

Parliament and the citizen

Parliament is the link between the government and the people. On the one hand, it tells the Government what the people want or will stand for; on the other, it informs and teaches the public about the Government's intentions. If it were not for Parliament, the public would only hear the Government's side of things. The information we get through Parliament is more interesting because it is more critical; it contains the Opposition's reaction to Government measures as well as the official line. The cut and thrust of question and debate gives publicity to new proposals, sets the general public thinking and discussing them, sounds out opinion and prepares people for new laws.¹

COMMUNICATION IN A DEMOCRACY

The Australian democratic system is to a large extent based on a Parliament elected by universal adult suffrage. The effectiveness of the system depends heavily on the wisdom of the people; first, in exercising their right to elect representatives and, secondly, in influencing them once they are elected. It is important that the people know and understand, at least in broad terms, what the Parliament is, what it does, how it works, what happens there and what is said there. The elected representatives must, in turn, be aware of the beliefs, needs, aspirations and circumstances of those whom they represent. They must therefore be accessible to the people, individually and collectively. The elected Parliament is directly accountable to the people and this chapter is concerned with that accountability. The chapter discusses:

- how the proceedings of Parliament are brought to the people;
- the right of the citizen to petition the Parliament and to seek the redress of grievances through their elected representatives, and
- the methods by which the citizen informs and influences individual Members and the House.

INFORMING THE ELECTORATE

Parliament conducts its business, with the rarest exceptions, in public. This is now taken for granted but it has not always been the case over the long history of Parliament. In the 18th century the House of Commons declared the publication of any of its debates a breach of privilege and exercised its power to imprison those who committed such breaches. The House of Commons at first was seeking, among other things, to maintain its independence by keeping its debates secret from the monarch. By the 18th century its motive was probably reluctance to be held accountable to public opinion.² It also had cause for concern because of the notorious inaccuracy of reports of its debates which were based on notes taken by reporters, contrary to the orders of the House. However, reports persisted and by the end of the 18th century they were openly tolerated.³

¹ Bernard Crick and Sally Jenkinson, *Parliament and the People*, Hamish Hamilton, London, 1966, p. 111.

² *May*, p. 83.

³ *Campion*, p. 96; see also Wright & Smith, pp. 221-30.

Strangers have been ordered to withdraw on special occasions from the House of Representatives, the last occasion being in 1942. The use of the word 'stranger' to describe people within the parliamentary precincts who are not Members or officers of the Parliament is commented on by Wilding and Laundry:

The official use of the word 'stranger' is yet another symbol of the ancient privileges of Parliament, implying as it does the distinction between a member and a non-member and the fact that an outsider is permitted within the confines of the Palace of Westminster on tolerance only and not by right.⁴

People may view the proceedings of the House from the public galleries.⁵ In 1987, approximately 56 808 people visited the House of Representatives public galleries during the 74 sittings for that year. It is considered that a large majority of visitors would have been tourists making single visits to the galleries. With the opening of the new Parliament House in 1988 there was a large increase in the number of visitors, with as many as 1200 persons each hour passing through the galleries.

Of varying importance in informing the public of events in the House are:

- radio broadcasts of parliamentary proceedings;
- reports by the media, and
- Hansard reports, the Votes and Proceedings, the Notice Paper and other documents of the House.⁶

Broadcasting of proceedings

The broadcasting of the proceedings commenced on 10 July 1946 in the House of Representatives. The Parliament of Australia was the second national Parliament of the Commonwealth to introduce the broadcasting of its proceedings. Proceedings have been broadcast in New Zealand since 1936.

Broadcasting of Parliament can play an important part in the political education of the people, enabling them to be better informed on both sides of those public questions which attract an alternative point of view. It has been seen as an aid to the more effective functioning of a democratic system of government. In recommending that the proceedings of the Australian Parliament be broadcast, the Parliamentary Standing Committee on Broadcasting expressed the view that as a result of broadcasting the community would be better able to make informed judgments on matters affecting the common good and the public interest, nationally and internationally.⁷

Authority for broadcasting

Broadcasts are made and controlled under the *Parliamentary Proceedings Broadcasting Act 1946*. The Act directs the Australian Broadcasting Corporation (ABC) to broadcast the proceedings of the House of Representatives or the Senate, or of a joint sitting pursuant to section 57 of the Constitution, from seven medium wave national stations (located in the six State capital cities and Newcastle) and from such other national stations, including short-wave stations, as are prescribed. A medium wave station in Canberra and a short wave station have been so

4 Wilding and Laundry, p. 729.

5 See Ch. on 'Parliament House and the House of Representatives Chamber'.

6 See Ch. on 'Papers and documents' for details of these documents as a source of information and their availability.

7 'The broadcasting of parliamentary debates', *Parliamentary Standing Committee on Broadcasting*, 8th report, PP 31(1945-46)4.

prescribed. In November 1988 and following trials the broadcast was transferred to a new network established to carry the broadcast of proceedings and related material only. The Act extends to all Australia's external Territories.

