

Is It Futile to Petition the Australian Senate?

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Senator TURNBULL—Mr President, I should like to ask you a series of questions regarding the presentation of petitions to this House. Is this merely a futile exercise or has it some significance? I ask out of curiosity: What happens to the petitions? Is any machinery established in the Parliament to inform honourable senators of the results of the petitions, just as we receive answers to questions?¹

When this question was put to the President of the Senate, Sir Alister McMullin, by Tasmanian Independent Senator Reg Turnbull on 14 November 1968, the pattern of use of petitions by citizens was on the cusp of change. Australians had exercised their right to petition the Senate since federation but their use of this right was sporadic. In thirty of the years between 1901 and 1968 no petitions had been presented at all. Numbers of signatures on petitions amounted to tens of thousands in one year then crashed to a handful in the next.

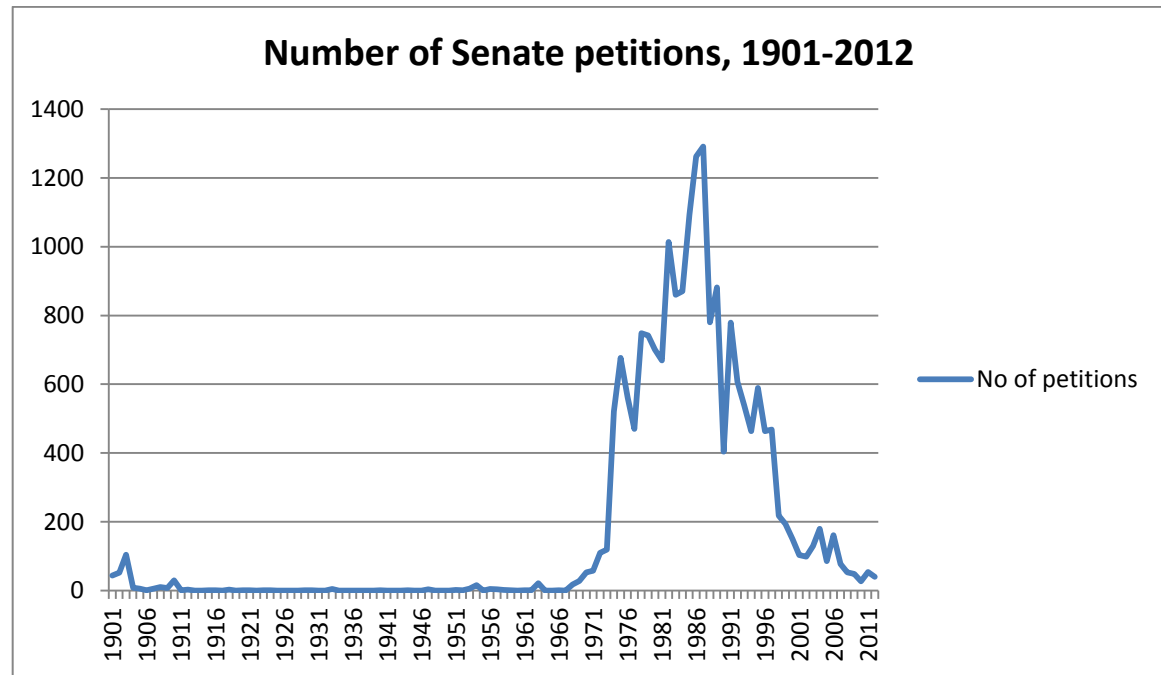
From 1969 there was a distinct increase in the volume of petitions received by the Senate (see figure 1). Total numbers of petitions received in a single year peaked at 1291 in 1987. Total numbers of signatories to petitions received each year rose into the tens of thousands and then hundreds of thousands, reaching their zenith in 1995 with 687 320 (see figure 2). If each signature received in that year was unique, the total signatories would represent 3.8 per cent of the population of Australia at that time.²

McMullin's answer to Turnbull's question was that there was 'no machinery to follow up petitions' and that it was 'for Ministers whose departments are involved to take whatever action they desire'. With the introduction of the Senate committee system in 1970 changes were made to the procedures for dealing with some of the issues raised in petitions. Within a few years, however, these would falter under the rising workloads of the new committees and the sheer mass of petitions received.

¹ Senate debates, 14 November 1968, p. 1987.

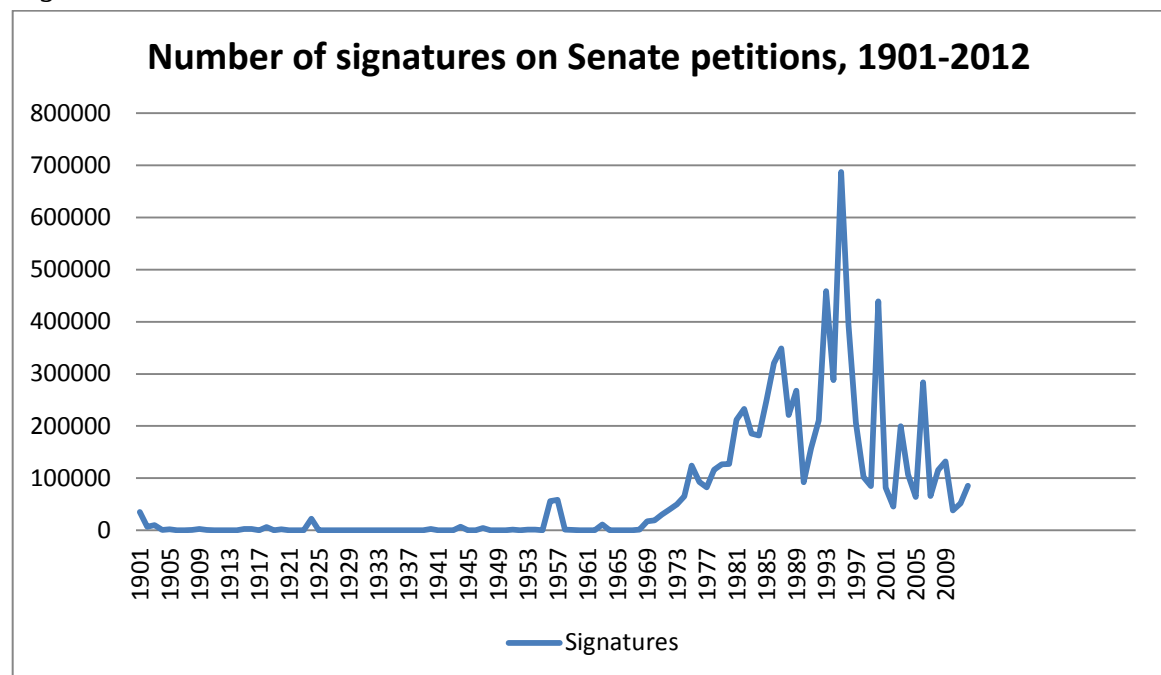
² Population figures from Australian Bureau of Statistics, Australian Historical Population Statistics, 2008, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/3105.0.65.001>.

