Speech by

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COMMUNITY-BASED REFERENDUM BILL

Mrs LAVARCH (Kurwongbah—ALP) (9.14 p.m.): On 25 August last year, the member for Nicklin introduced into this House a private member's Bill on citizen-initiated referendums. That Bill proposed far-reaching changes to the law-making processes of Queensland. It proposed to create an additional source to the Parliament for the making of laws and amending the State Constitution through the mechanism of citizen-initiated referendums or CIR. In introducing that Bill into the House, the member for Nicklin appealed to the rallying cries of direct democracy. The Bill was debated on 11 November and was defeated by 64 votes to 11.

One Nation, through its leader the member for Caboolture, has now introduced an almost identical Bill, the Community-based Referendum Bill, which we are debating tonight. Last year the member for Nicklin suggested and now the member for Caboolture suggests that to oppose the Bill is, by implication, to show a lack of faith in the collective good sense and wisdom of the people of Queensland. I do not support CIR or, as the member for Caboolture names it, community-based referendum, nor do I intend to vote for the Bill.

However, I assure honourable members that I do not hold the people of Queensland in contempt, nor do I have a lack of faith in the collective good sense and wisdom of the people of Queensland. Rather, I think that the Bill is bad law that is based on a misconception of the Australian democratic tradition. I believe that it has the potential to further alienate the community from Government processes.

Our judgment on this Bill should be guided by the criteria applied to all others before Parliament. Will it improve the living standards of Queenslanders? Will it strengthen or weaken the basic institutions of our society? Will it protect the rights of the disadvantaged, the poor or the weak, or make those rights more vulnerable?

I oppose the Bill because I believe it will weaken and not improve the workings of our parliamentary institution. It will do nothing to improve the real quality of life of our citizens and, more importantly, it has the potential to divide rather than unite our State. Why do I believe this? Surely it could be argued that a proposal to invest the public with direct law-making functions can only empower the community at a time when many feel so disempowered. I believe that this conclusion is a false one and I will attempt to explain why.

The strongest and, in my mind, the only argument of weight for CIR, or community-based referendums, is the hope that it offers to rekindle community engagement in the system of government. None of us in this Chamber underestimate the levels of dissatisfaction and alienation felt by many people in relation to the governmental system. This sense of alienation has been growing for many years. Ten years ago it was the reason advanced by the minority members of the Commonwealth Constitutional Commission to support a form of CIR for proposals to amend the Constitution. It was noted then that—

> "... compulsory voting conceals the extent of alienation felt by many people. There is a sense that politicians are out of touch with the views of the voters. Also it is thought that party political arrangements do not allow real scope for parliament to operate as a truly representative and deliberative assembly."

Against this backdrop it is argued that community-based referendums will provide a means to overcome this disillusionment. It is argued that this Bill will overcome the public's perception of the operation and responsiveness of government, but does this argument really stack up?

While it is true that Australians and Queenslanders hold a less than flattering opinion about Governments and politicians, is this experience different in comparable countries with CIR? For instance, New Zealand and the United States are often cited as examples of nations with CIR to demonstrate that the sky would not fall in if we were to adopt the proposal.

Mr Lucas: Hasn't MMP been a great success in New Zealand—a total disaster!

Mrs LAVARCH I agree with the member for Lytton. It has been a total disaster in New Zealand.

I cannot claim to be a political sociologist with expertise in either New Zealand or the USA. However, as an interested observer of both nations, it seems to me that the respect for politicians, political institutions and law-making processes in either country is not at levels in excess of that witnessed presently in Queensland. I would be interested if any other supporter of CIR is able to produce some qualitative research that shows that CIR actually improves the general sense of engagement of the public in law making.

I suspect that such research would show public alienation to be at similar levels across all western nations. Indeed, seminal work such as Francis Fukuyama's Trust indicate that levels of alienation are constant in all western nations and have nothing to do with the structure of democracy. Rather, the sense of remoteness and disempowerment is a complex phenomenon based upon the depletions of social capital because of the dominance of the economic imperative. Throw in the rate of social and technological change and the emergence of globalisation and the issues of the long-term viability of the nation state and we start to get some appreciation of why individuals and communities are struggling to connect with Governments, which are in turn struggling themselves to deal with the demands upon them.

Disappointment with Government is far more based upon a disappointment in delivering security and certainty than it is about disquiet over democracy deficit. People are seeking results, not different or so-called better structures. Of course, we should not turn our back on better structures, but no-one should kid themselves that community-based referendums will make any dent on public disenchantment with Government. We have to ask the question: are community-based referendums, or CIR, a better structure? Is it an advancement on the current system of the Westminster parliamentary democracy? I believe CIR would weaken our system, not improve it.

The Westminster model works on five foundations. If we apply that to Queensland, those foundations are as follows. Firstly, Executive authority is vested in a Ministry who must be drawn from Parliament and who are individually and collectively responsible to the people via the Parliament. Secondly, Executive authority is divided between the Ministry and the Governor, who acts on the advice of the Premier and Ministers, who in turn have the confidence of the Legislative Assembly. Thirdly, the Premier and Ministers can be dismissed only in two ways—electoral defeat or a loss of confidence of the Assembly. Fourthly, the Executive is supported by a bureaucracy which is a career service based on merit and independent appointment, not political patronage. Fifthly, there is a direct chain of accountability running from officials to a Minister and to Cabinet and then from Ministers to Parliament and from Parliament to the electorate.

