

Dissenting Report by Senator John Madigan

1.1 While the committee's report raises a number of reasonable concerns it fails to address the basic principle of the right of citizens to have a direct voice in decision making.

1.2 This dissenting report agrees with some statements made by the committee but disagrees with its final recommendation.

1.3 The committee makes reference to the fact that bills for CIR have been raised in a number of Australian parliaments but that none have passed. It states that among the reasons for their failure was a lack of political will. In this I agree, but it is this very lack of political will that drives the call for a CIR to be introduced. The desire by many Australians to have a voice in the decisions being made by parliament is strengthened by the fact that the 'political will that dominates parliament prefers the population to have as little voice in parliamentary matters as possible. It is in fact the intention of political parties to maintain as much control of the decision making as possible that drives the recurring call for CIR.

1.4 As stated by the committee the Bill received 'qualified support' from a number of citizens, organisations and academics and specifically addresses what is probably the most important difference between this Bill and the failed bills of the past. This Bill differs in that it does not take the final decision for a referendum out of the hands of the Parliament. Instead it suggests a partnership between the people and their parliament. While many would expect a call for a CIR to be a desire to bypass the parliament and force the holding of a referendum based solely on the calling of an accepted percentage of the population this Bill clearly states that once the signatures of an accepted percentage of the population have been received the minister must put a bill before parliament. It is then up to the parliament to decide whether to accept the bill or not.

1.5 An aspect of the Bill that received a lot of attention, rightly so, was the percentage of electors required to sign a call for a referendum. The Bill gives a nominal but substantial figure of 1% of the current voting population. On current AEC figures this would require about 146,000 signatures to be collected; certainly not an easy task. It is my opinion that anything that drew the support of at least 1% of the Australian population could be seen as an issue of considerable national interest.

1.6 While the figure of 1% is naturally open for amendment any percentage decided upon should not be so high as to prohibit a group of concerned citizens from being able to obtain the required number of signatures within the set 12 month period. Percentages ranging from 1% to 5% have been touted for CIR in the past. One suggestion in a previous inquiry mentioned a 10% figure (approximately 1,460,000 signatures) which frankly would be impossible to collect in a 12 month period without an army at your disposal.

1.7 Another aspect that drew concern was the suggestion that any CIR that met with the criteria to have a bill put before parliament and which was subsequently passed by parliament would be held on a set date every 4 years. This was specifically put into the Bill to exclude, where possible, the politicising of any CIR for electoral purposes. Generally the comments in the submissions do not support this idea but rather than remove it from the Bill I would prefer to see the addition of a discretionary power by which the Minister could choose to hold it at the next Federal election, should that be earlier than the pre-established date. It should also be remembered that CIRs would not necessarily be held every 4 years and would only incur this cost once a bill for a CIR was passed by parliament.

1.8 The argument that specific 'interest groups, whether civic, union, religious' etc... could use the CIR to 'pressure governments and politicians' is spurious. At present, parliamentarians and politicians are bombarded by interest groups; lobbyists etc... who claim support from exorbitant percentages of the population and often quote rubbery figures from polling done in a less than impartial setting. A CIR would in fact reduce that pressure by guaranteeing that there was a substantial percentage of the population who supported the proposal rather than an estimated and often imaginary percentage suggested by a lobbyist. A document that has been physically signed by one or two per cent of the population carries substantially more weight and merit than a suggested figure of 5 or 10%.

1.9 The suggestions of technical shortcomings with the Bill refer to areas such as intrusion into the exclusive domain of the executive such as the defence forces, the process by which the proposal would be drafted and whether electronic signatures would be accepted.

1.10 As with other legislation, any bill put by the minister would be scrutinised by parliamentary committee in the same way as this present Bill has been.

1.11 The report states it 'remains unclear whether any member or senator other than a minister may introduce a proposal'. However the Bill clearly states 'the Minister' which excludes not ministerial parliamentarians from introducing a proposal.

1.12 I agree that the Bill does appear to have left open the definition of 'signature'. The intention of the Bill was that written signatures, not electronic signatures would be collected and as such the Bill could be amended to clarify this matter.

1.13 While the AEC points out that there is no requirement for an elector to demonstrate any popular support before registering a proposal the intention of this Bill is to give an elector the opportunity to demonstrate substantial support by setting a period of 12 months within which to supply a document of support to the AEC that contains the signatures of 1% of the population within 12 months.

1.14 I note that the committee accepts that this Bill is modest in its proposal and would not threaten 'Australia's robust Constitutional system'. The committee understands that rather than introducing a bill that would assault our parliamentary system this Bill simply provides for 'popular initiation of debate in Parliament that may or may not lead to a referendum'. In this I agree with the committee.

1.15 This Bill, rather than remove the powers of the Parliament to hold a referendum, is aimed at involving the electors more closely with their elected representatives in the parliamentary process and in the structure of their constitution. Increasing the involvement of the electors in the democratic process should be the aim of any truly representative parliament.

Recommendation

1.16 That this Bill be passed, subject to amendments correcting aspects relating to the collection of signatures and a discretionary power for the Minister to hold a CIR to coincide with a Federal election.

Senator John Madigan