Figure 1



This paper examines the history and effectiveness of petitioning the Senate to consider whether, despite the haphazard procedural machinery to deal with petitions, petitioning has indeed been futile. And if it is largely futile, how can we explain the industry of the Australian citizenry in submitting more than 19 000 petitions and 7 million signatures over that time?

Figure 2



Petitions as social history

An examination of the broad sweep of petitions presented in the Australian Senate since 1901 provides an interesting summary of the popular concerns in Australian political and social life. Some issues never change such as the two petitions received by the Senate in 1902 relating to the ‘conservation of the waters of the Murray for the purposes of navigation’ made necessary by the ‘improper diversion of the waters ... for irrigation purposes’.³ Taxation, pension entitlements and family allowances have also been perpetual favourites which have appealed to petitioners throughout the decades since federation.

The largest number of petitions received on one subject in a single year was the Catholic Church’s 1995 petition on landmines which attracted 224 110 signatories. As Senator Mal Colston observed, large petitions give ‘an indication, if not of the strength of feeling, perhaps the amount of organisation’ behind such petitions.⁴ Moral and ethical questions including abortion, pornography, human embryo experimentation, and changes to divorce and family law, have always garnered extensive organised support. Other topics that have attracted large numbers of signatories include: gambling, government aid to denominational schools, home loan interest payments, sex discrimination, a bill of rights, the flag, nuclear arms reduction, the Australia card, the Australian Broadcasting Corporation, pharmaceutical drugs and services, live animal exports, industrial relations legislation, gun control and refugee laws.

Some large petitions are on more unusual topics. The greatest number of signatories to a single petition between 1901 and 1955 was a petition signed by 22 000 people in 1924 urging that the New Hebrides, then controlled jointly by Britain and France, pass to sole British control. It was also a topic outside the federal government’s control. As the Minister for Home and Territories observed, ‘this is one of those thorny questions with which it is exceedingly difficult to deal successfully’ for the simple fact that ‘neither France nor Great Britain will give up its claim’.⁵ The petition signed by 57 303 people for the prohibition of commercial trading in or export of domestic cat and dog skins in 1981 is an issue that has disappeared from the public memory, as has the concern by 121 229 signatories protesting against the Minister for Health’s endorsement of the *Cleo* magazine safe sex guide in 1995.

Petitioners have not shied away from bold topics such as the 2252 petitioners who sought the abolition of state governments and parliaments in 1909 and the 10 000

³ Senate debates, 8 October 1902, p. 6; 9 October 1902, p. 16597.

⁴ Senate debates, 29 April 1982, p. 1685.

⁵ Senate debates, 27 August 1924, p. 3624.

petitioners in 1979 who called for citizen initiated referenda. The 1957 petition seeking an alteration to the Constitution 'so that there could be created a Commonwealth Department of Native Affairs' was ten years ahead of its time.

Sometimes it is the omissions which are of interest. During the divisive conscription plebiscites of 1916 and 1917 the topic of interest to petitioners was the Federal Wheat Scheme. During the First World War the issue that attracted the greatest number of signatories was a proposed tax on children's admission to picture shows. During the decade of the 1930s, when Australia was in the grip of the Great Depression, more petitioners were concerned for improvements in the deplorable treatment of Aborigines than unemployment. The Communist Party Dissolution Act of 1950 passed without a single petition on the subject.

Grievances by or concerning individuals were relatively rare. In June 1903 an importer of watches and jewellery, appropriately named Magnus Goldring, petitioned the Senate after his goods were detained and business documents seized by Customs officials. The Melbourne *Argus* noted that 'the chamber was content to have the petition read and pigeon-holed' but that 'pressure will probably be brought to bear on Ministers in the House of Representatives next week'.⁶ Mr Goldring pursued the matter further in the courts. In 1997, the case of a general practitioner who had an adverse determination made against him by the Professional Service Review Tribunal was taken to the parliament by 952 petitioners. Occasional petitions have also requested that individual migrants be permitted to remain in Australia or called for government actions to bring about the release on human rights grounds of prisoners held overseas.

The increase in petitioning since the late 1960s coincided with a general rise in public activism and grass roots political movements. After 1969 many of the topics of petitions reflected the expansion of federal government involvement in policy areas such as education, the environment, health, roads and Aboriginal affairs. As numbers of petitions burgeoned they covered the length and breadth of human endeavour from the local to the international, the personal to the political, and the practical to the puritanical. There were petitions on the perceived evils of new technologies from television violence and mobile phone towers to internet gambling and pornography. There were calls for research into solar energy, learning disabilities, breast cancer, chronic fatigue syndrome and white tail spider bites. Petitioners asserted the need for political rights, land rights, humanitarian rights, children's rights, a bill of rights and plant variety rights. They took up the cause of political prisoners in Chile, logging in Sarawak, famine in the Ukraine and huskies in Antarctica.

⁶ *Argus* (Melbourne), 10 July 1903, p. 6.

What each of these petitions has had in common is a request for *action* by the Senate or the parliament and on that front things get a little more complicated.

Judging success in petitions

The first petition to the Senate, on 21 May 1901, was from the General Assembly of the Presbyterian Church of NSW calling for the sittings of the Senate to be opened by prayer. Church organisations have been notable petitioners throughout the history of the Senate with their administrative structures enabling them to effectively utilise their parishioners as a concentrated resource of potential signatories. In 1901 the church's efforts were not solely directed towards petitions. Newspapers at the time reported that members of both houses of parliament were being 'inundated with letters from constituents' urging support for the proposal.⁷ Things had proved more controversial for the Methodists when they debated this issue at their general conference when dissent was expressed objecting to the 'mockery to God of statutory prayer' and that 'Prayer in Parliament would not better the members' lives nor help them to pass more righteous legislation'.⁸ The Senate agreed to open proceedings with prayer on 14 June 1901.

The petition on prayer was unusual for its attention to matters relating to the proceedings of parliament. Petitions in the Senate have more usually concerned themselves with government legislation and policy and constituent matters which impinge upon areas of federal government responsibility. It was also unusual that the petition, or at least the immediate campaign in which the petition was central, can be directly attributed to the change in procedures. As has been the experience in analyses of other parliaments, assessing the effectiveness of petitions is a subjective and selective exercise.⁹ In many cases obtaining complete information on the background to decision making is difficult. Nonetheless, in judging the success of petitions to the Senate throughout its history it is necessary to consider the effect they have had on some of the central functions of parliament: to debate issues of importance, to conduct inquiries into matters requiring further consideration and to formulate legislation to serve the needs of the community.