Of course, the theory of the model and its practice are two different things. Most of the model is underpinned by constitutional conventions, that is, unwritten rules and not expressed constitutional provisions. The conventions are subject to evolution and are sometimes downright flouted. For instance, it is now accepted that at the director-general level at least the bureaucracy is subject to a fair degree of direct political appointment. Equally, the convention that a Minister without the confidence of the House should resign was flouted outrageously by the former Government when then Attorney-General Beanland refused to resign after a vote of no confidence of this Assembly.

The proponents of CIR accept that it is a concept which is consistent with the model of representative democracy. In rebuttal they argue that we should not be concerned about conceptual purity, as the reality of the party system has long ago weakened the operation of Parliament's control over the Executive. This much I think can be accepted.

One of the arguments for CIR is that it delivers Executive scrutiny. But let us have a closer look at this. Public law making is a singularly cumbersome, if not totally ineffective, means to scrutinise Executive activity. Such scrutiny can be undertaken only by some body or institution with the resources to do the task. At best the CIR law might establish some office to support individual rights vis-a-vis the Executive or examine the exercise of Executive power. If Parliament and the people of Queensland are going to entertain a reform to the current model of representative democracy to strengthen checks and balances on Executive Government, then let us have a genuine, meaningful reform.

I suggest that members have a look at the proposals advanced by Mr David Solomon in his book Coming of Age, in which he argues for significant changes to the way our Parliament and

Government operate. These are reforms that would put complete substance to the separation of Executive and legislative functions by removing the Ministry and the Premier from the Parliament. The Premier would be directly elected by the people and the Parliament would be a genuinely independent law-making forum. Interestingly, Mr Solomon's radical reforms expressly do not include CIR, which he rejects because of its avoidance of the checks undergone when making laws through a reformed legislative system. The conclusion is that CIR is inconsistent with representative democracy, but then adds little if anything in a practical sense to the ability to scrutinise the Executive.

However, an additional argument is advanced as to why CIR might improve the functioning of our democracy, and that relates to the inability of Parliament and political parties to tackle difficult social issues. In this argument, Government and Parliament often skirt a difficult matter because of the views of a powerful sectoral interest group. It might be that gay law reform is not pursued because of religious conservative views. Equally some say—and I do not necessarily agree—that capital punishment is not introduced because of liberal civil libertarian views which are not reflected in mainstream opinion. By this reasoning Parliament ignores or, more accurately, dodges the hard issues because of fear of upsetting some interest group or section of the community.

This critique of Government has considerable currency in public thought and is manifested in statements such as "you don't listen to me" or "politicians are always pandering to minority interests". A CIR mechanism allows members of the public to take on the case which Parliament is unwilling to tackle. In truth, Governments do listen and what they hear is contradictory messages. Not doing what one group wants or asks for does not necessarily mean that the group has not been listened to. It may well mean that another section of the community which argues the direct opposite has been listened to. Governments have to be like the good Lord and answer all prayers. Sometimes the answer is: no. Parliamentarians are more than a conduit for the transmission of public opinion. They have to be decision makers, and this sometimes means that the decision is not what a majority of people want. On the other hand, CIR relies on the view of the majority prevailing. To argue that majority rule is not perfect again leads to a charge of elitism or that "you don't have faith in the good sense of the people of Queensland". But this Bill itself does not accept a straight up and down version of majority rule.

If we look at clause 30(1) of the Bill, we see that it provides for a special mandate drawn from a majority of the State's electorates. This means that the member for Caboolture is conscious of less populated areas being swamped by opinion in urban areas through weight of numbers. But there are distinctions in our community other than those based on geography. What of distinctions based on income or ethnic background or education levels?

The special mandate provisions for the community-based referendum proposal reveal an acceptance that things other than sheer numbers count. The member's acceptance of this is really an acceptance of why we have a representative democracy and not a direct democracy in the first place, and that is the concept that parliamentarians do more than reflect majority opinion. They provide a filter to majority opinion to ensure the weak are protected. Parliaments do tend to shy away from hard social issues such as abortion and capital punishment. They do so because the issues are generally divisive. It is at least arguable that little good will come of community-based referendum proposals, even if they are not passed by the electorate, but they guarantee that an election campaign will be fought over divisive and emotive matters.

In summary, I oppose this Bill not because I think it will be the end of our system of government or that it is impossible that good could emerge from it, but rather because I think it is another example of the search for simplistic solutions to difficult, complex issues. There has not been advanced any evidence to suggest community-based referendums, or CIR, will lessen public dissatisfaction with the governmental system, and indeed by promising to do so it runs the risk of further deepening the alienation. It is inconsistent with our model of representative democracy and, by its very terms, the Bill accepts that unfettered majority rule is not good government. It is not a far-reaching or meaningful reform of our Parliament or our system of Executive Government but a change of limited value at best. Let us face our problems and the gap between our Government system and the public and not proceed with this Bill, which is little more than

constitutional snake oil.