Joint Committee on the Broadcasting of Parliamentary Proceedings

At the commencement of the first session of every Parliament, a Joint Committee on the Broadcasting of Parliamentary Proceedings is appointed pursuant to the Act.⁸ The Act requires the committee to report to each House on the general principles under which there should be determined the days upon which, and the periods during which, the proceedings of the Houses are to be broadcast; and to determine, in accordance with the general principles adopted by each House, the days upon which, and the periods during which, proceedings of either House or of a joint sitting are to be broadcast.

General principles

Before the first broadcast, the committee, in accordance with its functions under the Act, specified in a report to each House the general principles upon which the broadcast of parliamentary proceedings should be inaugurated. The committee's report was adopted by both Houses, and the committee has subsequently exercised control over the broadcasts in accordance with the principles ratified by Parliament and the determinations the committee has made in conformity with these principles.

The following is a consolidation of general principles specified in the committee's first, second, third, fourth, sixth and seventh reports which together govern current practice⁹:

(1) *Days upon which proceedings shall be broadcast*

The proceedings of Parliament shall be broadcast on each day on which either House is sitting.¹⁰

(2) *Periods during which proceedings shall be broadcast*

The broadcast shall commence on each sitting day at the time fixed for the meeting of the House whose opening proceedings are to be broadcast on that day, as determined by the Joint Committee on the Broadcasting of Parliamentary Proceedings, in accordance with section 12 (2) of the *Parliamentary Proceedings Broadcasting Act 1946*, and shall cease when the adjournment is moved in the House which is being broadcast at that time, or at 11.30 p.m., whichever is the earlier.

(3) *Allocation of broadcasting time between the Senate and the House of Representatives*

The allocation of broadcasting time between the Senate and the House of Representatives shall be in accordance with the views of the Joint Committee on the Broadcasting of Parliamentary Proceedings, or its sub-committee, on the importance of the impending debate and the public interest attaching thereto. The Committee recognises that, in practice, more time will be allotted to the House of Representatives than to the Senate.

(4) *Re-broadcast of Governor-General's speech*

On the first sitting day of each session of the Parliament the Australian Broadcasting Corporation shall re-broadcast at 7.15 p.m. the speech of the Governor-General.

⁸ See Ch. on 'Parliamentary committees' for details of the committee's powers, procedures, etc.

⁹ The 5th and 8th reports (see footnote 11) were not adopted by the House of Representatives. The reports referred to were adopted by both

Houses on 5 July, 17 July and 15 November 1946; 30 June 1949; 9 and 12 April 1954; and 7 April 1960, respectively.

¹⁰ Saturday sittings were excluded by Determination No. 6.

(5) *Re-broadcast of questions and answers*

(a) Within the limits of time available, the following parliamentary proceedings shall be re-broadcast by the Australian Broadcasting Corporation between 7.15 p.m. and 8 p.m. on each sitting day after the first sitting day of each session:

- | | |
|--------------------------------------|---|
| Senate proceedings | Questions without notice and on notice and answers thereto; |
| House of Representatives proceedings | Questions without notice and answers thereto. |

(b) When a Member makes a personal explanation in rebuttal of misrepresentation contained in a question asked that day or an answer thereto, the question and answer shall, subject to the next succeeding subparagraph, be excluded from the re-broadcast.

(c) The Presiding Officer may, in his or her discretion, refer any case to the joint committee for decision as to whether such question and answer shall be excluded from the re-broadcast.

(6) *Broadcast and re-broadcast through national stations*

No broadcast or re-broadcast of the proceedings of either House shall be made except through national broadcasting stations unless the Joint Committee otherwise determines. (And see p. 740.)

(7) The general principles specified in the First Report of the Joint Committee on the Broadcasting of Parliamentary Proceedings adopted by both Houses on 5 July 1946, shall be observed generally by the joint committee in making determinations in accordance with the *Parliamentary Proceedings Broadcasting Act 1946* but nothing in those general principles shall be taken to prevent the joint committee from departing from those general principles in order to meet any unusual or special circumstances.

During consideration of the committee's first report, a member of the committee stated that the committee's reasons for excluding the adjournment debate from the broadcast were that many of the speeches made on the adjournment related to one electorate only, and that the debate came on at a very late hour. In presenting the second report of the committee the Speaker indicated to the House that the reason behind concluding the broadcast at 11.30 p.m. was a financial one only.¹¹

The reference in general principle No. 2 to 11.30 p.m. refers to Eastern Standard or Summer Time and because of the time differential may be read as 11 p.m. in South Australia and 9.30 p.m. in Western Australia.

Standing determinations

Standing determinations are made by resolution of the committee and are notified to Members and parliamentary staff, to the ABC and to the Parliamentary Press Gallery. Determinations made by the committee remain in force on a continuing basis until varied or revoked by a later joint committee. From time to time, the committee issues notifications of the broadcasting arrangements for a particular week or period. Such notifications are numbered serially and signed by the secretary to the committee who is usually the Serjeant-at-Arms.

