



# The Failure of Citizens' Initiated Referenda Proposals in Australia: New Directions for Popular Participation?

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Australia has been a leading proponent of direct democracy since the turn of the century because of the provision for referenda in the Australian Constitution. However, the experiment has progressed little further. Bills for citizens' initiated referenda have been introduced across the Australian parliaments. Not one has been passed, despite the concept being supported at different times by all sides of politics. This article examines why these proposals have failed. It also evaluates other means of reinvigorating popular participation. Widespread disillusionment with the political system indicates that there is a genuine need to increase community involvement in the political process.

## Introduction

The issue of citizens' initiated referenda (CIR)<sup>1</sup> has been at the edge of political life in Australia for a long time. Recently, the issue has been fuelled by a strongly held feeling in the community of alienation towards political institutions and the system of representative government. The grip of the major parties has been challenged by the formation of new parties, such as Pauline Hanson's One Nation Party. In several State and Territory parliaments, no one party or coalition has been able to gain a majority of seats in the lower house, instead having to rely upon independent members for support. Misgivings about representative government have even been evident in the campaign for an Australian republic, with strong support emerging for direct popular election, rather than parliamentary appointment, of a president.

The number of CIR proposals in Australia, particularly over the last decade, demonstrates an unrealised desire for increased popular participation in the political process. The notion of direct democracy through CIR, by which Australians could initiate a referendum and vote directly on issues of concern to them, rather than leaving it to their elected representatives, has had considerable and varied support. Representative government has tended to channel individual participation in the political process through a small number of political parties. This phenomenon is

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<sup>1</sup> CIR is also known as 'community initiated referendum', 'electors' initiative', 'direct legislation' and 'peoples' referendum'.

particularly evident in the United States, where court decisions have legitimised attempts to protect the two-party system to the exclusion of other interests (Issacharoff et al 1998, 244–63). In Australia, the election of persons to Parliament is dominated by the major parties and groupings. However, many Australians find that their aims and aspirations are not reflected or taken up by these parties and groupings. This has led to alienation from, and dissatisfaction with, the current system of representative government and the role that political parties play. To such people, CIR offers a chance to reform the system by allowing them a greater opportunity to participate in the political process. CIR presents a means by which law-making power can be freed from the ‘capture’ of the entrenched political parties. It can enable reform that would operate to the detriment of the otherwise entrenched parties and groupings. This might include term limits, which would restrict the number of times persons can be elected to Parliament, or the introduction of proportional voting for elections for the lower house of the Commonwealth or State parliaments.

CIR provides a mechanism for citizens to initiate, by petition, a referendum to repeal an existing law or to enact a new law. Proponents of CIR recognise two essential characteristics of a ‘true’ CIR system: (1) the people have the power to initiate a referendum on a particular law; and (2) the result of the referendum is binding on Parliament (Walker 1993, 20). A CIR process that does not lead to a binding result arguably undermines the basic principles of direct democracy and the participatory ethic underlying CIR. There are numerous variations of CIR, with different jurisdictions tending to adopt slightly different means of classification (Walker 1987, 11–14; Kobach 1993, 42; Magleby 1984, 35–6; Butler and Ranney 1994, 219–22; Cotton and Bennett 1994, 5; Newton 1995, 1).

Three main types of CIR have been proposed in Australia:

1. *the direct initiative*, under which voters can put a proposal to referendum without any intervention by Parliament;
2. *the indirect initiative*, by which Parliament is given a specified time in which to enact the measure proposed by the citizen initiative before it is submitted to a referendum; and
3. *the voters’ veto*, also known as *the legislative referendum*, under which voters may petition for a referendum to repeal an existing law which has been passed by Parliament (Walker 1987, 11–14).

A fourth type of CIR, *the recall*, has been proposed less frequently. It would enable the community to petition to hold a referendum to remove a person elected to public office. The proposals for direct and indirect initiatives in Australia have been for both the initiation and amendment of legislation (*legislative initiative*) and for amendment of the Australian Constitution (*constitutional initiative*).

In Australia, CIR proposals have been introduced at the Commonwealth level and into every State and Territory Parliament except for the Northern Territory and Victoria. Most of these proposals were put forward in the 1910s and over the last 10 years. Until 1963, CIR formed part of the Australian Labor Party’s national policy platform, and in recent years has been supported by the Liberal Party in the Australian Capital Territory, Western Australia and Tasmania. CIR is also supported by the Australian Democrats, Pauline Hanson’s One Nation Party and numerous Independents. Two recent proposals for CIR are the *Community Referendum Bill* 1998 (ACT), which was introduced into the ACT Legislative Assembly

by the minority Liberal government on 28 May 1998 and is yet to be debated, and the *Citizens' Initiated Referendum (Constitution Amendment) Bill 1998 (Qld)*, which was defeated in the Queensland Legislative Assembly in November 1998.

Despite the number of CIR bills and the apparent popular support for direct democracy, CIR has never been enacted by an Australian Parliament. Indeed, CIR has only been introduced successfully at the level of local government, and currently exists in areas such as the North Sydney Council and the Burnie City Council. This article surveys the proposals for CIR in Australia at the Commonwealth, State and Territory, and local government levels, with the aim of identifying common themes and possible reasons for the continued failure of CIR bills. In light of the failure of the many CIR proposals in Australia, and given the genuine disenchantment experienced by many Australians, this article also proposes alternative ways of achieving more limited popular participation that would be compatible with the current system of representative government. The aim is not to canvass the strong arguments for and against CIR, which have been detailed elsewhere (Walker 1987, 29–98; Budge 1996, 1–34, 59–83; Magleby 1984, 3, 27–30, 196–9; Butler and Ranney 1994, 11–21; Cotton and Bennett 1994, 18–32; Constitutional Commission 1988, 867–72; Constitutional Commission 1987, 96–8; Gregorczuk 1998, 11–20), but to draw conclusions from the failure of the many CIR proposals in Australia and to suggest new directions for popular participation.

### **CIR in Other Nations**

Australian experiences with CIR must be seen in the context of the widespread use of CIR in other nations (see Budge 1996, 84–104). Indeed, the use of CIR in nations such as Switzerland, Italy and a number of States of the United States has provided much of the inspiration for CIR in Australia. Switzerland stands out as the pioneer of CIR. At the cantonal level, the constitutional initiative and voters' veto were first introduced in the 1830s and the legislative initiative in the 1860s. At the federal level, the constitutional initiative for total revision of the Constitution was introduced in 1848 and for amendments to the Constitution in 1891. However, there is still no provision for the legislative initiative at the federal level. This has caused some problems, as it encourages proponents of legislative reform to cast normal laws as constitutional amendments (see Kobach 1993, 29–30).

