



Appendix B

Historical development

- 1.1 Petitions have a fascinating history and date from at least Roman times. Roman citizens were entitled to send written pleas, requests and complaints to their emperor. The term petition was, however, unknown in Roman law. The term used was supplication, derived from the Latin verb 'supplicare', which means 'to fall on one's knees before someone', 'to grovel' or 'to plead'. This term also denoted the request of a citizen for a statement on a legal dispute, which the emperor answered in the form of a written opinion (rescriptum).¹
- 1.2 Petitions were common to a great variety of forms of social and political organisation:

...from Egyptian building workers in pharanonic times to illiterate Ecuador Indians in 1899; from anti-Catholic English women in 1642 to French workers asking for the repeal of the *livret ouvrier* in 1847; from Italian peasants complaining about noble banditry in 1605 to Brazilian slaves vindicating their rights against owners in 1823; from western European early modern guild members to German Democratic Republic workers demanding improvement of economic efficiency, or voicing consumer demands...²
- 1.3 In a parliamentary context, the Tynwald – the legislature of the Isle of Man – provides a very long-standing example of petitioning. The

1 'From the history of petition law', <http://www.landtag.sachsen.de>, accessed August 2007

2 Lex Heerma Van Voss, *Petitions in Social History*, 2002, p. 1.

parliament was established by the Vikings when they settled on the island in the 9th century. Each year on Tynwald Day, any citizen could approach Tynwald Hill and present a petition for redress of grievance. Any member of the Tynwald could then request it to consider the petition. This ancient tradition of presenting petitions each year at Tynwald Hill continues today and select committees may be established to consider the terms of petitions.

- 1.4 From the perspective of the House of Representatives, the history of procedures for petitioning begins with petitioning in Westminster – first to the King and later to the House of Commons. The right of petitioning the Crown and Parliament for redress of grievances can be traced to the rule of King Edward I (1272–1307). Petitions were submitted to the House of Commons in writing, sorted by ‘Receivers’ and heard by parliamentary committees known as ‘Triers’. The parliamentary records of 1305 show that nearly five hundred petitions were presented in that year and those petitions were heard by four separate Triers. Petitions were from individuals, groups outside of Parliament and from groups within Parliament.³
- 1.5 Where petitions became an accepted tradition, they could evolve into a mechanism which not only catered for the wishes of individuals, but also was used to initiate general legislation. Petitions deemed suitable by the House of Commons, for example, became statutes and in the 14th and 15th century, a large proportion of statutes originated as Commons’ petitions. Judges drafted such statutes by combining a petition with its response from the King.⁴ The origins of petitioning are reflected in the procedures for private bills in the House of Commons, which, while now uncommon, are still raised by means of a petition.⁵
- 1.6 The status of petitioning in the parliamentary context has long been highly valued and protected. It is one of the most ancient and fundamental rights of citizens. As the distribution of justice and wealth became important aspects of ruling, rulers could hardly deny their subjects the right to approach them to implore them to exercise justice, or to grant a favour.⁶
- 1.7 By 1625, the right to petition was so entrenched that a person called ‘Montague’ (presumably, Mr Montague) was arrested by the Serjeant-

3 Sir Gilbert Campion, *An Introduction to the Procedure of the House of Commons*, 1947, p. 11.

4 Sir Gilbert Campion, *An Introduction to the Procedure of the House of Commons*, 1947, p. 11.

5 Erskine May, *Parliamentary Practice*, 23rd edition, p. 969.

6 Lex Heerma Van Voss, *Petitions in Social History*, p. 1.

at-Arms 'For a great contempt against the House, in publishing a book traducing persons for petitioning the House.'⁷

- 1.8 In 1669, the right to petition the House of Commons was expressed in the following two resolutions:

That it is the inherent right of every Commoner of England to prepare and present petitions to the House in case of grievance; and 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.⁸

- 1.9 Before the middle of the 19th century there were few procedural restrictions on raising debates by means of presenting petitions. They were a method of introducing subjects to the House. But the practice of using petitions to initiate debate could also be used for obstructing other kinds of House business. A series of standing orders introduced in 1842 (and later amended) discouraged this practice and the history of petitioning as a more formal proceeding dates from this time.⁹

- 1.10 Petitions generally take one of two general forms: they seek either to amend legislation or general administrative practices, or, alternatively, to redress local or personal grievances. Whatever form or context, petitions were usually written in a deferential style, showing that the petitioner did not intend to question the established power structure. In the House of Commons, rules were developed to enforce this. In 1817, several petitions were presented which 'prayed' for the reform of Parliament,

but (they were) expressed in language so indecent, and so insulting to the character and dignity of the House of Commons, that they were, after the reading of them, refused to be admitted to lie on the table. On this occasion, the Speaker laid it down as a rule of the House, (t)hat a Member,

7 Journals of the House of Commons, vol. i, pp 805-6, cited in John Hatsell, *Precedents of Proceedings in the House of Commons*, vol I, p. 299.

8 Erskine May, *Parliamentary Practice*, 23rd edition, p. 933. See also *House of Representatives Practice*, 1st edition, p. 689. These resolutions were part of a group, the remainder of which related to a serious quarrel between the Houses. The whole group was later expunged from the Journal of the House at the request of the King. There is no indication that the resolutions themselves were rescinded by the House. The words are recorded in John Hatsell, *Precedents of Proceedings in the House of Commons*, 1818, vol. 3, p. 240, citing *Grey's Debates*, Vol. I. p. 209].

9 Erskine May, *Parliamentary Practice*, 23rd edition, p. 932.

before he offers to present a petition, should know what it contains ... and that he should be able to state to the House, 'That it contained nothing which in his judgment was intentionally offensive.'¹⁰

- 1.11 The use of petitions as a basis for legislation was also seen in countries like Germany, Russia and Japan. Even where rulers laid claim to absolute power, petitions were used by the people to influence legislation.¹¹
- 1.12 The right to petition was the basis for associated rights in Western countries from the 18th century. In particular, the right to petition brought about the right to assemble in order to draw up, discuss and sign the petition. In 1779, Lord George Gordon introduced a petition against the relief of anti-Catholic measures in the British Parliament and took 14,000 supporters with him to Parliament to deliver the petition.¹² In the United States, the 1894 and 1932 marches of unemployed veterans on Washington were legitimised as the presentation of petitions.
- 1.13 Understanding the potency of petitions, many rulers sought to forbid or restrict them. In pre-Revolutionary France, petitions were considered illegal. Despite their establishment as a fundamental right in England, in 1648 the Long Parliament disallowed petitions submitted by more than 20 individuals. Under Charles II, petitioning to convene Parliament was punishable as high treason and James II had bishops confined to the Tower for petitioning against religious policies.¹³
- 1.14 These attempts on the right to petition led to its being included in the Bill of Rights in 1689.¹⁴ In the 18th century, the right to petition was included in listings of individual liberties like the Bill of Rights of most American states and the *Déclaration des droits de l'homme et du citoyen* of 1791. Today, while the 'right to petition', *per se*, is not mentioned in the United Nations Universal Declaration of Human Rights, the related freedoms of assembly and right to 'take part in the government' are.

10 John Hatsell, *Precedents of Proceedings in the House of Commons*, 1818, vol. 3, p. 240.

11 Lex Heerma Van Voss, *Petitions in Social History*, 2002, p. 3.

12 Charles Tilly, *Popular Contention in Great Britain 1758-1834*, 1995, p. 160.

13 Lex Heerma Van Voss, *Petitions in Social History*, 2002, p. 4

14 'That it is the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal.'