¹¹ H.R. Deb. (5.7.46) 2312; H.R. Deb. (17.7.46) 2616; the 8th report of the committee, dated 7 April 1978, proposed to amend this general principle to provide for the adjournment debate

of the House of Representatives to be broadcast. The report was not considered by the House, PP 134(1978).

The committee has made the following standing determinations in accordance with the general principles:

Transfer of broadcast from one House to another

- (1) When both Houses are meeting on the one day and the House whose proceedings are being broadcast adjourns for the day prior to a normal meal suspension, the broadcast shall be transferred to the other House as from the time when this other House resumes its sitting after the meal suspension.¹²
- (2) When on any day on which the broadcast has been allotted to the Senate and, as a result of a want of confidence motion having been moved in the House of Representatives, the Senate adjourns for the day, the broadcast shall be transferred immediately to the House of Representatives.¹³
- (3) On any day when both Houses are meeting and on which the House to which the broadcast for the day has **not** been allocated meets in the forenoon and the House to which the broadcast for the day has been allocated meets in the afternoon, the proceedings of the House first mentioned shall be broadcast from the time of its meeting in the forenoon until its suspension for lunch:

Provided that the broadcast of proceedings of the House which meets in the forenoon shall not be continued past the time fixed for the meeting of the other House.¹⁴

Re-broadcast of questions and answers—allocation of time between Houses

- (4) On each sitting day, the re-broadcast by the Australian Broadcasting Corporation at 7.15 p.m. of questions and answers as specified in General Principle No. 5 shall commence with the questions and answers of the House to which the broadcast for the day has **not** been allocated. This determination is to have effect irrespective of any broadcast, pursuant to the Committee's determination of 8 May 1947, of the morning proceedings of the House to which the broadcast for the day has **not** been allocated.¹⁵

Allocation of broadcast

- (5) That, unless otherwise ordered, the broadcast be allocated as follows:

Monday sittings	House of Representatives
Tuesday sittings	House of Representatives
Wednesday sittings	Senate
Thursday sittings	House of Representatives
Friday sittings	Senate ¹⁶

With the adoption in 1984 by both Houses of a cycle of two sittings weeks followed by two non-sitting weeks, the committee determined to vary the allocation while the cycle was observed with the following effect:

Monday sittings	Senate
Tuesday sittings	House of Representatives
Wednesday sittings	Senate
Thursday sittings	House of Representatives
Friday sittings	House of Representatives (if sitting) ¹⁷

Saturday sittings

- (6) That, in the event of either House sitting on Saturday, the proceedings of that House shall not be broadcast.¹⁸

12 Determination of 20 March 1947.

13 Determination of 20 March 1947. The Senate no longer follows the practice of adjourning under such circumstances; see Ch. on 'Motions'.

14 Determination of 8 May 1947.

15 Determination of 26 November 1947.

16 Determination of 21 June 1951, as amended by Determination of 7 April 1978.

17 Determination of 7 May 1984.

18 Determination of 25 March 1953.

Re-broadcast of questions and answers

- (7) When points of order or other extraneous matter are eliminated from the re-broadcast of questions and answers, this should be indicated by an appropriate announcement.¹⁹

Budget Speech and Leader of the Opposition's reply

- (8) That the Budget Speech and the Leader of the Opposition's reply may be broadcast by the Australian Broadcasting Corporation over its regional stations.²⁰

Daylight Saving Time in Tasmania

- (9) That, during the period of Daylight Saving Time in Tasmania, the broadcast shall cease in that State when the adjournment is moved in the House which is being broadcast at that time, or at 11.30 p.m. Daylight Saving Time, whichever is the earlier.²¹

Announcements from Control Booth

- (10) The following general principles apply to announcements made from the control booth:
- (a) Announcements to be confined to a straight description of procedure, and business before the House;
 - (b) Political views or forecasts are not to be included;
 - (c) The announcement of each Senator or Member receiving the call includes the following particulars:
 - (i) Name
 - (ii) Parliamentary office or portfolio
 - (iii) Political party
 - (iv) Electorate and/or State.

Comment on the presence or absence of Senators and Members (including Ministers) is not to be made except that announcers may refer during divisions to the way in which specific Members vote. It is to be understood this reference may be made only in such cases as when a Member is voting away from his or her usual Party alignment or to show on which side an independent Member is voting.

Names of Members intending to speak during the day or evening may be announced from the control booth provided that the announcement is of a provisional nature.²²

In addition, as a result of decisions by the committee on 19 March 1970:

- maiden speeches of Members are recorded for preservation in the collection of the National Library, and
- speeches made on condolence motions are recorded on tape for presentation to next-of-kin.

Members may, upon request, be presented with a sound recording of their maiden speech.²³

The times of broadcast have varied over the years with the varying patterns of days and hours of sitting. The allocation of broadcasting days, in Determination No. 5, has occasionally been varied by the committee to allow the broadcast of particular events occurring in the House not scheduled for broadcast that day. Any imbalance created by the transfer of broadcasting days is normally redressed as soon as possible.

