

Petitioning the House

- 2.1 Petitioning the House is the only direct means of communication between the people and the Parliament. It has been said that the right of petition is one of the three fundamental and integral rights of democratic citizenship—the others being the right of public meeting and the right of free speech.¹

Historical development

- 2.2 In the United Kingdom the right of petitioning the Crown and Parliament for redress of grievances dates back to the reign of King Edward I in the 13th century. The origins of Parliament itself can be traced back to those meetings of the King's Council which considered petitions. The terms 'bill' and 'petition' originally had the same meaning. Some of the earliest legislation was, in form, no more than a petition which had been agreed to by the King. The present form of petitions developed in the late 17th century. The House of Commons passed the following resolutions in 1669:

That it is an inherent right of every Commoner of England to prepare and present petitions to the House in case of grievance; and of the House of Commons to receive them.

That it is the undoubted right and privilege of the House of Commons to adjudge and determine, touching the nature and matter of such Petitions, how far they are fit and unfit to be received.

- 2.3 The effect of these resolutions was inherited by the Australian Parliament and the right of petitioning thus became the right of every Australian. It

¹ Senate Debates, 8 September 1910, p. 2793, referred to in Dr A Brien, Charles Sturt University, *submission*.

allows any individual or group of individuals to place grievances directly before the Parliament.

2.4 The volume of petitions received by the House has varied considerably over the years as illustrated by the following table.

Table 1 Petitions presented in the House of Representatives 1901 – 1999

Year(s)	No. of petitions	Year	No. of petitions
1901–10	818	1982	2094
1911–20	49	1983	1885
1921–30	19	1984	2315
1931–40	26	1985	2955
1941–50	109	1986	5528
1951–60	227	1987	3622
1961–70	1188	1988	1289
1971	723	1989	1690
1972	1130	1990	564
1973	1677	1991	824
1974	883	1992	843
1975	2043	1993	547
1976	1987	1994	540
1977	1420	1995	431
1978	1340	1996	430
1979	2366	1997	633
1980	1923	1998	336
1981	2900	1999 (to 30 Sep)	186

Source Chamber Research Office, Department of the House of Representatives

What is a petition?

2.5 A petition is essentially a request for action. Any citizen or resident, or group of citizens or residents, may petition the House of Representatives to take action. For example, petitions may ask the House to introduce legislation, or to repeal or change existing legislation, or to take action for a certain purpose or for the benefit of particular persons. Less commonly a petition from an individual citizen may seek the redress of a personal grievance, for example, the correction of an administrative error. The subject of a petition must be a matter on which the House has the power to act, that is, it must be a Federal rather than a State matter and one involving legislation or government administration.

- 2.6 Petitions, once presented, constitute a proceeding in Parliament and attract absolute privilege. For example, a person could not be sued for a libel alleged to be contained in a petition presented by them to the House. Petitions are, however, expected to conform to the same standards of decorum and self restraint which apply to Members in debate.
- 2.7 In looking at the petitioning process the committee had two objectives. It aimed to make it easier for people to get their message into the House and to improve the impact of petitions once received by the House. It considered three angles of approach to achieving these ends:
- modifying the rules governing form and content to make it easier for people to comply;
 - changing the way petitions are presented to the House to make more impact; and
 - improving follow up mechanisms for petitions.

Rules governing form and content

- 2.8 The standing orders of the House set out a number of rules governing the format and presentation of petitions. The standing orders do not impose any particular style of expression but certain other requirements must be met. Under the current standing orders these requirements cover form, language, content and signatures.

Form

- 2.9 The text of petitions must be clearly written, typed, printed or reproduced by mechanical process, such as photocopying. They should not have any additions or alterations and they should be on paper.

A petition must:

- be addressed to the Speaker and Members of the House of Representatives assembled in Parliament;
- state the facts which the petitioners wish to bring to the notice of the House; and
- conclude with a request (traditionally called a ‘prayer’) that the House take, or not take, some course of action. Petitions stating that the petitioners ‘ask’, ‘request’, or ‘respectfully urge’, that certain action be taken, or not taken, by the House are acceptable. It is not necessary to use the traditional form of words ‘humbly pray’.

No letters, affidavits or other documents may be attached to a petition.

Any petition not in English must be accompanied by a translation certified to be correct, with the name and address of the certifying person shown on the translation.

Petitions must be free of any indication that they may have been sponsored or distributed by a Member of the House.