In the United States, CIR is widespread at the State level even though there is no provision for CIR at a federal level. The legislative initiative was introduced in South Dakota in 1898. Subsequently, 23 States and the District of Columbia have adopted either the legislative or constitutional initiative, or both. California is often cited as a leader in direct democracy. In that State, the enactment of the legislative initiative, constitutional initiative and voters' veto was approved by a margin of three to one voters in a special referendum in 1911. Subsequently, indirect initiative was deemed to be a failure and was removed from the California Constitution in 1966. Since the people of California passed Proposition 13 in 1978, which capped property taxes, the State has led the resurgence in the use of CIR. From 1978, the people of California have passed a range of measures that have significantly limited the ability of the California legislature to implement its policies, and have been described as being 'in nearly constant revolt against representative government' (Schrag 1998, 10). Such measures have included caps on State and local spending,

term limits for elected officials and the abolition of affirmative action as well as services (such as public schooling) to illegal immigrants.

More recently, the New Zealand Parliament adopted CIR legislation in the form of the *Citizens Initiated Referenda Act 1993* (NZ). The first referendum under the legislation was held in 1995, when New Zealanders were asked to vote on the number of full-time professional firefighters employed by the government. Two questions were also put in conjunction with the 1999 general election. The proposals to restrict Parliament to 99 members and to reform the criminal justice system were overwhelmingly passed.

### **CIR in Australia**

Australia has been recognised as a leading proponent of direct democracy since the turn of the century because of the provision for referenda in the Australian Constitution (Walker 1987, 19). Section 128 of the Australian Constitution, which was adapted from the Swiss Constitution, provides for amendment of the Constitution by a referendum initiated by the federal Parliament (Quick and Garran [1901] 1995, 986). A referendum is the only way that the text of the Constitution can be altered, as section 128 provides that 'This Constitution shall not be altered except' in the manner set out in that section. A referendum proposal under section 128 must be passed by an absolute majority of both houses of the Commonwealth Parliament, or by one house twice,<sup>2</sup> and then by a majority of the people and by a majority of the people in a majority of the States (that is, in at least four of the six States). Forty-six proposals have been put to the Australian people under section 128. Of these, only eight have been passed.<sup>3</sup> Since federation in 1901 Australia has held more national referenda than any other country except Switzerland (Kobach 1993, 1). Some State constitutions also provide for referenda in order to achieve constitutional reform. For example, section 7A of the *Constitution Act 1902* (NSW) requires a referendum to be passed in order to abolish the Legislative Council of the New South Wales Parliament. However, section 7A, like section 128 of the Australian Constitution, does not provide for the referendum to be brought on by popular initiative.

The concept of CIR has been advocated in Australia at the State and national level since before federation. From its earliest days in the 1890s, the Australian Labor Party adopted the principles of popular initiative and referendum as one of the primary objectives of the Party (Walker 1987, 20). At a national level, the Australian Labor Party adopted these principles as part of its platform in 1908 and also the notion of recall in 1912 (Crisp 1978, 207–213, 241, 261; Walker 1987, 20). CIR remained part of the Party's national platform until 1963, when the Labor Party Conference voted to remove it (ALP 1963, 91–2). CIR has consistently enjoyed the support of the Australian Democrats and, at times, support from members of the Liberal Party. Although the Liberal Party has not supported CIR as a party at the national level and has recently rejected it in Queensland, it has supported it in the ACT, Tasmania and Western Australia (Walker 1993, 21). Pauline Hanson's One Nation Party, Graeme Campbell's Australia First Party and a number of Independents have also advocated CIR. Given such wide and diverse

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<sup>2</sup> However, should a referendum proposal be passed twice by the Senate against the wishes of the government, it still need not be submitted to the people unless the governor-general is instructed by the prime minister to do so.

<sup>3</sup> For the results of each referendum up to 1998, see Blackshield and Williams (1998, 1183–8).

support over the course of this century, it is not surprising that numerous CIR bills have been introduced into Australian parliaments.<sup>4</sup>

### Australian Capital Territory

Several CIR proposals have been introduced into the ACT Legislative Assembly since it began sitting in 1989. Mr Dennis Stevenson of the Abolish Self-Government Coalition introduced a number of Private Members' Bills, namely the *Voice of the Electorate Bill* 1993 (ACT), *Voice of the Electorate Bill (no. 2)* 1993 (ACT), *Electors Initiative and Referendum Bill* 1994 (ACT) and *Electors Initiative and Referendum Bill (no. 2)* 1994 (ACT). Each of these bills was similar in providing for CIR in the form of direct legislative initiative.

On 24 August 1994, Ms Kate Carnell, then Leader of the Liberal Opposition and later Liberal Chief Minister, introduced the *Community Referendum Bill* 1994 (ACT), a proposal for CIR in the form of indirect legislative initiative. The essential elements of this bill were contained in the *Community Referendum Bill* 1998 (ACT), introduced into the Assembly in 1998.<sup>5</sup>

On 14 September 1994, both the *Electors Initiative and Referendum Bill (no. 2)* 1994 and the *Community Referendum Bill* 1994 were referred to a Select Committee on Community Initiated Referendums. The majority recommended that the Assembly proceed no further with the *Electors Initiative and Referendum Bill (no. 2)* 1994 and defer consideration of the *Community Referendum Bill* 1994 until the implications of the bill on ACT governance had been fully examined (LAACT 1994, 21). The Liberal member of the Committee submitted a strong dissenting Report in which he argued that the *Community Referendum Bill* 1994 should be passed without delay.

When the Report of the Select Committee was presented on 10 November 1994, there was a lengthy debate as to whether the Report should be noted. Both the *Electors Initiative and Referendum Bill (no. 2)* 1994 and the *Community Referendum Bill* 1994 lapsed in February 1995 when an election was held for the ACT Assembly. At this election, the Labor government was defeated and Ms Carnell became Chief Minister of a minority Liberal government. The introduction of CIR was part of the ACT Liberal Party's campaign policy. The Liberal government's response to the Select Committee's Report was presented on 23 November 1995. The government accepted the recommendation that the Assembly should not proceed with the *Electors Initiative and Referendum Bill (no. 2)* 1994. However, the government did not accept that consideration of the *Community Referendum Bill* 1994 be deferred and that a further Select Committee be established. Instead, the government reintroduced the bill on 23 November 1995, thereby becoming the first party in Australia to introduce a CIR bill both in Opposition and in government.<sup>6</sup>

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<sup>4</sup> For details of some of the more recent proposals, see the useful table in Reith (1994, 7–11) as adapted in Gregorczyk (1998, 35–6).

<sup>5</sup> The mechanics of the *Community Referendum Bill* are set out in detail in Williams and Chin (1998, 280–1).

<sup>6</sup> For instance, in the Tasmanian Parliament, the Liberal Party unanimously supported Mr Robson's CIR bill when it was in Opposition, but when it was elected to government, the Party decided not to reintroduce the bill: Interview, Mr Neil Robson, Hobart, 1 June 1998.