19 Determination of 30 September 1953.

20 Determination of 31 August 1967.

21 Determination of 20 September 1967. This determination now needs to be reconsidered in the

light of daylight saving arrangements in States other than Tasmania.

22 Determination of 10 July 1946, as amended by Determination of 10 February 1949.

23 Decision of the committee, 14 September 1971.

Re-broadcasts

The committee has power, under the Act, to determine the conditions under which a re-broadcast may be made of any portion of the proceedings of either House and no re-broadcast may be made otherwise than in accordance with the conditions so determined. Although the term 're-broadcast' has been used in the general principles and standing determinations to include broadcasts of Question Time of the House not broadcast live on a particular day, this is not technically a re-broadcast within the meaning of the Act and is more appropriately called a delayed broadcast of proceedings recorded earlier.²⁴ As any re-broadcast or delayed broadcast of a selected part of proceedings is ordinarily of relatively short duration, the committee is conscious of a possible partisan or partial presentation. Accordingly, re-broadcasting or delayed broadcasting is traditionally strictly curbed, except when between 7.15 p.m. and 8 p.m. (during the dinner adjournment) a recording of Question Time is broadcast. The Question Time to be broadcast is, in general, that of the House not broadcast during the day, with a portion of that of the other House being included if time permits. The principles governing the re-broadcast or delayed broadcast of Question Time require that all business not being questions and answers as defined in the appropriate general principle are to be excluded. Points of order, questions ruled out of order, unanswered questions, and so on, are deleted. An appropriate announcement precedes the re-broadcast or delayed broadcast if it is edited or altered in any way. The only official re-broadcasts, as such, which take place are those of the Governor-General's speech at the opening of each session of the Parliament, occasionally part of Question Time and, on days when only one House is sitting, a re-broadcast of Question Time originally broadcast earlier in the day.

Broadcasting of excerpts

Following a report of the Joint Committee on the Broadcasting of Parliamentary Proceedings in 1985²⁵, both Houses passed resolutions²⁶ authorising the broadcasting of sound excerpts of proceedings for use on radio and television, for the trial period of the 1985 Budget sittings, subject to guidelines determined by the committee. Further resolutions extended the authorisation²⁷ and on 30 November 1988 the House passed a resolution giving standing authority for the broadcast and re-broadcast of excerpts.²⁸ After some development²⁹, the following guidelines were established:

1. Excerpts may be taken from proceedings of each House (whether or not the proceedings are being continuously broadcast) commencing at the time fixed for the meeting of the House until the adjournment of that House until the next sitting.
2. Excerpts shall be recorded from the audio signal of proceedings transmitted by the House monitoring system throughout Parliament House, Canberra.
3. Excerpts are not to be used for the purposes of satire or ridicule.
4. Excerpts shall not be used for the purposes of political party advertising or in election campaigns.
5. Fairness and accuracy and a general overall balance should be observed.
- 5A. Excerpts of proceedings which are subsequently withdrawn shall be available for re-broadcast provided the withdrawal is also reported.

24 See advice of Attorney-General's Department, dated 5 June 1950.

25 'Special report relating to the broadcasting of excerpts of proceedings', *Joint Committee on the Broadcasting of Parliamentary Proceedings*, PP 248 (1985).

26 VP 1985-87/294-5; J 1985-87/329.

27 VP 1985-87/662-3, 1421; J 1985-87/719, 1562.

28 VP 1987-89/961.

29 H.R. Deb. (20.8.85)11; H.R. Deb. (18.3.86)1462-3, 1518, 1536-7; H.R. Deb. (19.3.86)1557; H.R. Deb. (4.6.86)4552.

6. Excerpts must be placed in context. Commentators should identify Senators and Members at least by name.
7. Events in the galleries are not part of the proceedings and excerpts in relation to such events, as far as is practicable, should not be used.
8. Qualified privilege only shall apply to broadcasters in the use of excerpts.
9. The instructions of the Speaker of the House of Representatives and the President of the Senate or their delegated representatives on the use of recorded excerpts, shall be observed at all times.
10. Where the excerpts are used on commercial networks, the station should try to ensure that advertising before and after excerpts is of an appropriate nature.
11. Where the audio excerpts of proceedings are used on television, their use may be that of audio over still frames, or overlay material.
12. Access to proceedings for the purpose of recording excerpts shall be on the basis of an undertaking to observe these guidelines.

Review of radio broadcasting

In 1986 the Joint Committee on the Broadcasting of Parliamentary Proceedings reported on the televising and radio broadcasting of both Houses of Parliament and their committees.³⁰ The committee recommended that radio broadcasting of proceedings continue on the present basis but that the extension of broadcasts until 11.55 p.m. (to include adjournment debates) be considered. It also recommended that committee proceedings be made available for broadcast; that an Australia-wide parliamentary radio network be established; that broadcasting of excerpts be agreed to on a permanent basis, and that the ABC be given resources to produce weekly, and at a later stage daily, programs encapsulating the proceedings of both Houses and their committees. As at the dissolution of the 34th Parliament the recommendations had not been acted upon (*but see p. 736*).