Language and content

- 2.10 No reference may be made in a petition to any debate in Parliament; however, petitions relating to matters currently on the Notice Paper, bills before the Senate and the repeal or amendment of Acts are generally acceptable.
- 2.11 The standing orders require petitions to be respectful and temperate in their language. In keeping with the practice of the House, petitions must not be critical of the Queen, members of the Royal Family, the Governor-General, members of the judiciary, or Members and Senators. Petitions must not contain irrelevant statements.

Signatures

- 2.12 A petition must have the signatures and addresses written on the same page as the petition or on sheets containing the 'prayer' of the petition. Signatures which appear on an otherwise blank page or on the reverse side of a valid page are not recognised. Signatures must not be pasted on or transferred, for example, by photocopying.
- 2.13 A petition must contain the signature and address of at least one person on the sheet on which it is written. A petition must be signed by the people whose names and addresses appear, in their own handwriting. A person who is unable to write must put his or her mark in the presence of a witness, who must sign as the witness.

What are the rules designed to achieve?

- 2.14 The rules relating to petitions have sometimes been said to be unduly restrictive or to impose overly complex requirements on people trying to draw up petitions for presentation to the House.
- 2.15 The committee sought to identify the main purpose of each of the rules before considering what modifications might be necessary. The rules are

contained in standing orders 112 to 132. In general terms, the principle objectives of the rules are to:

- set out the purpose of petitions, that is, to seek action by the House (115, 116);
- ensure that the signatories genuinely signed the petition in the form in which it is presented to the House (115, 117, 118, 119, 120, 121, 122, 123);
- protect the dignity of the House including ensuring that—
 - Members are able to read the petition (115, 117);
 - the petition complies with the standing orders applying to debate eg respectful language, no reference to debates etc (113, 124, 125, 127);
 - the independence of the House is maintained in that only Members can initiate business (126, 127, 129); and
 - Members, who have access to other mechanisms, do not use a process designed for citizens (115, 126);
- prescribe actions which may be taken by the House in relation to petitions (130, 131, 132);
- enforce the application of the rules (113, 128); and
- put in place administrative and procedural processes to handle petitions.

Are the rules too restrictive?

- 2.16 It could be argued that the formal nature of the rules described above could deter people from presenting their grievances to the House.
- 2.17 Petitions that do not comply with the standing orders are ‘out of order’ and cannot be presented as petitions. No records are kept of the number of out of order petitions received but all Members have had the experience of having to tell a local organisation that a petition it has spent considerable time and effort preparing does not meet the requirements for presentation to the House.
- 2.18 In recent years some of the petitions which have not met the requirements have been presented to the House as tabled papers by the Leader of the House. In this form they are not considered as petitions—their terms are not printed in Hansard and they are not referred to Ministers.

- 2.19 While this can be a way of ensuring that the efforts of local groups are not entirely wasted simply because they were not aware of the details of the requirements for petitions, it is not a satisfactory outcome for the petitioners. The petitions are not accorded the same status as compliant ones and their presentation rests with the personal decision of a single Member (the Leader of the House) rather than an automatic process under the authority of the House itself.
- 2.20 The continuing demand for 'out of order' petitions to be presented as tabled papers would seem to indicate that the requirements for petitions may be overly prescriptive.
- 2.21 The committee considered whether the rules governing form and content should be modified to simplify procedures for people wishing to present a petition. By permitting petitions to be presented in a more relaxed format, the House could find that more citizens would use the petitioning process successfully. On the other hand a relaxation of the rules may compromise the authenticity of petitions, or the intentions of petitioners, or the authority and status of the House.
- 2.22 The committee considers that rules are necessary to maintain the authenticity of, and administrative procedures for, dealing with petitions as outlined in paragraph 2.15. However the committee accepts that the organisation and arrangement of the rules may make them difficult for petitioners to follow—they can appear overly complex. Therefore the committee has proposed reworking the rules into more accessible language to make them easier to follow and their purpose clearer. For example, the standing orders have been consolidated and grouped according to function and references to archaic terms such as 'prayer' have been removed.
- 2.23 The proposed new standing orders governing petitions are set out in appendix B. The appendix also contains a table setting out how the current standing orders translate into the proposed structure. The proposed standing orders encompass other recommendations made later in this chapter. Some minor changes to the requirements regarding form and content are also proposed and are described below.