Petitions and legislation

Seeking to influence the parliament to amend, support or reject legislation is a core aim of the petitioner. In some cases the compelling arguments contained in the

⁷ *Advertiser* (Adelaide), 20 May 1901, p. 6.

⁸ *Kalgoorlie Miner*, 23 May 1901, p. 6.

⁹ Karen Ellingford, 'The purpose, practice and effects of petitioning the Victorian Parliament', *Australasian Parliamentary Review*, Spring 2008, p. 100.

petition have been enough to bring about change or at least to bring the matter to serious debate.

In July 1903 a petition signed by two members of the Women's Federal Political Association of Victoria was presented calling on the Senate to amend a clause in the Naturalization Bill which removed voting rights from women who married men who had none. In debate the petition (and a letter from another women's organisation which had taken up the same issue) was brought to the attention of the Senate. The provision was deemed 'unconstitutional' and the clause struck out.¹⁰

In 1911 the sole petition received by the Senate was from two ministers of the Hebrew Church of Victoria objecting to a clause in the Electoral Bill which fixed Saturday as the polling day for elections. When the bill was discussed in committee of the whole later that day the minister bringing the bill before the Senate was asked whether in view of the petition presented, he would modify the clause to meet the objections of the Jewish community. What followed was a heated, wide-ranging and at times humorous debate on whether the conscientious objections and right to enfranchisement of any section of the community should be subordinated to the convenience of the majority. Senator Anthony St Ledger argued:

I say that the respectful petition of those who have approached the Senate in proper form ought to be regarded. Unless some insuperable difficulty or some national issue is involved, which transcends the objection raised by these people, their views should be respected.

While the Senate voted in favour of Saturday polling, the minister agreed to confer with the department to see if absent voting on the grounds of conscientious objection could be embodied in a regulation.¹¹ The Electoral Act was not amended to include religious beliefs as grounds for postal or pre-poll voting until 1961.

In debates throughout the history of the Senate petitions have been used by senators as evidence of the strength of public feeling. Senator Alexander Matheson in debate on the Electoral Divisions Bill 1903 remarked:

Only to-day a petition has been presented to the Senate on behalf of the people of New South Wales, as represented by an enormous meeting held in the Park in Sydney, protesting against this Bill ... They took so much interest in the subject that they have sent a petition to the Senate, and the Minister can produce no petition advocating that the Commissioners'

¹⁰ Senate debates, 8 July 1903, p. 1820; 16 July 1903, p. 2200.

¹¹ Senate debates, 15 November 1911, pp. 2703, 2715–28, 2740–1.

distributions should be dissented from. Where do the Government get their mandate from?¹²

During the hard-fought debates over the Wool Tax Amendment Bills in 1991 the Senate requested that the House of Representatives change the wool tax rate for 1991–92, as specified in the bill, from 15 per cent to 10 per cent. When the House of Representatives rejected the Senate's request, an opposition senator used petitions that he claimed represented a quarter of wool growers in Western Australia in arguments supporting the opposition's preferred 10 per cent tax. When the bill was again debated by the Senate the government reached a compromise with the Democrats to impose a 12 per cent tax.

In 1994 Senator John Woodley, in response to representations he had received, moved an unsuccessful motion to amend a Social Security Bill to reduce the age at which women became eligible for the widow's allowance from fifty to forty years. Woodley initiated a petition 'to show the members of this parliament just how much concern there really is out there in the community for the position of widows'. In 1995 he presented six petitions containing over 16 000 signatures in the Senate before attempting to amend a Social Security Bill again. On this occasion, evoking the public's strength of views did not produce any great effect and his motion was defeated when the opposition supported the government.

Similarly, in the second reading debate on the Aboriginal Lands Rights (Northern Territory) Bill 1976, Senator Jim Cavanagh referred to the 'many hundreds of petitions containing thousands and thousands of signatures [that] take up the time of both Houses every morning', noting with regret that this 'is the greatest expression of public opinion on this Bill. Yet it has made no difference to the Bill'.¹³

From the very earliest days of the Senate, petitioners recognised that an organised campaign could be an effective tactic to pressure parliament to bring about legislative change. Church groups were quick to respond to the 1901 Divorce and Matrimonial Causes Bill, a private senator's bill which sought to pass uniform divorce laws for the Commonwealth. Church officials delivered sermons, held public meetings and distributed leaflets and petitions against the measure. Petitions signed by a total of over 13 000 people continued to arrive in the Senate over a nine-month period. The bill did not progress beyond the first reading.

In August 1903 the House of Representatives carried two amendments to the New Guinea Bill prohibiting the sale of intoxicating liquor in New Guinea. In a pre-

¹² Senate debates, 9 September 1903, pp. 4814–15.

¹³ Senate debates, 7 December 1976, p. 2768.

empty strike to shore up support for the provisions, 79 petitions carrying 4244 signatures were presented to the Senate calling for a prohibition on the introduction, sale, and manufacture of intoxicating liquors. As it turned out the government withdrew the bill and it did not reach the Senate.

In his 1943 collection of broadcast essays, *The Forgotten People and Other Studies in Democracy*, Member for Kooyong Robert Menzies alluded to the emergence of ‘pressure politics’, ‘the “pressure” taking the form of hundreds, and in some cases ... thousands of stereotyped letters signed and sent to members of Parliament, on some particular topic, by their constituents’. Echoing Edmund Burke’s views on representation¹⁴ Menzies continued:

many electors believe that the function of their member of Parliament is to ascertain, if he can, what a majority of his electors desire, and then plump for it in Parliament. A more stupid and humiliating conception of the function of a member of Parliament can hardly be imagined.

One of the more notable instances of the utilisation of petitions in pressure politics in the Senate was in opposition to the push to nationalise banking in the 1947 Banking Bill. In fact the four petitions containing 4365 signatures received in the Senate on this issue were modest compared to the House of Representatives, which received 92 petitions. What was significant was the degree to which opposition to the issue was played out in the Senate in terms of electoral mandate.

In October 1947 the Leader of the Opposition Senator Walter Cooper moved a motion in the Senate for a referendum, noting that his belief that the majority of Australians opposed bank nationalisation was ‘fortified by the number of petitions and letters of protest submitted by tens of thousands of people to members of Parliament’.¹⁵ The gathering of these petitions (in large part by the private banks) was a matter of great contention in subsequent debates, with allegations that they had been gathered by paid canvassers and thus did not represent ‘a spontaneous reaction of the electors’,¹⁶ that the signatures were duplicated, that the signatories did not appear on electoral rolls and included school children, that bank employees had been forced into signing and that signatories had been misinformed by ‘propaganda’ to sign. In the assessment of historian Ian Hancock, by November 1947 ‘Australian society was more sharply divided than at any time since the great conscription debates of 1916–17’.¹⁷ Although

¹⁴ Edmund Burke, Speech to the electors of Bristol, 3 November 1774: ‘Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.’

