse to the views of the whole of the community of this State. Such activities are in no way a substitute for the people themselves being able to determine and address the issues - issues which might otherwise be missed.

It is a fact that even the best of elected representatives get out of touch at times with the community that sent them to the Parliament. This accounts for the changes in electoral representation in this State at the last election - proof positive that the electors felt that their previous representatives were not sufficiently in tune with what the community wanted.

The process set out in this Bill is entirely compatible with, and a valuable adjunct to, our system of representative democracy. There will be very many positive benefits. The electors will be able to exercise their democratic rights to determine what they want, as well as who they want to represent them in the Parliament. At present a good member of the Parliament could be rejected at the polls because of association with some issue. It will greatly enhance stability and confidence in the Parliament because as issues are resolved separately and with community confidence, good members will not have to be turned out of office on single issues. Further, the process of this Bill enables single issues to be dealt with and democratically addressed as single issues, without spilling over into unrelated areas.

The Bill recognises democracy as an inalienable right of the people of Queensland.

I commend the Bill to the support of the House, and also to the people of Queensland.