Legal aspects

Members are covered by absolute privilege in respect of statements made in the House when the House is being broadcast.

Absolute privilege also attaches to those persons authorised to broadcast or re-broadcast the proceedings. The Act provides that:

No action or proceeding, civil or criminal, shall lie against any person for broadcasting or rebroadcasting any portion of the proceedings of either House of the Parliament or of a joint sitting.

Only qualified privilege may be held to attach to the broadcast of excerpts of proceedings, and it may be considered that this situation is appropriate given the fact that those involved in the broadcasting of excerpts act essentially on their own initiative, whereas those involved in the official broadcast and rebroadcast of proceedings have no discretion in the matter, being required to perform these functions by the law.

Historic records

The Act requires the ABC to record, when so directed, notable occurrences in the proceedings of Parliament. Having regard to timing difficulties, the ABC has been given the initiative of choosing which parliamentary occasions to record, although it makes an appropriate recording when directed to do so. The directions

³⁰ 'Televising and radio broadcasting of both Houses of Parliament and their committees', *Joint Committee on the Broadcasting of Parliamentary Proceedings*, PP 125 (1986).

in this regard and the oversight of the procedure involved are the responsibility of the committee, which also decides the items to be put into safekeeping and makes the appropriate safekeeping arrangements.

A recording of a typical day's proceedings in both the House of Representatives and the Senate has been lodged with the British Institute of Recorded Sound and various archival authorities in Australia.

Visual access to proceedings

Approval for the taking of photographs or filming in Parliament House, in the Chambers or elsewhere, rests finally with either or both Presiding Officers. Over recent years restrictions on photographing and filming have to some extent been relaxed by the Presiding Officers. This has occurred on the premise that the general viewing, screening, publication and distribution of photographs and films of the Parliament, properly administered and supervised, leads to a better public understanding of its activities and functioning.

The provisions of the Parliamentary Proceedings Broadcasting Act must be complied with, which means that no sound recording of the proceedings in Parliament may be made for use with any photograph or film prepared, unless specifically approved.³¹

Televising of proceedings³²

The only extensive telecasts of proceedings of the Parliament occurred during the joint sitting of both Houses in 1974. On that occasion the telecast was conducted by the ABC under the overall direction of the Joint Committee on the Broadcasting of Parliamentary Proceedings. The telecasts were carried out in accordance with the Parliamentary Proceedings Broadcasting Act, which was amended to cover televising (and broadcasting) of the joint sittings, and in accordance with determinations made by the committee under the Act. The amendments to the Act, *inter alia*, extended absolute privilege to any person involved in the televising of proceedings or televising from a recording of proceedings.³³ In this respect the amended Act does not deal with the televising of proceedings of either House, only of joint sittings. More than half of each day's proceedings of the joint sitting was telecast 'live' and transmitted to all States. The ABC was directed by the committee to prepare a one-hour composite program consisting of extracts from the entire proceedings of the joint sitting. The extracts were chosen and compiled under the supervision of a parliamentary officer.

Since 1984 the two major Budget speeches have been televised following the House's agreement to motions authorising:

- the Speaker to make arrangements for the preliminary proceedings relating to the introduction of the Appropriation Bill (No. 1) . . . , all or part of the second reading speech of the Treasurer, and all or part of the reply to that speech by the Leader of the Opposition to be filmed by the Australian Broadcasting Corporation;
- the direct, live, telecast of all or part of that film and the accompanying sound of the proceedings by any television station provided that a station telecasts both speeches live and gives approximately equal time to both speeches, and

³¹ *Parliamentary Proceedings Broadcasting Act 1946*, s. 14. For further discussion see Ch. on 'Parliament House and the House of Representatives Chamber'.

³² See Ch. on 'Parliamentary committees' for televising of committee proceedings.

³³ *Parliamentary Proceedings Broadcasting Act 1974* (Act No. 32 of 1974).

- the use by any television station of any part of the filmed proceedings and accompanying sound in subsequent news, current affairs and documentary programs.³⁴

Such telecasts now appear to have become an accepted component of the presentation of the proceedings of the House.

The guidelines in effect for the televising of the 1988 Budget were quite detailed, and included requirements that the main coverage of cameras be on the Speaker or the Member with the call, although the coverage could include the occasional general, wide-angle picture of the Chamber and the galleries, returning gradually to focus back on the Member speaking. Medium range shots of Members listening to the speeches were allowed as was some panning of the Chamber. 'Reaction' shots, for example, focussing on Ministers or shadow Ministers, were permitted but coverage of interjections or disruptions was not. The House also authorised coverage of the April 1989 economic statement by the Treasurer and the opposition reply.

Another major occasion on which television broadcasting of proceedings occurs is in respect of the Governor-General's speech and procedures associated with the opening of a new session of Parliament.

The Speaker has occasionally permitted filming in the Chamber, for television purposes, when the House has not been sitting. On the infrequent occasions when filming of proceedings, with or without accompanying sound, has been permitted for special purposes, the Speaker has exercised strict control over the filming and over any future use of the film and sound record.