The *Community Referendum Bill* 1995 (ACT) had been updated to take account of comments made in the Select Committee's Report and the passage of the *Referendum (Machinery Provisions) Act* 1994 (ACT). The 1995 bill was the first CIR bill voted on in the Assembly. On 14 December 1995, the motion to accept the bill in principle was lost by 10 votes to 7, with only the seven members of the minority Liberal government supporting the bill. The Liberal government reintroduced the *Community Referendum Bill* 1996 (ACT) into the ACT Assembly on 27 June 1996. The 1996 bill was exactly the same as the 1995 bill. Debate on the motion to accept the bill in principle was adjourned until 4 December 1997, when the motion was again defeated. However, the debate on the motion showed that some members were more open-minded than in 1995 about the concept of CIR and were more willing to accept that it deserved further exploration (*ACT Hansard* 4 December 1997, 4640–2, 4646–8). For example, while the Greens again voted against the bill, they indicated that they were prepared to consider CIR as part of achieving more community participation in government decision-making.

After its re-election in February 1998, the Liberal government introduced the *Community Referendum Bill* 1998 (ACT) on 28 May 1998. This bill was again in the same form as the 1995 bill. The fate of the 1998 bill has not been decided and no date has been set for the debate of the bill in the Assembly. It is clear, however, that the bill will face strong opposition, with the 17-member chamber being led by a minority government of only six Liberals.

### *New South Wales*

However, this bill did not attract support and lapsed. On 8 September 1999, Revd Nile gave notice of his intention again to introduce such legislation, this time in the form of the *Constitution (CIR) Referendum Bill* 1999 (NSW) and the *Constitution (Citizen-initiated Referendums) Bill* 1999 (NSW). The only record of CIR bills being introduced into the New South Wales Parliament is by Revd Fred Nile of the Call to Australia group in the Legislative Council. In 1988, Revd Nile introduced the *Citizens' Initiative Referendum Bill* 1988 (NSW), which provided for a direct legislative initiative (*NSW Hansard* 1 June 1988, 924). The bill was restored to the notice paper in 1990 but was not proceeded with (Newton 1995, 5–6). On 26 September 1991, Revd Nile introduced the *Constitution (Citizen-Initiated Referendum) Bill* 1991 (NSW) which provided for a legislative initiative and possibly veto, and authorised local councils to conduct initiatives (Reith 1994, 10). However, this bill did not attract support and lapsed.

While there has not been significant support for CIR at the State level in New South Wales, the North Sydney Council has been a leader in direct democracy in local government. In 1983, 15 referendum questions were put to the residents of North Sydney including whether the Council should conduct referenda in conjunction with each local government election (approved by 70%), whether a fixed proportion of citizens should be entitled to initiate a referendum on any matter (approved by 55%) and whether recall of an Alderman could be initiated by a fixed proportion of citizens (rejected by 64%).<sup>7</sup> The voter turnout for referendum questions has been reasonably high with 63% of voters eligible to vote in North Sydney Council elections participating in referenda held in 1995.<sup>8</sup> Tighter gun control legislation gained a 93.1% vote in favour, while 27.4% voted for

<sup>7</sup> Interview, Mr Ted Mack, 22 May 1998.

<sup>8</sup> Interview, North Sydney Council, 21 July 1999.

the installation of Pay-TV cables above ground between electricity poles in the North Sydney Council area.

While the CIR mechanism is in place in North Sydney, it has not been necessary for residents to initiate referenda using a petition, in part because the Council has anticipated issues of concern to residents via a precinct system of community consultation (see below). The Council has also been willing to put contentious issues to referenda in conjunction with local government elections (North Sydney Council 1995). For example, in 1987, the Anti-nuclear Lobby Group approached the Council Mayor, Mr Ted Mack, for information regarding the CIR petition mechanism and Mr Mack agreed to put their question as to whether the North Sydney Municipality should be declared nuclear-free to a referendum at the next election without a petition.<sup>9</sup> In New South Wales, the concept of council polls and constitutional referenda is supported by the *Local Government Act* 1990 (NSW), which provides a mechanism for obtaining expressions of community opinion and requires a referendum for changing the election procedures for councillors and the mayor, and for altering the boundaries of wards.

### *Northern Territory*

In the Northern Territory, there has been no CIR bill introduced into the Legislative Assembly since self-government commenced in 1978. However, CIR has been a subject of debate in the wider context of considering matters connected with a new State Constitution and the Sessional Committee on Constitutional Development released a discussion paper on CIR in 1991 (SCCD 1991). The Committee stated in its Discussion Paper that it was not convinced that the advantages of CIR outweighed the disadvantages and considered it to be of greater importance to try and enhance the status of Parliament and the representative parliamentary process, with a view to achieving effective and responsible government. The Committee was not convinced that this objective was totally compatible with CIR, which can compel the holding of referenda (SCCD 1991, 22).

At the council level, the Litchfield Shire Council has introduced a scheme which allows local electors to raise issues for submission to a community vote, either with support of 250 electors at a public meeting or with the signatures of 750 electors on a petition (SCCD 1991, 16).

### *Queensland*

The Queensland Labor government introduced the *Popular Initiative and Referendum Bill* (Qld) into the Legislative Assembly four times between 1914 and 1919. The bill was promoted by the Labor government during the First World War as a proposal which would enable people to have a say about the question of restricted liquor trading hours. However, the bill was much broader in operation, and it seemed that the Labor government intended that it should be used to change the Constitution to abolish the Legislative Council (Newton 1995, 17). The bill included proposals to introduce indirect constitutional initiative, indirect legislative initiative and a voters' veto.

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<sup>9</sup> Interview, Mr Ted Mack, 22 May 1998.

On all four occasions, the *Popular Initiative and Referendum Bill* was passed by the Legislative Assembly with minimal amendment, but was significantly amended by the Legislative Council to such a degree that it was unacceptable to the lower house. In 1916, the Legislative Council restricted the bill to authorising a referendum on restricted liquor trading hours. The Assembly refused to accept the amendments and declared the bill 'lost' in accordance with the *Parliamentary Bills Referendum Act* 1908 (Qld), which allowed a bill to be the subject of a referendum if it was 'lost' twice (Newton 1995, 18). In 1917, the same bill was amended by the Legislative Council to include the recall of any Member of the Assembly, and imposing conditions on when it could come into effect. It was also argued that the bill was unconstitutional on the ground that it was an abdication of the power conferred on the Legislature by the Act under which it was operating (*Queensland Hansard* 18 July 1919, 231).<sup>10</sup> The bill was returned to the Assembly but it was never declared 'lost'. In 1918, the bill was passed by the Legislative Assembly without amendment, but was amended in the Council to include the recall and exclude the constitutional initiative, which was unacceptable to the Assembly. The bill was declared 'lost' but, although this was the second time it had been declared lost, it did not go to a referendum and was reintroduced in 1919. For the fourth time it was passed by the Assembly but significantly amended by the Council, and was eventually abandoned when Mr Edward Theodore took over as Labor Premier from T.J. Ryan (Gregorczyk 1998, 3).