¹⁵ Senate debates, 23 October 1947, p. 1215.

¹⁶ Senate debates, 20 November 1947, p. 2351.

¹⁷ Ian Hancock, *National and Permanent*, Melbourne University Press, Carlton, Vic., 2000, p. 86.

the application of pressure politics could not prevent the Banking Bill from becoming law at the end of 1947 (the opposition in the Senate at the time consisted of only three senators), the Act was later overturned by the High Court.

In 1974 the Family Law Bill, which sought to eliminate the concept of fault in divorce and make irretrievable breakdown of marriage the sole grounds for divorce, became another high water mark of concerted campaigning of the Senate. During 1974 the Senate received 126 petitions in favour of the bill, 34 against and 122 seeking its deferral, resulting, according to one senator, in the Senate finding itself 'in the absurd position where it is regaled from both sides of the chamber on the same day by a senator presenting a petition supporting the Bill and the same senator presenting a petition opposing the Bill'.¹⁸ On 13 November the Senate received a record 67 petitions on this issue in a single day. The volume of petitions received on this bill and the time required to read them in the Senate was responsible for changes streamlining the procedures for dealing with petitions in the Senate.¹⁹

The deluge of public opinion on the Family Law Bill could hardly be ignored and a number of senators used the strength of feeling in the petitions to argue both in favour of passing and of delaying the bill. Senator Geoffrey McLaren was one to express petition fatigue:

Like other senators, I have had many representations made to me about this subject ... To my mind, the people who have approached me with their personal plea have been more convincing than have those people who posted a stereo-type letter to me. They have been more convincing than the 5,000 people who signed petitions ... I believe that in any matter such as this, when one can sit down and talk to a person, one gets right to the heart of the problem.²⁰

The bill passed the Senate after a free vote on 27 November 1974.

Petitions and committee inquiries

Another significant measure of the effectiveness of petitions is the influence they have had on parliamentary inquiries. Parliamentary inquiries can inform government policy and result in reform to legislation. They can also perform an important accountability function, examining government performance and the effectiveness of its policies. Importantly, they also provide an avenue for members of the public to have their

¹⁸ Senate debates, 19 November 1974, p. 2519.

¹⁹ Rosemary Laing (ed.), *Annotated Standing Orders of the Australian Senate*, Department of the Senate, Canberra, 2009, p. 254.

²⁰ Senate debates, 30 October 1974, p. 2167.

views heard by parliamentarians through submissions to inquiries and by giving evidence at public hearings.

Senate standing order 91 adopted in 1903 allowed for the possibility that a petition ‘respecting any subject then under the consideration of a Select Committee’ may be referred to that committee. Interestingly, between 1901 and the early 1980s, when the Senate was deluged with petitions on proposed hydroelectric developments in South West Tasmania, the subjects of petitions and the subjects of Senate select committees did not coincide and there is no evidence of petitions having been referred to select committees during that time.

Petitions have, however, called for Senate inquiries to be established, starting with the petition from the Hobart Chamber of Commerce in 1904 to refer the Navigation and Shipping Bill to a select committee. Later topics suggested by petitioners for inquiries included education (1968, 1969), the banana industry (1968, 1969), the cost of living in the ACT (1968), Lake Pedder (1972), the Australian Government Insurance Office (1975), South West Tasmania (1981), the wellbeing of Aboriginals in Queensland (1983), animal welfare (1983), nuclear disarmament (1986–86), strengthening the family (1983), Constitution alteration legislation (1988), higher education funding (1993), the banking industry (2002) and rural and regional health services (2003).

In August 1968 petitions from two New South Wales public schools calling for a Commonwealth inquiry into ‘the needs of pre-school, primary, secondary and technical education’ were presented in the Senate. Between March and May 1969 the Senate also received a batch of eight identical petitions containing over 12 000 signatures calling for a national inquiry into all aspects of Australian education.

On 18 March 1969 an opposition senator, Senator Samuel Cohen, moved that a select committee be appointed. The wording of the scope of the proposed inquiry echoed the 1968 petition. His remarks on the need for the inquiry referred to the first of the 1969 petitions, noting community concern which had been:

manifested in such ways as the presentation of petitions of the kind that was presented to the Senate this afternoon by Senator Wriedt on behalf of a considerable number of citizens interested in promoting education at all levels in the Australian community.

Cohen also referred to other forms of pressure for an inquiry including ‘oft repeated requests of educationalists and parents’, ALP policy and newspaper editorials, reasoning that ‘if the Government will not act this Senate should set up its own select committee and get on with the job’. After over four and a half hours debate, in which

government senators argued that there was little evidence of community support for a Senate inquiry as such, the motion was lost when the DLP, which had the balance of power in the Senate, supported the government in its opposition to an inquiry.

The petitions requesting an inquiry into hydroelectric developments in South West Tasmania met with more apparent success. Between 1981 and 1983, 162 petitions relating to South West Tasmania bearing 17 800 signatures were presented in the Senate. On 23 September 1981, three months after the first petition requesting an inquiry was received, the Senate passed a motion to establish the Select Committee on South West Tasmania. Having been initiated, however, the petitions juggernaut was hard to stop and petitions calling for an inquiry continued to arrive in the Senate 31 months after the inquiry was set up and five months after the report was tabled. In debate on the motion in the Senate, while it was mentioned by one senator that ‘there is a good deal of feeling on this subject among the people of Australia and it is not confined to Tasmanians’,²¹ the petitions to the Senate were not mentioned explicitly. In the Franklin dam campaign petitioning was but one strategy in a well-orchestrated movement with a high media profile and awareness among senators.

Campaigns that get a senator on side with their cause from the outset can have greater success. In February 1995 Democrats senator John Woodley moved a notice of motion of his intention to refer the proposal for a high voltage powerline between Queensland and New South Wales (known as Eastlink) to a Senate committee. In February and March four petitions reinforcing the call for a Senate inquiry were received from over 2000 people. In an adjournment debate in early March, Woodley referred to the many representations he had received personally as well as the petitions in the Senate and expounded on the concerns of the petitioners at some length.²² His motion to refer the matter to the Economics Committee was agreed in the Senate on 30 March.