The closed-circuit televising of proceedings was authorised by the House in May 1983³⁵ and cameras were subsequently installed in the Chamber to allow proceedings to be monitored from the offices of the Speaker, the Leader of the House, the Manager of Opposition Business and the three party whips.³⁶ From 1989 Members were able to view proceedings in their rooms through the monitoring system.

In a 1974 report the Joint Committee on the Broadcasting of Parliamentary Proceedings, having been asked to inquire into the desirability of televising portion of debates and proceedings, and related matters³⁷, concluded that 'conceptually, it is desirable to televise a portion of the debates and proceedings of the Parliament' and recommended that a closed-circuit trial period of televising be undertaken before the Parliament makes a final decision.³⁸ The committee further recommended that the ABC be obliged to telecast, on a regular basis, two programs produced by a Parliamentary Television Unit under the Presiding Officers' control. These programs would involve a telecast of Question Time from one House on each sitting day and a one-hour summary program each weekend. It was also recommended that access to the Parliamentary Television Unit's video tapes be granted to any television network on specified conditions. The major conditions were laid down in guidelines in the committee's report. The guidelines were framed:

'... to provide a means, in conformity with acceptable standards of dignity, propriety and decorum, by which the proceedings of the Parliament should be made available to the people of Australia for their knowledge through accurate and impartial coverage of the debates of the Senate and the House of Representatives and public meetings of their Committees'.³⁹

The report and its recommendations were not debated by either House.

However, in the intervening years there have been some significant developments in other Parliaments and some public debate in Australia. The Joint Committee on

34 VP 1983-84/774; VP 1985-87/298, 1040.

35 VP 1983-84/124.

36 H.R. Deb. (28.2.84)8-9.

37 VP 1973-74/69-70,137.

38 'Televising of Parliamentary Proceedings', *Report of Joint Committee on Broadcasting of Parliamentary Proceedings*, PP 61(1974)4.

39 PP 61(1974)51. These guidelines were used for telecasts of the joint sittings.

the Broadcasting of Parliamentary Proceedings presented a report in June 1986 on televising and radio broadcasting.⁴⁰ The committee recommended, inter alia, that:

- proceedings of both Houses be available for televising but that there be no compulsion to broadcast telecasts of proceedings on a continuous basis;
- the guidelines adopted for the televising of Budget speeches be endorsed as initial guidelines for television coverage, and these guidelines be monitored by the committee;
- where possible public proceedings of committees in the new Parliament House be available for televising and that edited audio-visual presentations of committee proceedings be permitted;
- a Parliamentary Audio Visual Unit be established and key staff be appointed to it;
- the television signal produced by the House monitoring system be made available for live or recorded transmission;
- absolute protection be conferred by legislation with respect to the radio and television signal made available by the Parliamentary Audio Visual Unit to media organisations and qualified protection be provided for the radio and television broadcasting of proceedings;
- control of access to the radio and television signal be vested in the Presiding Officers; and
- the opportunity be taken to revise completely the *Parliamentary Proceedings Broadcasting Act 1946*.

As at May 1989 no decisions had been made by the House on these recommendations, although the necessary cabling has been laid in Parliament House to allow for the televising of proceedings should it be permitted and an internal monitoring system was operational.⁴¹

The media

Important and useful though they may be, broadcasts and Hansard reports of parliamentary proceedings reach a relatively small proportion of the population. Undoubtedly most people rely on reports by journalists for information about proceedings in the Parliament, and about the actions and policies of the Government. The effectiveness of parliamentary democracy is therefore in large part dependent on fair and accurate reporting.

Since its establishment the Commonwealth Parliament has acknowledged the importance of the media. This recognition is exemplified in the setting aside of galleries from which members of the Parliamentary Press Gallery may view parliamentary proceedings and the provision of office space and access to other facilities in Parliament House. Because, with some exceptions, newspaper and television organisations do not maintain offices in Canberra other than those provided in Parliament House, their staff operate from Parliament House on a full-time basis for the reporting of all Canberra and district news, parliamentary or otherwise. Ministers as well as Members also work principally from their Parliament House offices when in Canberra. The result is constant formal and informal interaction.

Educational material

For many years the two Houses have made certain basic information available for visitors and others interested in the Parliament. In 1987–88 comprehensive

40 VP 1983-84/134-5; 'Televising and radio broadcasting of both Houses of Parliament and their committees', *Joint Committee on the Broadcasting of Parliamentary Proceedings*, PP 125 (1986).

41 Guidelines to apply to recording of vision footage for file purposes and subsequent broadcasting by television stations were tabled (and incorporated in *Hansard*) on 29 May 1989.

Education Kits were distributed to all schools in Australia. These contained a range of material on the Parliament concerning, inter alia, the roles and functions of the two Houses and parliamentary committees, and on the work of Members.