More recently, CIR was raised as an issue in the 1998 Queensland State election, being promoted by Pauline Hanson's One Nation Party, Graeme Campbell's Australia First Party and Independent Mr Peter Wellington. Following the election on 13 June 1998, the minority Labor government relied on Mr Wellington's support to govern until 5 December 1998, when Labor won the Mulgrave by-election. One of the key issues raised by Mr Wellington in negotiations with the Labor Leader, Mr Peter Beattie, was increasing community participation in government through CIR and various other measures such as the Community Cabinet process (see below). Soon after the election, on 25 August 1998, Mr Wellington introduced the *Citizens' Initiated Referendum (Constitution Amendment) Bill* 1998 (Qld) as a Private Member's Bill. However, the second reading of the bill failed on 11 November 1998 by 11 votes to 64, when both the Labor minority government and the Coalition Opposition voted against the motion to read the bill a second time. The motion was supported by the two Independents and nine One Nation Party members (*Queensland Hansard* 11 November 1998, 3059).

### *South Australia*

In the South Australian Parliament, the first CIR bill was introduced before federation by Labor member Mr Batchelor who introduced the *Referendum Bill* 1895 (SA) as a Private Member's Bill in 1895. The bill provided for both the indirect initiative and voters' veto, as well as the ability of electors to approve or disapprove at a referendum any bill which had been twice rejected by the

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<sup>10</sup> This was based on the decision of the Privy Council in *In re The Initiative and Referendum Act* [1919] AC 935 which struck down legislation passed by the Manitoba Parliament in Canada. See Williams and Chin (1998, 283–8).

Legislative Council. The bill did not receive government support and lapsed at the end of the session (Newton 1995, 6–7). In 1916, the Minister for Industry, Nationalist Mr Blundell, introduced the *Initiative and Referendum Bill 1916 (SA)* which provided for the direct initiative and voters' veto. The bill lapsed at the end of the Parliament when it was only partly through its second reading. It was reintroduced in November 1917 by Labor member Mr Price, but was not debated before the end of the Parliament, and was never introduced again (Newton 1995, 9).

There have been no recent bills in South Australia, but from early 1992 the Parliament began to receive a number of petitions from residents calling for a referendum on whether CIR should be introduced (Newton 1995, 9–10, 29). The South Australian Legislative Assembly passed a motion requiring the Legislative Review Committee to consider the pros and cons of introducing CIR, but the Committee did not examine the issue in any detail (Newton 1995, 9–10, 29).

### *Tasmania*

Early in the 1990s, Tasmania appeared the State most likely to introduce CIR. In 1989, Mr Neil Robson of the Liberal Opposition introduced the *Referendums (Elector-Initiated Repeals) Bill 1989 (Tas)*, which provided for voters' veto of legislation other than Budget Bills or the Constitution. The same bill in the form of the *Referendums (Elector-Initiated Repeals) Bill 1990 (Tas)* was reintroduced in 1990. Mr Robson had the support of his colleagues in the Liberal Opposition, meaning that the bill needed only one more vote to pass through the lower house after which upper house approval would have followed as a matter of course (Walker 1993, 25). The Labor government was opposed to the bill but the Green Independents indicated that they would support the bill with a number of amendments. Mr Robson agreed to incorporate these changes and introduced a revised bill in the form of the *Citizen-Initiated Referendums (Elector-Initiated Repeals) Bill 1990 (Tas)*, which also enabled repeal of constitutional changes. Further amendments to the bill proposed by the Greens were incorporated into the *Citizen-Initiated Referendums (Elector-Initiated Repeals) Bill 1991 (Tas)*, which restricted the ability of citizens to publish or circulate arguments for or against the proposal once the date of the referendum was advertised. However, the Green Independents failed to support the bill when it was voted on in 1991 and the bill was defeated at the second reading stage (*Tasmania Hansard* 20 June 1991, 2025–42).

At the next election, shortly after Mr Robson's bill had been defeated by the lower house, the Liberal Party won majority government. Mr Robson had retired from Parliament but Mr Ron Cornish, who was appointed Attorney-General, pursued Mr Robson's CIR proposal. Mr Robson was invited back to help redraft the bill and remove some of the concessions made to the Green Independents. However, when the revised CIR proposal was put to the Liberal Party at a meeting in Port Arthur, only four members of the Liberal government supported the bill compared with the 17 members who had supported it in Opposition.<sup>11</sup>

Although CIR has not been implemented at a State level in Tasmania, CIR has been introduced by Burnie City Council. Based on the North Sydney Council

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<sup>11</sup> Interview, Mr Neil Robson, 1 June 1998.

model, the Council voted to adopt the concept of CIR in 1989. The Council put the proposal to introduce citizens and Council-initiated referenda to the members of the City of Burnie in 1990, when it was approved by 87.79% of the 35.63% eligible voters who voted in the voluntary Council elections and polls (BCC 1998). The first petition with the requisite number of signatures was presented to the Council in November 1990. It requested a referendum on whether Oakleigh Park should be preserved as a public park. The referendum was approved by 87.57% of voters. The experience of the Burnie City Council has been that CIR held in conjunction with Council elections has resulted in record voter participation, with 65.36% voting in the CIR held in conjunction with the September/October 1996 Council elections. The Council views the CIR process as a success in reducing the communication barrier between Council and its electors (BCC 1998).

### *Victoria*

It would appear that no CIR bills have been introduced into the Victorian Parliament. While Reith (1994) cites two draft bills in the Victorian jurisdiction, the *Citizen Initiated Referendums Bill* 1992 and the *Electors Initiative and Referendum Bill* 1994, the authors could find no record in *Hansard* of any CIR bills being introduced into the Victorian Parliament during this period.

The only mention of CIR appears to be in September 1994 by Dr Ken Coghill, Labor member for Werribee and former Speaker of the Legislative Assembly, when he suggested that one response to the 'democratic deficit' in Victoria may be to 'revisit' the issue of CIR (*Victorian Hansard* 7 September 1994, 113).

### *Western Australia*

At the 1911 election, which was won by Mr Scadden's Labor government, CIR was a major election issue. In 1913, the Labor Premier and Treasurer, Mr Scadden, introduced the *Initiative and Referendum Bill* 1913 (WA), which provided for a legislative and constitutional initiative and voters' veto. The bill was passed by the Legislative Assembly, but rejected by the Legislative Council. Mr Scadden reintroduced the bill at the next session but it was not proceeded with (Newton 1995, 10).