Other petitions have sought to influence existing and proposed inquiries. In October 1983 a petition supported Senator Don Chipp’s notice of motion for a select committee on animal welfare. Chipp’s motion was passed by the Senate the following month. In May 2003 the Senate agreed to the appointment of a select committee to consider the government’s proposed changes to the Medicare scheme. In the course of the inquiry several petitions relating to Medicare and health services were drawn to the attention of committee members including a petition of 11 000 signatures circulated by the Public Hospitals Health and Medicate Alliance of Queensland which

²¹ Senator Missen, Senate debates, 23 September 1981, p. 926.

²² Senate debates, 2 March 1995, p. 1349.

opposed the package.²³ A petition in September 2003 sought to have the terms of reference of the Senate Select Committee on Ministerial Discretion in Migration Matters widened. In November 1978 a petition urged the parliament to support the recommendations of the Joint Select Committee into Aboriginal Land Rights.

Mechanisms for petitions and the rise of the Senate committee system

In April 1969 the President of the Senate, Sir Alister McMullin, inspired by the question on the futility of petitions asked of him by Senator Turnbull in November 1968, presented a paper on petitions at the Conference of Presiding Officers and Clerks-at-the-Table. In it he mused on whether:

the Senate might adopt the pattern in certain other Parliaments and establish a Petitions Committee or other machinery to consider and, if necessary, report upon the action or redress sought in petitions.²⁴

He went on to conclude:

As a traditionalist, I cherish the concept of Parliament as the citadel of civil rights and liberties and think it would be a pity if the right of petitioning Parliament, with its roots deep in history, were to fall into disuse for want of parliamentary consideration.²⁵

At least on that score he need not have worried.

In 1970 the Senate was revolutionised by the establishment of the Senate standing committee system. In March of that year the Clerk of the Senate, J.R. Odgers, presented a case for a standing committee on petitions.²⁶ While this was not adopted, consideration of the need to deal with petitions was evident in Senator Lionel Murphy's June 1970 motion for the establishment of the Senate legislative and general purpose standing committees, which stated:

A Standing Committee shall be empowered to inquire into and report upon such matters as are referred to it by the Senate, including any Bills,

²³ Senate Select Committee on Medicare, *Medicare: Healthcare of Welfare?*, October 2003, PP 340/2003, pp. 2, 244.

²⁴ *Second Conference of Presiding Officers and Clerks-at-the-Table of the Parliaments of Australia, Papua and New Guinea, New Zealand, Fiji, Nauru and Western Samoa*, Parliament House, Brisbane, 8 to 10 April 1969, PP 106/1969, p. 63.

²⁵ *ibid.*, p. 66.

²⁶ *Report from the Standing Orders Committee Relating to Standing Committees*, 17 March 1970, PP 2/1970, pp. 18–19.

Estimates or Statements of Expenditure, messages, petitions, inquiries or papers.²⁷

In a further report by Odgers in 1971, on the administration of the new estimates and standing committees, he confirmed that one of the considerations advanced in support of the new committee system was ‘the lack of any formal follow-up procedure to examine citizens’ grievances or requests, as expressed in Petitions’.²⁸

On 3 November 1970 two identical petitions, seeking Commonwealth cooperation and financial assistance for crime prevention, were referred to the Standing Committee on Health and Welfare.²⁹ Odgers noted that:

This first reference of a Petition to one of the new Legislative and General Purpose Standing Committees is a significant development in Senate procedure, reflecting a recognition of the trend towards more public participation in the consideration of national affairs.³⁰

This reference, later transferred to the Standing Committee on Social Environment, was the subject of a report presented to the Senate in April 1972.³¹ In the report the committee noted that the petitions did not constitute a request for an inquiry into the matters raised. Instead the committee referred the text of the petitions to the attorney-general, treasurer and prime minister for comment. As these were the first petitions to be referred to a committee, the members felt ‘the utmost care should be taken to avoid setting precedents that could prove to be undesirable’.³² The committee confined its recommendations to matters within Commonwealth jurisdiction including the compilation of comprehensive and uniform crime statistics; the establishment of—and determination of research priorities for—the Institute of Criminology and the Criminology Research Council; and the need for a common approach and uniformity of laws in areas with ‘direct inter-jurisdictional involvements’.

One committee member, Senator Jim Keeffe, presented a dissenting report. In the Senate he remarked:

Over a long period I have dissuaded people from presenting petitions here ... I have adopted this attitude because there has been a long-standing

²⁷ Senate debates, 4 June 1970, p. 2049.

²⁸ *Committees of the Australian Senate*, 1971, PP 32/1971, p. 8.

²⁹ Senate debates, 28 October 1970, p. 1549; 2 November 1970, p. 1827; 3 November 1970, p. 1930.

³⁰ *Committees of the Australian Senate*, op. cit., p. 9.

³¹ Senate Standing Committee on Social Environment, *Report of Petitions Seeking Co-operation and Financial Assistance for Crime Prevention*, April 1972, PP 30/1972.

³² Senate debates, 13 April 1972, p. 1082.

tendency for petitions to be presented, duly recorded in Hansard and then duly stacked away, never to be seen or heard of again.³³

Keeffe argued that the committee had not met the request of the petitioners and had conducted only a superficial inquiry and that ‘when the Senate deems a petition of this nature important enough to refer to a Standing Committee, then only an in-depth examination of the petition can be described as satisfactory’. He concluded that ‘it is apparent that the wide difference between my own thinking and that of a majority of the Committee is on the method of handling petitions of this nature in future’.³⁴

In early 1971 arguments were advanced that all matters raised in petitions should be referred to a committee. One proponent, Senator Jim Cavanagh, stated ‘I do not propose that committees should inquire into all the details raised in petitions, but the petitions should be considered because they express what is concerning the electors and what they think should be done’.³⁵

By the end of that year, concerns were being expressed at the large volume of work before standing committees, with the Leader of the Government in the Senate concluding: ‘The weight of work in the committee field is reaching the stage where it is exhausting for senators’ and ‘if we overload the functions of these committees, we will be setting about to destroy something that has been created in the interests of good government’.³⁶ In debate it was noted that the present references before committees were ‘unequal’. Petitions were singled out:

Petitions are propositions coming from the good people outside which honourable senators have decided should not be lightly put aside without some inquiry. But whether that inquiry should rank in priority over explicit references from the Senate is another matter.³⁷

Between 1970 and 1973 a dozen matters originating from petitions were referred to committees for inquiry with nine resulting in reports.³⁸ A 1971 petition praying for the transferability of pensions overseas ended happily when amendments to this effect were made to the Social Services Act in 1973. There was, however, no evidence that the petition had directly influenced the changes.

³³ *ibid.*, p. 1085.

³⁴ Senate Standing Committee on Social Environment, *op. cit.*, p. 12.

³⁵ Senate debates, 15 March 1971, p. 511.

³⁶ Senate debates, 23 November 1971, p. 1993.