INFORMING AND INFLUENCING MEMBERS

There are several avenues by which people may seek to inform and influence individual Members and the House:

- submission of petitions to either or both Houses;
- submission of documentary and/or oral evidence to parliamentary committees, and
- direct oral or written communication with individual Members, including Ministers, or lobbying of Members and Ministers through professional lobbyists, pressure groups or by some organised activity, such as letter campaigns (see p. 753).

Petitions

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. It was from petitions that legislation by bill was gradually derived. Petitions have indeed been described as 'the oldest of all parliamentary forms, the fertile seed of all the proceedings of the House of Commons'.⁴²

The form and purpose of petitions changed over the centuries, the present form having developed in the 17th century. The rights of petitioners and the power of the House of Commons to deal with petitions were affirmed by 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.⁴³

Petitions in the House of Representatives

The right of petitioning Parliament remains a fundamental right of the citizen. It is the only means by which the individual can **directly** place grievances before the Parliament. Petitions received by the House are protected by absolute privilege.

Petitions may be received by the House on public or individual grievances provided that they relate to matters over which the House has jurisdiction. Most petitions concern public issues. It is traditional that a Member to whom a petition is sent for presentation will present it, irrespective of his or her personal views on its content (see p. 749). However, the Member is not bound to do so.

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 more effectively 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.

42 Redlich, vol. II, p. 239.

43 Hatsell, vol. III, p. 240.

To concede that petitions have diminished in importance is not to suggest that they have no importance at all. The number of petitions has increased dramatically since 1970. In the period 1960-69, the average number of petitions presented annually was 72; in the period 1970-80, it was 1453; in 1986 5528 petitions were presented. In 1987 the figure dropped to 3622 and, in 1988, after a review by the Procedure Committee and some tightening up of the arrangements, 1289 were presented.⁴⁴ It is obvious from these figures that the many people who organise petitions and the thousands who sign them consider their efforts to be worthwhile. An important effect of the petitioning process is that Members and the Government are informed, in a public way, of the views of sections of the Australian community on public issues. Even if no action is immediately taken 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. The petition usually forms part of a broader attempt by individual groups within the community to draw public attention to grievances through all available avenues. 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.

Form

There are a considerable number of rules associated with the form and content of petitions and their presentation. These rules are designed to ensure that the authenticity of petitions is established and hence provide protection to the petitioner and the House alike.

Petitions must be fairly written, typed, printed or reproduced by mechanical process, without interlineation or erasure⁴⁵, and should be inscribed on paper. Petitions consisting of a typed sheet of paper pasted to a bark sheet with surrounds decorated in a traditional Aboriginal manner were presented to the House in 1963 and 1968 on behalf of the Yirrkala Aboriginal community.⁴⁶ A petition must be free of any indication that a Member may have sponsored or distributed it.⁴⁷

Every petition must be in English, or be accompanied by a translation, certified to be correct. The person so certifying must affix his or her name and address to the translation.⁴⁸ A translation was submitted with the Aboriginal bark petitions.

Petitions should:

- be properly addressed to the Speaker and Members of the House of Representatives assembled in Parliament⁴⁹;
- state the facts which the petitioners wish to bring to the notice of the House;
- request action by the House, and
- conclude with a prayer that the House do, or refrain from doing, something or take some course of action.⁵⁰

A 'prayer' has been defined by the Chair as a request.⁵¹ In earlier times the phrase 'humbly pray' was commonly used, but there is no requirement for the words and alternative words such as 'urge' or 'request' are common. If a petition consists of

44 For statistics of petitions presented since 1901 see Appendix 20. In its report of 20 March 1972 the Standing Orders Committee commented: 'More recently it has been noticeable that, rather than present all sheets of a petition as one document, a single sheet or a group of sheets of a petition has been distributed to a number of Members and presentation has been repeated on many sitting days presumably to have the effect of securing greater publicity', PP 20 (1972)8.

45 S.O. 115.

46 VP 1962-63/515,531; VP 1968-69/223.

47 S.O. 115, as amended by sessional order of 9.12.87.

48 S.O. 117, as amended on 4 May 1989, VP 1987-89/1163. Until then it was the requirement that the certification be by the Member, see PP 149 (1988)7.

49 H.R. Deb. (23.7.01)2823; H.R. Deb. (10.9.36)18; H.R. Deb. (30.9.53)798-9.

50 S.O. 116; H.R. Deb. (14.7.04)3223.

51 H.R. Deb. (24.9.07)3619-20.

more than one page, the prayer must appear on every page to which signatures are affixed. If the House has the power to grant the prayer of a petition, the absurdity of the prayer is no objection, in itself, to the receiving of the petition.⁵²

No letters, affidavits or other documents may be attached to a petition.⁵³ On rare occasions petitions have been received with attachments to them.⁵⁴ While no comment was made in the House on their acceptability and the attachments were not mentioned in the Votes and Proceedings, they were probably kept because they were important for a full understanding of the petition itself. For example, a petitioner requested the House to appoint a select committee to inquire into his plans for altering the law of legal tender and his plans were appended to the petition.⁵⁵

The standing orders do not impose any particular style of expression⁵⁶, but a recommended form of a petition to the House of Representatives, in contemporary language, is shown below.