In 1988, the Western Australian Liberal Opposition became the first mainstream party for many years to introduce a CIR proposal. The *Referendums (Repeal of Acts and Regulations) Bill* 1988 (WA) provided for a restricted, but binding, form of voters' veto which would enable voters to petition for the repeal of any legislation for three years after its enactment (Walker 1993, 23).

### *CIR at a National Level*

At the national level, there has been a number of CIR proposals introduced into the Commonwealth Parliament by the Australian Democrats and Independents. CIR was part of national Labor policy until 1963 and has been supported by Commonwealth-level parliamentary members of the Liberal Party. CIR has also been considered at a Commonwealth level by the Constitutional Commission.

There was early support for CIR federally with the following motion, put by Labor member Dr Maloney, being passed in the House of Representatives in 1920:

in the opinion of this House, the referendum and initiative should be embedded into the Commonwealth Constitution, and that such question should be placed before the electors at the earliest opportunity for acceptance or rejection. (*House of Representatives Hansard* 25 March 1920, 846)

However, there was no further action by the government and when Dr Maloney proposed an urgency motion on the failure of the government to bring a bill to enact the referendum and initiative, the motion was lost (Newton 1995, 11).

During the 1980s, the Australian Democrats introduced several CIR bills into the Commonwealth Parliament providing for both the constitutional and legislative initiative. In 1980, Senator Colin Mason introduced the *Constitutional Alteration (Electors' Initiative) Bill* 1980 (Cth), which proposed a new Chapter in the Constitution to provide:

The electors in the States and the Territories qualified to vote for the election of members of the House of Representatives shall, subject to this Constitution, have power to make laws in accordance with this Chapter of the Constitution for the peace, order and good government of the Commonwealth, including laws with respect to any matter with respect to which the Parliament has power to make laws and laws altering this Constitution.

For constitutional initiatives, the bill required approval by a majority of the people and by a majority of people voting in each State (a double majority). This bill lapsed, but the *Constitutional Alteration (Electors' Initiative) Bill* was reintroduced in 1982 with an amendment providing that a double majority would not be required where a two-thirds majority was achieved nationally. The bill again lapsed but was restored to the Notice Paper in 1983 and the motion to read the bill a second time was lost by 48 votes to 5 (Australian Democrats) on 13 October 1983. In 1987, Senator Michael Macklin introduced the *Constitutional Alteration (Electors' Initiative) Bill* 1987 (Cth), which was similar to Senator Mason's earlier bill. This bill was debated extensively in 1988, but was defeated by 55 votes to 6 (the minority comprising the Australian Democrats and Senator Valentine). Senator Macklin reintroduced the bill in 1989, but debate was adjourned after the second reading speech and was never resumed.

In 1989, Senator Macklin also introduced the *Legislative Initiative Bill* 1989 (Cth), which provided for an indirect legislative initiative which would not be binding on the Parliament. Like the *Constitutional Alteration (Electors' Initiative) Bill* 1989, this bill was never debated in the Parliament with debate never resuming after the second reading speech (Newton 1995, 15).

In 1990, Mr Ted Mack, an Independent member of the House of Representatives and formerly a proponent of CIR on the North Sydney Council, introduced the *Constitutional Alteration (Alterations of the Constitution on the Initiative of the Electors) Bill* 1990 (Cth), which provided for a direct constitutional initiative by enabling citizens to petition for a referendum on legislation that they had drafted, or on a statement that an alteration to the Constitution needed to be made in a given area. The bill was reintroduced as a new bill in 1993 but was taken off the Notice Paper in 1994 and has not been introduced again. Mr Mack also introduced the *Constitution Alteration (Making of Laws on the Initiative of the Electors) Bill* 1990 (Cth), which provided for a direct legislative initiative. This bill was removed from the Notice Paper in 1991 and was not reintroduced.

More recently, Mr Peter Reith, currently Minister for Employment, Workplace Relations and Small Business in the national Coalition government, advocated the introduction of CIR when he was Shadow Attorney-General and issued a paper entitled *Direct Democracy: the Way Ahead* in August 1994. However, the active support for CIR by Mr Reith provoked strong statements against CIR by his colleagues in both the National and Liberal Party, indicating that CIR was clearly not part of the national Coalition agenda (Cotton and Bennett 1994, 32–5).

In 1987, the introduction of CIR in the form of the constitutional initiative for changes to the Australian Constitution was recommended in a report to the Constitutional Commission by its Advisory Committee on Individual and Democratic Rights (Constitutional Commission 1987). After considering the issue, a majority of the Constitutional Commission decided to recommend against the alteration of section 128 of the Constitution to provide for constitutional initiative (Constitutional Commission 1988, 864). The Commission unanimously agreed with its Advisory Committee that the Constitution should not be altered to provide for legislative initiative.

### **Themes Arising from the Failure of CIR Proposals in Australia**

CIR bills have been introduced into the Commonwealth Parliament and every Australian State and Territory Parliament with the exception of the Northern Territory and Victoria. The history of CIR in Australia shows that there has been a revival of interest in CIR over the last decade. However, the only CIR processes currently in operation in Australia exist at the level of local government. This raises the question of why, given so many CIR proposals and the apparent community support for CIR, no CIR bill has been successful.

There are no easy answers to this question. The evidence over more than a century does not resolve into any identifiable pattern. Rather, despite the high number and long history of CIR proposals in Australia, the evidence reveals a lack of clear and consistent support for CIR from any major political party. This is not surprising given that CIR has the potential to undermine the position of such organisations.

#### *Political Support for CIR*

The failure of the many CIR proposals is related to who has introduced the legislation to implement CIR. While CIR has been widely supported by Australia's majority and minority parties, there has been no time when it has been supported by both sides of politics. The earlier proposals for CIR tended to be introduced by Labor governments, for instance in Queensland and Western Australia in the 1910s, where legislation was passed by the lower house but blocked by the upper house. This was at a time when CIR was part of national Labor policy but was opposed by the conservative parties. The concept of CIR was removed from the Labor Party platform in 1963. The main reason given was that Australians could not be expected to understand CIR legislation and therefore might, for this and other reasons, vote against it (ALP 1963). Walker (1987, 21) suggests that the Labor Party lost interest in CIR because of an increasing unwillingness of politicians to share power with the people, in conjunction with the habits of stifling dissent

acquired during the two World Wars. It is interesting to note that the Queensland Labor Party did not take the opportunity presented to them in 1919 to send the CIR legislation to a referendum under the *Parliamentary Bills Referendum Act* 1908, which allowed a bill to be the subject of a referendum if it was 'lost' twice. This failure to proceed with the bill has been attributed to the change in Labor Premiers, since the incoming Premier Theodore did not share the beliefs of his predecessor that the people should have the power to initiate laws (Walker 1987, 20).