References to parliamentary debates

- 2.24 The existing requirement that petitions should not contain references to debates in Parliament unless they are strictly relevant has been omitted. This rule is intended to protect the dignity of the House and reflects standing orders applying to debate which prohibit Members from allusion to previous debates and reflections on votes of the House. In practice, however, this rule is often not strictly applied.

- 2.25 The committee believes that references to debates in either House are quite acceptable as all debates are public. It should be open for people to refer to debates and decisions of the House if the House is to be accountable for its actions. The requirement for language to be respectful, courteous and temperate should be adequate to prevent unsuitably expressed criticisms.

Responsibility for compliance with standing orders

- 2.26 A requirement that Members be acquainted with the contents of petitions and ensure they are in conformity with the rules has also been omitted. The standing orders place a responsibility on the Clerk to certify that a petition is in compliance with the standing orders. The committee felt the additional requirement on Members was not necessary. Nevertheless it does not intend that Members should cease to take care with petitions. Members bear a responsibility to help those preparing petitions to ensure they meet the requirements. Members should be prepared to advise on drawing up petitions and should actively promulgate the requirements within their constituency areas.

Inclusion of lodgment address

- 2.27 The involvement of Members in assisting people to prepare petitions can be vital but Members need to draw a line between helping people and initiating or promoting petitions themselves. Members have access to the full range of procedures of the House to make their views known on a particular issue. Petitions are the only vehicle for citizens to have their concerns raised directly with the House. Members are not allowed to present petitions from themselves.
- 2.28 Following recommendations of the Procedure Committee in 1986 a provision was inserted in the standing orders prohibiting any indication on a petition that it had been sponsored or distributed by a Member.² The committee agrees that it is not appropriate for a petition to be submitted on a Member's letterhead or showing a photograph of the Member or displaying other identification details prominently. Nevertheless it may be helpful if the name and address of a Member could be allowed on a petition as an address for the submission of the petition. A proviso has been inserted in the proposed standing orders to allow for this.
- 2.29 The committee recognises that this may cause some uncertainty in the interpretation of the provision but trusts that the provision will be used sensibly and over time a body of practice and rulings will develop to

2 House of Representatives Standing Committee on Procedure, *Second report: Days and hours of sitting and the effective use of the time of the House*, May 1986.

guide future decisions. The committee envisages that an appropriate use of the provision would be an indication that, when completed, the petition should be forwarded to [name and address of a Member] for presentation to the House of Representatives. Such an instruction would preferably be placed at the bottom of the petition in a typeface no larger than that used for the text of the petition.

Recommendation 1

- 2.30 The committee recommends that the standing orders governing petitions (nos. 112 to 132) be amended to make them clearer, simpler and more accessible as set out in appendix B.**

Electronic petitions

- 2.31 The recommended standing orders shown in appendix B include the requirement that petitions be on paper. This has not been explicitly stated in the standing orders in the past but has always been an implicit requirement. The famous 'bark' petition from the Yirrkala people was not actually produced on bark. It consisted of a typed sheet of paper pasted to a bark sheet with surrounding decoration in a traditional Aboriginal style.
- 2.32 It was suggested to the committee that it should consider the possibility of electronic lodgement of petitions.³ A number of possible vehicles were suggested including email, facsimile, telephone register and video.
- 2.33 The Parliament must operate in the modern world and interact with its constituency by the most effective means at its disposal. The expanding use of electronic communication technologies has been reflected in a number of activities of the House. For example: committees receive submissions by email; the House accepts documents for tabling in various electronic forms; it provides comprehensive information on its activities on the Internet; and makes extensive use of modern technologies for administration and the support of its sittings. This report proposes some further extensions of the use of electronic forms of communication.
- 2.34 However, proposals to receive petitions in various electronic forms present some problems, including the difficulty of verifying signatures

³ Australian Computer Society, *submission*, and Department of the House of Representatives, *submission*.

and of ensuring that a petition has not been altered after people have 'signed' it.

- 2.35 The committee notes that the Senate will accept petitions that have been posted and signed electronically on the Internet provided the Senator certifies that they have been duly posted with the text available to the signatories.⁴ The committee considers there are difficulties for a Member in certifying the authenticity of a petition received in this way.
- 2.36 Apart from the technical difficulties, the committee feels that the traditional process of gathering signatures plays an important role in mobilising community support for a proposal. Face to face soliciting of signatures in shopping centres or at community activities is a valuable way of involving people in debate on issues affecting their daily lives. The petition itself is only a part of the whole process of community discussion of issues of government.
- 2.37 For these reasons the committee has decided that it would not support the extension of the petitioning process to include electronic forms at this stage. The question can be reviewed in the future as the technical issues are resolved and the use of various technologies becomes more widespread in the community.