³⁷ *ibid.*, p. 1995.

³⁸ Parliamentary papers 259/1971, 30/1972, 219/1972, 39/1973 (interim report), 123/1973, 124/1973, 46/1974, 283/1974, 83/1975, and 190/1976.

The concerns of petitioners were not upheld in the 1971 report on the supply of liquid petroleum gas to the Australian market, although the matter did receive serious consideration with advice provided from the minister, written submissions sought and evidence taken at public hearings. An inquiry into ultrasonic aids for the blind found, after considering submissions and oral testimony, that contrary to the petition, the government should not implement a program for the general issue of these devices. The inquiry into the proposed construction of Black Mountain Tower in Canberra found no justification for further inquiry and did not call witnesses or examine alternative sites, resulting in a dissenting report by two committee members who considered that the committee had ‘completely ignored the petitioners’.³⁹

A 1972 reference to the Social Environment Committee on the administration and operations of the Postmaster-General’s Department was rendered obsolete, in the opinion of the committee, by the appointment of the Australian Post Office Commission of Inquiry by the government in 1973. No further action was taken on the reference. Similarly, a petition calling for wide-ranging social services legislation reforms was not inquired into further by the Health and Welfare Committee on the grounds that a number of other committees and commissions of inquiry were considering the same matters. The Education and the Arts Committee also used the existence of other inquiries in its reasons to not further investigate its petition on the state of the arts in Australia.

In the last of the references to the standing committees of this period, on a 1973 petition objecting to the proposed national health scheme, the Health and Welfare Committee determined that the petition was ‘an expression of opinion’, that legislation to partly implement the scheme had already been passed, and that no further action would be taken.

Despite the President of the Senate informing the Senate in October 1972 that the Standing Orders Committee was considering the questions of the automatic reference of petitions to standing committees, no further announcements ensued for a decade.⁴⁰

By 1975 Senator Keeffe was wistfully reminiscing:

We did for a short period follow the practice of sometimes taking the message from a petition to a relevant standing committee. I guess we still have that right although it is not exercised very much.⁴¹

³⁹ Senate Standing Committee on Social Environment, *Report on the Petition Relating to the Proposed Construction of a Post Office Tower on Black Mountain in the Australian Capital Territory*, 26 October 1972, PP 219/1972, p. 5.

⁴⁰ Senate debates, 18 October 1972, p. 1603.

⁴¹ Senate debates, 20 August 1975, p. 78.

In 1979 the Democrats attempted to refer a petition on citizen-initiated referenda to the Constitutional and Legal Affairs Committee. According to the proposal, a petition signed by two per cent of the population would be put to a referendum and if carried would become law. The motion to refer the petition to the committee failed due to a lack of support from either the government or the opposition.

In November 1982 the Senate accepted recommendations of the Standing Orders Committee that all petitions be referred to standing committees on the initiative of the President.⁴² In theory committees could seek references from the Senate to inquire into any matters raised in petitions. In practice this did not occur until the mid-1990s when between 1995 and 1997 the Environment, Recreation, Communications and the Arts Legislation Committee reported on a number of matters including mobile phone coverage in the NSW Alps, national broadcasting services to Bass Strait islands and defence facilities at Jervis Bay. The petitioners' concerns were referred to the relevant ministers, departments or authorities and their responses published.⁴³ After 1997 the practice lapsed.

In 2005 petitions on gynaecological cancer organised by the Gynaecological Awareness Information Network were referred by the Senate to a committee, thus becoming something of an exemplar of petition-initiated public policy. In November 2005 Senator Lyn Allison spoke at length on several petitions signed by almost 3000 women calling for increased funding for the management and prevention of gynaecological cancers and sexually transmitted infections. In December the Senate agreed that the petitions be referred to the Community Affairs References Committee. After an informal inquiry and roundtable discussion, in which the committee obtained information and community views on the issues raised in the petition, the Senate again referred the matter to the standing committee for a formal inquiry.

In its report, *Breaking the Silence*, the committee considered the views and evidence it had received from 72 submissions, seven public hearings and two site visits. It made a number of recommendations which were agreed to by the government including the establishment of a centre for gynaecological cancers to provide a 'national voice' for gynaecological cancer issues and the development of a human papilloma virus vaccination program. The inquiry's success on this occasion can be attributed partly to the cross-party support that it achieved from the outset as well as to the important personal dimension provided by a participating member of the committee, Senator Jeannie Ferris, who contributed her own experience of ovarian cancer to the inquiry.

⁴² Senate Standing Orders Committee, Reports, April 1982, PP 82/1982 and November 1982, PP 313/1982; Senate debates, 27–29 April 1982, pp. 1543–7, 1632–40, 1681–7; 25 November 1982, pp. 2849–54; Laing, op. cit., p. 255.

⁴³ Environment, Recreation, Communications and the Arts Legislation Committee, Reports, October 1995, PP 472/95; June 1996, PP 100/96 and June 1997, PP 134/97.

Petitions as publicity

Even in the vast majority of cases where the parliament does not act specifically on the contents of a petition, it can be argued that the act of petitioning itself serves a purpose in raising awareness of the issues of concern. The degree to which the presentation of petitions in the Senate can be used to generate publicity for a cause has fluctuated over time. The public profile of the parliament increased with the broadcasting of its proceedings on radio from 1946 and on television from 1990. As Senator Colin Mason observed in 1982:

The use of broadcasting has given these petitions a certain amount of clout ...When those many thousands of people who sign those petitions hear that at least the fact that they have done so is getting through to the rest of the community through the broadcasting of the Senate, they feel that something of importance has happened.⁴⁴

This trend, however, was undermined by standing and sessional orders on the reading of petitions in the Senate which were progressively amended in order to reduce the time required to present petitions in the chamber. Between 1901 and 1974 the ‘prayer’ (the text containing the request for action by the Senate or parliament) of each petition was read aloud in the Senate, although it was not the practice to read the names on a petition unless this was specifically directed.⁴⁵ From 1972 identically worded petitions presented on the same sitting day were read only once.⁴⁶ The subject and the number of signatories only were read by the Clerk after 1974 although a petition could be read out in full if requested by a senator and the text was less than 250 words. From 1982, only the subject and the number of signatories could be read. In 1997 the reading of petitions was abandoned entirely and instead a list was created and circulated to senators each sitting day.

As the reading of petitions became more restrictive, the printing of them on the public record became more expansive. From 1901 only a general indication of the subject matter and number of petitioners was printed in Hansard. On rare occasions the Senate asked for the petition to be printed, usually because a senator stated their intention to take action on it. Full versions of early petitions were sometimes appended to the *Journals of the Senate*. From late 1968 fuller versions were printed in Hansard, containing both the preamble and the prayer.