More recently, CIR legislation has been introduced into the Western Australian, Tasmanian and Australian Capital Territory Parliaments by Liberal Party Oppositions in 1988, 1989 and 1994, respectively. On obtaining majority government, the Tasmanian Liberals abandoned their CIR legislation while the ACT Liberal minority government continued to pursue CIR. Legislation to implement CIR has also been introduced by Independent Peter Wellington in Queensland in 1998, Fred Nile of the Call to Australia Group in New South Wales in 1991, Independent Ted Mack in the federal House of Representatives in 1990, and the Australian Democrats in the Senate on seven occasions between 1980 and 1989. The concept of CIR has been supported in the Queensland Parliament by Independent Liz Cunningham and Pauline Hanson's One Nation Party, and formed part of Graeme Campbell's Australia First Party policy in the Queensland State election. However, Independents and minority parties have not always supported CIR. In the ACT Assembly, the Liberal Party's CIR bill has been opposed by the ACT Greens, and Independent members Mr Michael Moore and Mr Paul Osborne. The Independent Greens also opposed the CIR bill in Tasmania in 1991.

A common theme amongst recent proponents of CIR is that they are very unlikely to gain majority government under their respective electoral system. For such groups, CIR offers a means of bypassing a potentially uncooperative or difficult Parliament. Such groups include the minority Liberal government in the ACT, which is unlikely to gain a majority of seats under the system of proportional voting operating in that territory. Similarly, CIR has been supported by the One Nation Party in Queensland, the Australian Democrats in the Senate, and Independent members. By contrast, the Queensland Coalition (*Queensland Hansard* 11 November 1998, 3054), which is likely to regain majority government as some point, and the Tasmanian Liberals, at least once they gained majority government, rejected CIR. This might also partially explain why the Labor Party has not supported CIR legislation since 1963. However, it does not explain why Independents and Greens in the ACT and Tasmanian Parliaments have rejected CIR, except perhaps that CIR might undermine their position of holding the balance of power by establishing a competing source of law-making.

### *Why CIR Bills are Failing to be Enacted*

Several reasons can be suggested for the failure of the many CIR proposals in Australia. First, in some cases the aim of enacting a CIR bill has not been supported by a strong political commitment to the idea. It may be that several of the proposals have not been backed by a real intent to introduce CIR. Rather, the proposal has been put forward in Opposition or as an election promise. For example, this might explain why the Tasmanian Liberals supported CIR when they were in Opposition, but rejected it after obtaining majority government.

Second, there is no common agreement on the appropriate form for CIR in

Australia. Many different proposals for CIR have been put forward, including direct and indirect constitutional and legislative initiatives, voters' veto and the recall. There has accordingly been a lack of agreement on the appropriate form of what would be a very significant change to the structure of Australian democracy. For instance, in Tasmania, the Greens were rumoured to support citizens' initiatives but not the voters' veto that was being proposed by Mr Robson and the Liberal Party in the early 1990s. Similarly, in Queensland in the 1910s, the Assembly would not agree to the amendments proposed by the Legislative Council to incorporate the concept of recall into the *Popular Initiative and Referendum Bill*.

Third, the failure of CIR bills may also be explained by the circumstances that have led to their introduction in the first place. Disillusionment and apathy among the Australian community about their political system may have meant that there has not been the popular support necessary to underpin such a significant change as CIR. There are a variety of factors which demonstrate popular disillusionment with the Australian political system over the last decade. One opinion poll has suggested that 49% of respondents had 'not much' confidence in the political system compared to only 36% who had a 'fair amount' or 'great deal' of confidence (*Sydney Morning Herald* 8 July 1991). There has also been a decline in membership of mainstream political parties and interest groups such as trade unions, a growth in single issue politics and a loss of public confidence in the ability of government to deliver on the electorate's expectations (Cotton and Bennett 1994, 14). In such a climate, even CIR may have failed to gain the popular support necessary to translate into political will in Parliament. In the absence of a popular cry for CIR, it would seem unlikely that a governing party would unilaterally seek to introduce such a measure.

Fourth, as a matter of policy, CIR may not be the most appropriate means of pursuing the objective of addressing voter alienation. This might be better achieved by seeking to enhance the status of Parliament and the representative parliamentary process, with a view to achieving effective and responsible government. CIR tends to undermine the Westminster system of government (as applied in Australia under a written Constitution), and, in particular, the principles of responsible government and representative democracy.<sup>12</sup> This appears to be the basis upon which the *Citizens' Initiated Referendum (Constitution Amendment) Bill* was rejected by the Queensland Parliament. In the words of the Shadow Attorney-General, Mr Lawrence Springborg:

We are, of course, vitally concerned that a move towards citizens' initiated referenda—albeit as noble as it may sound on the surface—does remove and attack the foundations of representative democracy as we know it. (*Queensland Hansard* 11 November 1998, 3054)

CIR has the potential to reduce the accountability of elected representatives by allowing them to abdicate leadership to the CIR process. One of the underlying principles of the Westminster system is that governments are responsible for developing policies and are held accountable in the Parliament and to the people at election time for their performance in implementing these policies. However, governments can escape accountability if they are able to abdicate responsibility for

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<sup>12</sup> This argument has been put by the Constitutional Commission (1988, 868) and Puplick (1996, 37).

these policies during their term of government. It would be politically difficult to hold governments accountable for policies initiated by members of the community and endorsed by the people at a referendum under a CIR process. This would be particularly evident where the effect of a successful CIR is to reject or overturn government policy. CIR would weaken the authority of Parliament, and thereby the doctrine of responsible government, by creating a competing centre of political legitimacy within the community (Cotton and Bennett 1994, 20). As outlined in Williams and Chin (1998, 290), recent attempts to introduce CIR in the ACT demonstrate an unresolved ambivalence between adherence to the current system of Westminster government and emerging doctrines of direct democracy.

The proponents of CIR frequently misconstrue the relationship between CIR and these principles in arguing that CIR increases the participation of the electors in democracy and thus improves the functioning of representative democracy by making governments more responsive and accountable to voters (Evans 1992, 55; Puplick 1996, 37). Instead, as has been argued elsewhere (Williams 2000), the CIR proposals put forward in Australia should be seen as offering a competing, rather than complementary, system to that of representative government. The Australian system of representative government, where legislative power is solely conferred upon Parliament, is inconsistent with the notion that binding law-making power should also be available under a CIR process. This has been brought out by Barber (1984, 1998), a proponent of greater direct participation in government in the United States. He has argued that representative institutions akin to those in Australia have 'distanced the citizenry from the government to which representation is meant to tie it' (Barber 1998, 97), and that:

The trouble with representative institutions is that they often turn the act of sovereign authorization into an act of civic deauthorization. They did not authorize but transfer authority, depriving the authorizing people of its own generic sovereignty and thus of its right to rule. (Barber 1998, 98; see also 119–20).