Presenting petitions to the House

- 2.38 A petition can only be presented to the House by a Member of the House. This can be any Member, including a Minister, and does not have to be the petitioners' local Member. It is the practice of the House that the Speaker does not present petitions but arranges for another Member to do so on his or her behalf.
- 2.39 Although a Member is not bound to present a petition received for presentation, it is traditionally accepted that he or she will present it, irrespective of personal views. Presentation of a petition by a Member does not mean that the Member necessarily agrees with its content.
- 2.40 Prior to 1972 it was the practice of the House for Members to present petitions themselves after the petitions had been certified by the Clerk to be in conformity with the standing orders. Now, the Member presenting the petition lodges it with the Clerk who makes an announcement in the House each Monday, listing the petitions which have been lodged. The

4 Evans, Harry (ed), *Odgers' Australian Senate Practice*, 9th edn, Department of the Senate 1999, p. 446.

Clerk indicates in each case the Member who lodged it, the identity and number of petitioners and the subject matter of the petition.

- 2.41 This and other changes to the procedure for presentation of petitions were made chiefly as a result of a marked increase in the volume of business and pressure on the time of the House.
- 2.42 The committee considered a number of options to improve the impact made by petitions and to allow Members more involvement in the process without unduly increasing the amount of time taken up by the presentation of petitions.
- 2.43 One of the options considered by the committee was a proposal to enable petitioners to present petitions to the House in person. The petitioner or one of the petitioners would read the prayer of the petition from the Bar of the House. If a petitioner was not available the petition could be presented by a Member.
- 2.44 The committee saw that this proposal offered the opportunity for petitioners to interact directly with the House and gain a personal experience of its operation. It felt, however, that this advantage was outweighed by some potential difficulties. These included the small number of people who would be able to travel to Canberra to take advantage of the procedure and the possibility of discrimination against those in remote locations or who were otherwise disadvantaged. Ensuring that petitioners limited their participation to reading the petition without attempting to argue a case or disrupt proceedings was also seen as a possible area of concern.
- 2.45 The committee decided that a better approach—one which boosts the involvement of Members in presentation of petitions—was to provide more flexibility in the process. The committee proposes that Members be allowed the option to lodge a petition for announcement by the Clerk in the present manner or to present a petition themselves during the period for Members' statements in the House or the Main Committee. This would allow a Member, if he or she wished, to present a petition formally and to make comments on it at the same time. For observers of the proceedings there would also be the visual impact of seeing the petition handed to the Clerk in the House or Main Committee.
- 2.46 The Member would need to have the petition certified by the Clerk that it was in conformity with the standing orders before presenting it in this way.
- 2.47 This proposed procedure mirrors the existing provision for Members to give oral notices of motion during Members' statements. As Members rarely use the opportunity to give oral notices the committee does not

expect there to be a large number of Members taking up the opportunity to present petitions in this way, at least in the first instance. If there is strong interest from Members in using this method the amount of time available for Members' statements may prove inadequate. If this occurs the committee will look at options for expanding the Members' statement facility.

Recommendation 2

- 2.48 The committee recommends that the standing orders be amended to allow Members to present petitions during the period of Members' 90 second statements in the House or 3 minute statements in the Main Committee. The proposed amendment to the standing orders is shown in appendix B.**

Effectiveness of petitions—Improving follow up

What do petitions achieve?

- 2.49 The practice of accepting petitions has been viewed from time to time as an ineffective anachronism which makes excessive demands on the time of the House. It is true that the importance of petitions has diminished over the centuries. Individual grievances can often be dealt with by more direct non-public action by Members, by the Commonwealth Ombudsman and by such bodies as the Administrative Appeals Tribunal. Public grievances may be more effectively brought to public attention through the media, through other parliamentary forms such as questions, debate and committee inquiries, and through direct communication with private Members and Ministers.
- 2.50 To recognise that petitions have diminished in importance is not to suggest, however, that they have no importance at all. It is obvious from the figures in the table on page 6 that the many people who organise petitions and the thousands who sign them consider their efforts to be worthwhile. The number of petitions has been in significant decline for some years but this does not necessarily diminish the importance of individual petitions.
- 2.51 An important effect of the petitioning process is that Members and the Government are informed, in a formal and public way, of the views of

sections of the Australian community on public issues. It has been suggested to the committee that petitioning provides a means for identifying and publicising issues that need to be addressed administratively, by inquiry or through legislation, and of communicating information to fuel the Parliament's deliberative processes.⁵