⁴⁴ Senate debates, 27 April 1982, p. 1544.

⁴⁵ Senate debates, 8 September 1910, p. 2791.

⁴⁶ Senate debates, 10 May 1972, p. 1501.

The Senate standing orders on the presentation of petitions do not allow debate on the topic of the petition,⁴⁷ thus curtailing opportunities for awareness-raising (and frustrating historians wishing to appreciate the background and motivation for petitions). An exception appeared in 1980 when Senator Brian Harradine presented a petition signed by 18 000 residents of Tasmania on the inadequacy of family allowances. He sought and, surprisingly, was granted leave from the Senate to make a 'statement of about one minute's duration on the petition's historical significance and the shortness of time available to people to sign it'. In this statement Senator Harradine revealed that the petition had been distributed to '75 per cent of householders by 300 volunteers over the last couple of weeks' and that the 'spontaneous response reveals the depth of feeling amongst families that they have been getting a raw deal'. His statement was terminated on a point of order by the opposition whip who expressed concerns that in allowing debate 'we are establishing a precedent which will not serve us very well'.

Some senators have used adjournment debates and matters of public interest (items of Senate business that allow backbenchers to pursue topics of their own choosing) to expand on matters raised in petitions they presented earlier, or intend to present in the future, in the Senate. Adjournment debates in particular were commonly used to present the contents of petitions that did not conform to the standing orders. Senator John Knight's 1979 comments on a non-conforming petition on the closure of a Canberra high school, for instance, incorporated a detailed submission by the parents' and citizens' association, thus enabling the petitioners to incorporate far more information into Hansard than if the petition had been presented in the usual way.

In 1969 Senator Keeffe used an adjournment debate to circumvent the refusal of the Clerk of the Senate to allow a petition to be presented in the Senate that named servicemen killed in the Vietnam War. Senator Keeffe read the petition, including the list of 324 names, aloud in the Senate. The broader issues of the Australian participation in the war, and the use of the names of the dead to influence opinion, were then debated at some length.⁴⁸

Views of senators on petitions

Senators for the most part have staunchly defended the democratic principles underpinning the petitioning of parliament. In 1910 Senator John Keating counted

⁴⁷ The procedural rules debarring debate on petitions were introduced in the House of Commons in 1842 and 1853 after numbers of petitions increased to the extent that debating petitions began to dominate the business of the House. See Niamh Corbett, 'Parliamentary petitions: an untapped library resource', *Australian Library Journal*, August 2011, p. 221; Lord Campion (ed.), *Sir Thomas Erskine May's Treatise on the Law, Privileges Proceedings and Usage of Parliament*, 15th edn, Butterworth, London, 1950, p. 819.

⁴⁸ Senate debates, 26 November 1969, pp. 53–9.

petitioning among the 'three inherent rights of the individual, the right to petition Parliament, the right of public meeting, and the right of free speech'.⁴⁹

Yet, when it came to the effectiveness of petitions, assessments could be brutally honest. According to Senator Bob Brown in 1997:

An enormous amount of effort goes into signing petitions, some of them with tens of thousands of signatures. Yet at the end of the day they have little above zero impact on the thinking of we senators.⁵⁰

Views in earlier decades were much the same. Senator Keffe in 1975 deemed them 'frankly, not worth the paper they are written on'.⁵¹ Senator Mason in 1982 said 'We all know that when petitions hit this place no further action is taken about them'.⁵² Senator Robert Ray's views concurred:

No one takes any notice of petitions. They have no effect at all on governments ... If people bring me a petition and say that they want to send a petition to parliament I simply say to them that it will be ineffective. My advice is that the best thing to do is to write an individual letter to their local member of parliament, telephone them and keep on their back. That way is far better.⁵³

That petitions rarely had any effect upon senators' opinions was not the point, according to a backhander delivered by Senator Hugh de Largie in 1912:

That does not matter. The right of petition should be continued to the people, because it is the only way in which some persons are able to let their views be known. Their petitions may appear to be drivel to us, but they are matters of serious moment to the petitioners.⁵⁴

Other senators were more generous in their views on the value of petitions. Senator Mason, in describing petitions on lead petrol petitions received in 1982, also noted their value to the petitioner:

Week after week, those petitions, signed, as they were, by virtually every parents and citizens association in Sydney, had an effect. They were

⁴⁹ Senate debates, 8 September 1910, p. 2793.

⁵⁰ Senate debates, 6 March 1997, p. 1426.

⁵¹ Senate debates, 20 August 1975, p. 78.

⁵² Senate debates, 27 April 1982, p. 1544.

⁵³ Senate debates, 29 April 1982, pp. 1684–5.

⁵⁴ Senate debates, 6 December 1912, p. 6537.

listened to by other people and by the people who produced them. I think they believed, with some right, that purely by the presence of those petitions, purely by the fact that they had brought them in, they had contributed to this country's political life.⁵⁵

In 1910, in response to Senator Patrick Lynch's view that petitions were 'an obsolete practice', Senator Thomas Chataway retorted 'I am satisfied that if Senator Lynch were one of a minority seeking redress, he would be one of the first to petition Parliament if he thought he had a good case'.⁵⁶

At times senators themselves have indeed enlisted petitions in support for a cause, as related previously in Senator Woodley's campaign for widows' allowances. In another example, in May 1989 Senator Julian McGauran, inspired by the stories of some of the 'unsung heroes of the Vietnam War', began a personal campaign in the Senate for the creation of an 'end of war list' which would recognise individual acts of valour that had been overlooked in the course of the war.⁵⁷ McGauran used just about every means available to a backbencher to raise awareness for the issue from notices of motion, questions to ministers and adjournment debates to a private senators' bill which was passed by the Senate in November 1989. In the Senate McGauran was at pains to demonstrate broad support for his cause:

My campaign ... is backed up by the Vietnam Veterans' Association and the Returned Services League of Australia. Further, a grassroots campaign has been launched to make the weight of public support obvious to this Government.⁵⁸

Petitions were the spearhead of this grassroots campaign. The RSL wrote to all its branches in Australia requesting its members to sign a petition of support. The first of 33 petitions, bearing over 7500 signatures, was presented to the Senate in June. Two days later McGauran gave a notice of motion referring to the 'petitions presented to the Senate the past 3 days expressing support for the establishment of an End of War List' and containing a threat that 'further petitions will be presented to the Senate every sitting week for the remainder of 1989'.⁵⁹ Despite his efforts the End of War List Bill lapsed in the House during 1990 and it took until 1998, after a change of government, for an end of war list to be announced, albeit in a more limited form than originally envisaged by McGauran.

⁵⁵ Senate debates, 25 November 1982, p. 2851.