On the other hand, a weaker form of representative government that does not demand a parliamentary monopoly on legislative power might be more compatible with CIR. Budge (1996, 36) has seen a role for parliaments even where popular voting determines the most important decisions in a society. For example, parliaments could be retained 'as a committee to debate and set the wording of the policy alternatives to be voted on by citizens'. However, while in this hypothetical scenario the distinction between representative government and CIR could become 'blurred' (Budge 1996, 56), this is not the case for Australia. Australian CIR proposals have occurred within the context of an already strong form of parliamentary government, and it is clear that, even if CIR might be compatible with some weaker forms of representative government (see Budge 1996, 43–5), it is incompatible with the strong form entrenched by Australia's existing constitutional arrangements.

### **Alternative Approaches to CIR**

Widespread disillusionment with the Australian political system and the recent revival of interest in CIR indicates that there is a genuine need to increase community participation in the political process. While CIR appears to offer this, it would also threaten to undermine the system of representative government

currently operating in Australia. Given the failure of the many CIR proposals, proponents of change might explore other means of improving, rather than circumventing, the system of representative government. There are many ways that increased community participation in democratic processes can be achieved, including the introduction of the Community Cabinet process, such as in Queensland, community advisory committees or precincts, such as at the local government level in New South Wales, and reforms to the operation of Parliament.

### *Community Cabinet Process*

The Queensland government has initiated a Community Cabinet process, which aims to give the people of Queensland greater access to government and to their elected representatives. This initiative was part of the agreement between the Labor Party (after the 13 June 1998 State election) and Independent Mr Peter Wellington, which enabled the Labor Party to form a minority government. The agreement reflected Mr Wellington's strong commitment to restoring the community's confidence in Parliament and government. While the Queensland Labor government was not prepared to support Mr Wellington's CIR bill, it agreed to hold 15 Community Cabinet meetings each year throughout the State in order to make government more accessible and open to influence by the people of that State.

The aim of the Community Cabinet process is to hold Community Cabinet meetings in different locations across the State. All Queensland Ministers and the Directors-General of their Departments travel to an area to meet with the local community over two days. The meeting is advertised widely, and all members of the general community are invited to meet the Cabinet. There are various ways that the community can interact with the Cabinet, either formally or informally. On the first afternoon, there is an informal afternoon tea during which the community is invited to mix with the ministry. The Premier then makes a few introductory remarks and takes questions from members of the community on any matter. After these questions, the community can meet particular Ministers and make direct representations. Later in the day, the Ministers also receive formal delegations who have responded to the advertisements and arranged a meeting with a particular Minister to discuss an issue. On the second day, there is more time allocated for formal delegations, a morning tea with the local council, and then a three hour open Cabinet meeting is held. This is followed by a Cabinet lunch which again gives the community the opportunity to interact with the ministry, and finally in the afternoon there is more time for formal delegations. In the first six months in office the Queensland government held seven Community Cabinet meetings in locations as widespread as Edmonton, Nambour, Ipswich, Bundaberg, Mount Isa, Springwood and Mackay. These locations include seats held by the Opposition parties and Independents.

The Premier of Queensland, Mr Peter Beattie, made clear in Parliament on 11 November 1998 that the Community Cabinet process was adopted in direct response to pressure for CIR. The Premier continued:

We have had an incredible response to these Community Cabinet meetings. We find that there is a hunger in the community—a hunger to really be consulted about how the Government should be run. (*Queensland Hansard* 11 November 1998, 3052)

The meetings have involved 400–600 members of the community on each occasion, as well as the local council. There have also been requests from all over Queensland for Community Cabinet meetings to be held in particular communities.

The Community Cabinet process is a more sophisticated version of the trend by other State and Territory governments to hold Cabinet meetings in different locations. For example, the Northern Territory Legislative Assembly has held Cabinet meetings in remote locations around the territory since self-government commenced in 1978.<sup>13</sup> The Cabinet meetings themselves are not open, but the Cabinet has attended functions at which it has met with members of the local community.

### *Community Advisory Committees or Precinct Committees*

Parliaments could also seek to give the community more input on decision-making and policy debate through a system of community advisory committees. One successful model of community advisory committees is the Precinct System established by the North Sydney Local Council, which has advocated public participation and open and responsive government at the local government level.

As a result of various initiatives such as the Precinct System, the introduction of CIR and a range of other policies providing for open and responsive government, the Council claims an unprecedented level of satisfaction on the part of its residents (North Sydney Council 1995, 20). In a recent Heritage and Cultural Resources Study by the North Sydney Council, civic tradition was recognised as one of the eight cultural themes underpinning life in North Sydney. This civic tradition included references to community participation in open Council meetings and the Precinct System (North Sydney Council, 1998). This indicated how the residents of North Sydney have appreciated the opportunities for greater community involvement and participation in local government.

The North Sydney Council Precinct System involves 25 local precinct groups comprising 500–1,500 households each. The objective of the Precinct System is to encourage the involvement of all residents, property owners, workers and students in the making and influencing of Council decisions. Each precinct meets monthly and the minutes of the meeting outlining all discussion and resolutions of each precinct are forwarded to Council and included in all processes of decision-making. The precincts provide a point of access to the Council in conducting public consultation. The Council refers all development and building applications, development control plans, traffic changes, Council budget estimates, general policy issues and local services to the precincts for comment. The Precinct System also provides a formal mechanism for residents to raise issues which require action by Council (North Sydney Council 1995, 13).

The Precinct System has been adopted by other local councils such as the Waverley and Hawkesbury Councils in New South Wales, and has generated a high level of interest from individual Councils in most Australian States, and from overseas. However, some local councils have rejected the Precinct System. For example, the Woollahra City Council in New South Wales considered the precinct system during the Council term of 1992–95 and rejected its introduction.<sup>14</sup> The

<sup>13</sup> Interview, Mr Roger Steele, 4 December 1998.

<sup>14</sup> Interview, Councillor Julian Leeser 14 December 1998.

reasons for rejecting its introduction included the cost of running the Precinct System (the North Sydney Council has two full-time staff administering the system), and the potential for the precinct meetings to be dominated by particular interest groups. Further, the Precinct System was seen to be narrowly focused on development, and therefore likely to be unsuccessful if there is not enough development in the area of the precinct. Finally, it was believed that the function served by the precinct meetings was sufficiently performed by other bodies such as Residents Action Groups.

The Precinct System might be adapted in a format suitable to State, Territory and the Commonwealth government to provide more opportunities for the general public to be involved in the decision-making and policy formulation processes. It could be based on a regional division, or on specific issues such as constitutional reform, health, education, and indigenous rights.

### *Parliamentary Committees*

The system of parliamentary committees in the Commonwealth Parliament could be used more effectively to provide greater opportunities for wider consultation with the community. For instance, parliamentary committees could hold more public hearings outside Canberra, in a similar fashion to the Community Cabinet process in Queensland. This would have been beneficial in the case of controversial policy issues such as the overturning of the Northern Territory euthanasia legislation, the *Rights of the Terminally Ill Act* 1995 (NT). While the Senate Committee considering the *Euthanasia Laws Act* 1997 (Cth), the Commonwealth legislation that overturned the *Rights of the Terminally Ill Act*, received 12,577 submissions from around Australia, it only convened public hearings in Darwin, on 24 January 1997, and in Canberra, on 13 and 14 February 1997.