- 2.52 Even if no action is taken immediately on a petition, it and others like it may assist in the creation of a climate of opinion which can influence or result in action. They inform the Government in a public way of the views of sections of the population and they can serve as one means of placing community concerns on the parliamentary agenda. The petition usually forms part of a broader attempt by individual groups within the community to draw public attention to grievances. Petitions also provide a focal point for individuals and groups attempting to organise campaigns on various issues, for example, public meetings are sometimes organised around the signing of petitions.

Reference of petitions to Ministers

- 2.53 Following criticism of the lack of follow-up procedures for the consideration of petitions, the matter was considered by the Standing Orders Committee in 1972.⁶ The standing orders were subsequently amended to provide that a copy of every petition lodged with the Clerk and received by the House shall be referred by the Clerk to the Minister responsible for the administration of the matter which is the subject of the petition. If more than one Minister is responsible for the matter which is the subject of the petition, it is referred to the Minister having the greater responsibility.
- 2.54 Since 1988 standing orders have provided for a Minister to be able to respond to a petition by lodging a response with the Clerk for presentation to the House, such responses to be announced at the end of the petitions announcement. Only 18 ministerial responses have been lodged since the procedure was instituted.
- 2.55 Ministers may also use less formal methods of responding to petitions, for example, by writing personally to petitioners. In some cases a Minister may order administrative action to be taken in response to a particular grievance.
- 2.56 The Procedure Committee recommended in 1990 that Ministers be obliged to respond to petitions within 21 sitting days of their referral by the House

5 Dr A Brien, Charles Sturt University, *submission*.

6 House of Representatives Standing Orders Committee, *Report together with recommendations 20 March 1972*.

but this recommendation was not implemented.⁷ The committee has decided to pursue an alternative approach.

Annual return of petitions and responses

2.57 The committee supports a proposal to report regularly and publicly on the petitions and ministerial responses presented to the House.⁸ It proposes that an annual return listing the petitions presented to the House including the text of any ministerial responses received be prepared. The committee proposes to undertake this task itself. It is hoped that this regular reporting may encourage Ministers to respond to petitions sent to them and report the responses to the House.

Recommendation 3

2.58 **The committee recommends that an annual report to the House be prepared setting out petitions presented and ministerial responses to them. The Standing Committee on Procedure intends to implement this recommendation itself.**

Reference of petitions to committees

2.59 Most petitions seek action which is within the responsibilities of Government; very few matters are strictly within the ability of the House itself to remedy. This would seem to make reference of petitions to Ministers the most appropriate course. However the committee believes that the House ought to take some action in relation to petitions as well.

2.60 Petitions could form a useful way for committees to monitor issues of concern in the community and the committee recommends that each petition presented to the House should be referred automatically to the relevant standing committee. The committee would be under no obligation to take action in relation to the petition but could inquire into any matters raised in a petition if it wished.

2.61 Later in this report, the committee has recommended that committees be empowered to undertake 'watching briefs' on matters within their portfolio areas without having a specific reference. The automatic referral

7 House of Representatives Standing Committee on Procedure, *Responses to petitions*, November 1990.

8 Dr A Brien, Charles Sturt University, *submission*.

of petitions could be one mechanism to assist committees to inform themselves of issues which may deserve attention.

Recommendation 4

- 2.62 The committee recommends that the standing orders be amended to provide for petitions to stand referred to general purpose standing committees for any inquiry the committee may wish to make.**
- 2.63 The Australian Computer Society suggests in its submission that petitions be published on the Parliament's Internet site with a feedback mechanism for people to indicate their support or opposition.⁹
- 2.64 The committee does not support use of this mechanism universally for all petitions presented but it could be a useful way for a committee to gauge support for, or opposition to, a petition. It could be used either as part of a formal inquiry into a matter raised by the petition or as a preliminary to deciding whether to pursue an issue further. Again it would merely be an option which a committee could use if it so chose.

⁹ Australian Computer Society, *submission*.