⁵⁶ Senate debates, 8 September 1910, pp. 2792–3.

⁵⁷ Senate debates, 6 February 1995, p. 557.

⁵⁸ Senate debates, 24 May 1989, p. 2545.

⁵⁹ Senate debates, 16 June 1989, p. 4202; 7 September 1989, pp. 1139–41.

Even when the Senate as a whole does not act to forward the interests of petitioners, individual senators may, especially when the petitions are of a more local nature and address more typical constituent matters. When Senator Margaret Reid presented a petition in the Senate in 1986 dealing with traffic issues in her territory she took further action herself, referring it to the Minister for Territories and asking that he look into the matter, later informing the Senate of his reply.⁶⁰ Individual senators have also taken up petitioners' issues in question time.⁶¹

Perhaps imitation was not the sincerest form of flattery when, in the historic last sitting day of the Senate in the provisional parliament house on 2 June 1988, Senator Michael Baume presented a petition with 19 signatories asking the Senate to have the cappuccino machine from the old building brought up and 'carefully restored to its former glory' in the new staff cafeteria. True to petitioning tradition, the plea was unsuccessful and a new machine was installed. As the President of the Senate Kerry Sibraa recalled, it may have been the last day in the old house but 'the big issues were on'.⁶²

Are petitions futile?

While petitions can have some influence in shaping legislation and policy and stimulating the course of debate in the Senate, their impact is undeniably small when considered alongside the sheer bulk of the petitioning history in the Senate. By their very nature petitions cannot guide decision making. As a poll or referendum they are flawed. As Senator John Button observed:

One of the unfortunate things about petitions, of course, is that petitions present all points of view ... It is important that people are involved in that issue, but ultimately the Government has to make a decision about the issues involved.⁶³

Where the aims expressed in petitions have met with some success they are often carried on the back of a large campaign with wider influences in the media and elsewhere. In such cases judging the success of a petition is effectively a judgement on the success of the campaign. Other methods such as taking up constituent issues with representatives and direct lobbying of senators to introduce notices of motion, move legislative amendments and ask questions of ministers are more effective in bringing about change. Members of the public can contribute to committee inquiries

⁶⁰ Senate debates, 19 March 1987, p. 1041.

⁶¹ For example, Senate debates, 29 September 1953, p. 274; 24 October 1963, pp. 1387–8; 29 October 1963, p. 1513.

⁶² Senate debates, 2 June 1988, pp. 3403, 3449; *Sunday Age* (Melbourne), 4 March 2001.

⁶³ Senate debates, 28 April 1982, p. 1633.

by writing submissions and giving evidence in hearings. However, while this may be effective when an inquiry is already in place it is of little comfort when the issue of concern to petitioners is off the political agenda. Helping to determine subjects of inquiries is an area where petitions have some continuing role to play.

After the late 1990s the Senate experienced a sharp decline in the numbers of petitions, although there have been spikes in numbers of signatories when particular issues have risen to public attention such as the introduction of the goods and services tax (2000), live animal exports (2003) and proposed changes to refugee laws (2006). This general trend has been mirrored in the House of Representatives although the exact timing differs. Possible reasons for the decline in petitioning activity in the federal parliament might include disillusion with its effectiveness, disengagement from the political process, and the preference for other means for obtaining redress. In the Senate context, the election of minor party senators with environmental and socially conservative agendas may have channelled concerns in some contentious policy areas directly to these representatives.

Despite the enthusiasm of a few concerned individuals and repeated consideration by the Standing Orders and Procedure committees, the Senate has decided against sustained measures to make petitioning more effective. In 1970 the Clerk of the Senate, J.R. Odgers, commented that a Senate petitions committee ‘would add prestige and importance to the Senate as the House with the special function of seriously considering petitions and the grievances of petitioners’.⁶⁴ With the formation of the House of Representatives Standing Committee on Petitions in 2008 this opportunity was lost.

The House of Representatives Petitions Committee was established out of concern for both the rarity of ministerial responses to petitions, and the decline after the 1990s in the tradition of petitioning.⁶⁵ In the five years since the committee has operated (2008–12) compared to the previous five years (2003–07) the number of signatures on House of Representatives petitions has increased by 32 per cent (The average number of petitions has more than halved although the inclusion of identical petitions makes this statistic more complicated.) By comparison, in the Senate over the same time periods average numbers of petitions and average numbers of signatures have both declined (by 65 per cent and 41 per cent respectively).

According to one commentator, a key issue in determining the effectiveness of petitions is ‘whether they are considered by the relevant decision maker, who then

⁶⁴ *Report from the Standing Orders Committee Relating to Standing Committees*, op. cit., p. 19.

⁶⁵ House of Representatives Standing Committee on Petitions, *The Work of the First Petitions Committee: 2008–2010*, 2010, p. v.

explains by way of response what, if any, action is to be taken and why'.⁶⁶ The House of Representatives Petitions Committee refers matters to ministers for their responses and follows up on some matters in discussions with petitioners and public servants. While the ministerial responses may not produce the actions the petitioners are seeking, the explanations received constitute a form of accountability and a dialogue between representatives and citizens.

Perhaps searching for tangible results for petitions is beside the point and their primary purpose when directed towards the Senate is to inform, to express views and to engage. Even without direct action they may be 'inwardly digested' by senators.⁶⁷ To Senator Dee Margetts:

Petitions constitute an aide-memoire for us of the issues that are important to the community. With petitions, we know what the issues are. We know how many people are supporting a petition. If the same issue comes up day after day in large numbers, it is important—not just that it happens and not just that it gets written down somewhere—that we know, because we are the people to whom those people are sending the message.⁶⁸

Arguments found in the academic literature that petitions 'foster a sense of unity and purpose within a community which is then publicly demonstrated when the petition is presented to the House'⁶⁹ have long been recognised by senators. In the words of Senator Button:

What is important, of course, about the collecting of petitions in this community, if we are frank and honest, is the involvement of members of the public in being concerned about an issue confronting this Parliament and discussing it with their neighbours, workmates and colleagues and getting them involved to the point at which they read the petition and say: 'I am concerned about that, too. I will sign it'. That is the important community process.⁷⁰

⁶⁶ Gareth Griffith, 'Public petitions: A case study of New South Wales', *The Parliamentarian*, no. 2, 2011, p. 148.

⁶⁷ Senate debates, 28 April 1982, p. 1632.

⁶⁸ Senate debates, 6 March 1997, p. 1425.

⁶⁹ Sonia Palmieri, 'Petition effectiveness: Improving citizens' direct access to parliament', *Australasian Parliamentary Review*, vol. 23, no. 1, 2008, p. 123.

⁷⁰ Senate debates, 27 April 1982, p. 1546.