On the other hand, the Republic Advisory Committee, established by Prime Minister Paul Keating in 1993 to report on the minimum constitutional changes required to bring about an Australian republic, did engage in a sustained process of public consultation. Over four months, the Committee received over 400 written submissions and members of the Committee held public meetings in all eight capital cities as well as 13 regional centres (Republic Advisory Committee 1993, 16).

Similarly, in discussing the 'democratic deficit' in Victoria, Dr Ken Coghill, then member of the Labor Opposition in Victoria and former Speaker of the Assembly, proposed that the Victorian government should follow the lead of Western Australia, which had set up a constitutional committee to tour the State, conduct public hearings, receive public submissions and look at the relevant constitutional issues as they affect that State (*Victoria Hansard* 7 September 1994, 109–14).

In considering CIR, the Northern Territory Sessional Committee on Constitutional Development also suggested the establishment of a parliamentary committee to which citizens' petitions and proposals from Parliament could be referred. Their suggestion was that the Committee could take the form of a standing expert committee, a standing parliamentary committee, or an ad hoc committee appointed by the Parliament from time to time. The role of the Committee would be to consider and invite public comments on proposals before reporting back to the Parliament with any recommendations (SCCD 1991, 19–20).

### *Petitions*

The tabling of petitions in Parliament is a traditional means in the Westminster system by which the community can represent its view to Parliament. However, Standing Orders relating to petitions have weakened their force. For instance, in the Australian Capital Territory, Standing Order 100 states that the Minister 'may' respond to a petition by lodging a response with the Clerk for presentation to the Assembly. In a submission to the Select Committee on Community Initiated Referendums, Ms Roberta McRae, Labor MLA and then Speaker of the ACT Legislative Assembly, recommended that Standing Order 100 should be amended to read that the Minister 'shall' respond to a petition (McRae 1994). The Select Committee made a recommendation that this amendment to Standing Order 100 be considered. However, in responding to the Select Committee Report, the Liberal government regarded this recommendation as a 'red herring predicated on the assumption that minor tinkering with the Assembly's processes will be a substitute for direct democracy' (*ACT Hansard* 23 November 1995, 2316). The Liberal government has been accused by the Opposition of failing to formally respond to more than a few petitions in the Assembly (*ACT Hansard* 4 December 1997, 4646). At the end of 1998, Standing Order 100 continued to provide that the Minister 'may' respond to a petition.

As outlined above, petitions could also be dealt with by a parliamentary committee, which could invite public comment on the matter raised by the petition and make recommendations to Parliament.

### *Improvements to Legislative Procedures*

Parliaments could also implement changes to the way governments and houses of parliament operate. This might improve negative public perceptions about politicians and reduce feeling in the community that the issues of most concern to them are not being addressed. In the ACT, the Greens have argued that this could include changes to Assembly procedures to provide for more involvement by non-executive members in government decision-making and more effective implementation of extensive community consultation processes (*ACT Hansard* 4 December 1997, 4648). The Greens in the ACT have also proposed improving 'access to information' legislation, opening up of board meetings, community 'right to know' legislation, and a commitment to community education throughout the ACT (*ACT Hansard* 14 December 1995, 3089).

### **Conclusion: Viable Alternatives to CIR?**

Given the failure of parliaments to enact CIR legislation to address voter alienation, CIR proponents might be more effective in focusing upon the alternatives to CIR set out above, which do not threaten responsible government and representative democracy. However, it must be recognised that these alternatives are a weak response to CIR, and involve increasing the opportunity for popular participation in a parliamentary democracy rather than moving to a system based upon direct democracy.

Participatory democracy is both weaker and broader than CIR, and even if CIR

were introduced, it would be necessary to review other ways to encourage participation to ensure that CIR was not the only way in which citizens could be heard. This would be particularly necessary in the case of minority interests disadvantaged by a majority vote under a CIR process. The alternative approaches such as the Community Cabinet process, Community Advisory Committees or Precincts, and improvements to legislative procedures and the fate of petitions are preferable to CIR because they do not threaten the fundamental principles of Australia's system of representative government by introducing a competing source of political legitimacy. These measures are also preferable because they involve Parliament working with the people to achieve greater public participation and do not pose the same threat of majority domination of the minority.

Proponents of CIR could criticise the Community Cabinet process because it offers an alternative that is more suitable to parliamentarians in that it provides only symbolic participation in the political process. The meetings held with the public do not result in binding proposals and therefore may not provide any real or direct control. A cynical approach to the process might thus view it as nothing more than 'window dressing' for the existing system of representative government. However, the process does offer substantial benefits in allowing community participation and in the reduction of voter alienation. Such a process might be seen as a necessary step in achieving any larger scale community participation, such as the idea put by Barber (1984) for the United States for a nationwide system of neighbourhood assemblies composed of 5,000 citizens that would meet weekly to discuss and vote on issues of local, regional and national concern. It would also be politically disadvantageous for Cabinet members to attend Community Cabinet meetings, but not respond to the specific issues there raised. This might create greater disillusionment than if the Community Cabinet meeting had not been held.

The Community Cabinet process could also be criticised on the basis that it is limited to a certain number of localities and thus that numerous other communities are not given an opportunity to interact with the Cabinet. This is a valid concern that is only partially met by the Queensland Premier's response that the meetings are rotated fairly and are not just the government's electorates, so that over the next 15 years, the government will visit every electorate (*Queensland Hansard* 11 November 1998, 3053). The Coalition Opposition in Queensland has also argued that the costs of the Community Cabinet process are extreme because of the administration and regular travel of all Cabinet members and their Directors-General around Queensland. However, any attempt to increase community participation, including via CIR, is likely to incur significant cost. A more cost-effective measure may be to improve and open up legislative processes.

The alternative processes examined above have the potential to reduce the alienation of the Australian people towards their governments. At the very least, they offer a viable beginning. The Community Cabinet process, which has been introduced successfully in Queensland, is a working model that could be adopted by other jurisdictions. Similarly, the Precinct System has been shown to be successful at the local government level and, with modifications, could be introduced as a community advisory process at a State or Commonwealth level. It would also be possible to implement changes to legislative procedures to increase public participation in the legislative processes through amendments to Standing Orders. The advantages of these measures is that they do not threaten representative democracy, but will in fact strengthen the ability of political representatives to

represent electors. While they do not amount to CIR, these measures also do not threaten the strengths of the current Westminster system of government, and are a more viable and politically pragmatic means of increasing the involvement of the community in the political process.

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