PETITION

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF THE HOUSE OF REPRESENTATIVES ASSEMBLED IN PARLIAMENT:

The petition of certain.....
(Here identify, in general terms, who the petitioners are, e.g.—

- citizens of Australia,
- or*
- residents of the State of.....
- or*
- electors of the Division of.....)

draws to the attention of the House

or

points out to the House

.....
(Here give the circumstances of the case)

Your petitioners therefore pray that the House

- or*
- request the House
- or*
- ask the House

.....
(Here outline the action that the House should, or should not, take)

(Signatures)

(Addresses)

52 *May*, p. 861.

53 S.O. 123.

54 VP 1907-08/41; VP 1909/83; VP 1917-19/197.

55 VP 1907-08/41 .

56 H.R. Deb. (19.8.82)694-5.

It is important that those involved in drawing up petitions follow a suitable format and familiarise themselves with all the rules governing petitions before taking steps to collect signatures. This will avoid the possibility of the petition being ruled out of order and not presented to the House.

Content

No reference may be made in a petition to any debate in Parliament.⁵⁷ Petitions relating to bills before the Senate have been received⁵⁸, as have petitions relating to matters currently on the Notice Paper⁵⁹, and petitions praying for the repeal of Acts.⁶⁰

Petitions must be respectful, decorous and temperate in their language and must not contain irrelevant statements.⁶¹ In particular, reflections must not be cast upon the Queen, members of the Royal Family, the Governor-General, members of the judiciary, Members and Senators. For example, the Clerk of the House has declined to certify (*see* p. 750) a petition criticising the conduct of a judge of the Family Court of Australia and praying for the judge's removal from office, and a petition which reflected on a named Senator. In 1979, however, the Clerk certified, and the House received, a petition which asked the House to take action to receive the resignation of certain unnamed Members for, it alleged, not having honoured an election undertaking.⁶² It was considered acceptable because it was not disrespectful and, in seeking the resignation of several Members collectively, it did not breach the spirit of the standing orders. This rule has also been held to apply in respect of a prospective Governor-General. In August 1988 a petition, although it did not identify a prospective Governor-General, was not accepted, as it was considered to impugn his character.

Petitions should not impugn the character or conduct of Parliament, the courts or any other tribunal or constituted authority.⁶³ However, in 1977, the Clerk certified petitions which were critical of individual members of the Australian Broadcasting Tribunal and the Schools Commission. The petitions were considered acceptable because they criticised individual members of these bodies rather than the bodies themselves.

In 1976, petitions praying that the House call on the Governor-General to resign were certified by the Clerk and received by the House. The petitions complied with standing orders and made no express criticism of the character or conduct of the Governor-General.⁶⁴

Signatures

A petition:

- Must be signed by at least one person on the sheet on which the petition is inscribed.⁶⁵
- Must be signed by the parties whose names are appended, by their own hand, and by no one else, except in case of incapacity by sickness. Persons who are unable to write must affix their marks in the presence of a witness, who is required to affix his or her signature as the witness.⁶⁶

57 S.O. 124; *see also* Ch. on 'Control and conduct of debate'.

58 VP 1911/107,113.

59 VP 1959-60/239; NP 57(27.10.59)475. This petition prayed that the House delete certain clauses of the Matrimonial Causes Bill.

60 VP 1960-61/139.

61 S.O. 125.

62 VP 1978-80/662; H.R. Deb. (6.3.79)601.

63 *May*, p. 861.

64 VP 1976-77/315.

65 S.O. 119, as amended by sessional orders of 9.12.87.

66 S.O. 118, as amended by sessional orders of 9.12.87.

- Must contain signatures written on the petition or on sheets containing the prayer of the petition and must not be pasted on or otherwise transferred, for example, by photocopying.⁶⁷
- Is received only as a petition of the parties signing it.⁶⁸
- Of a corporation aggregate is required to be made under its common seal.⁶⁹ If it is not, but is otherwise in order, it may either be presented simply as the petition of the individual(s) who signed it or be returned to the originator.

There are precedents for the forgery of signatures to petitions, the subscribing of fictitious signatures to and tampering with petitions being regarded as contempts (but *see* p. 753).⁷⁰ In 1907, in voting to receive a petition, Members took the view that a petition should not be invalidated, and the persons who signed the petition should not be disadvantaged, because of some individual's improper conduct. It was also considered that neither Members nor the House can ensure that every signature on every petition is genuine. The petition was referred to the Printing Committee to investigate alleged forgery. The committee concluded that specified signatures were forgeries and that available evidence pointed to an unnamed individual as the perpetrator. The committee recommended that the Crown Law authorities be requested to take action with a view to a criminal prosecution of the offender and that the evidence gathered by the committee be placed at their disposal for that purpose. The House adopted the report and was subsequently informed that the Crown Solicitor had advised that, in his opinion, a prosecution for forgery would be unsuccessful.⁷¹

The inclusion of the addresses of signatories became a requirement under the sessional orders effective from 15 March 1988.

Presentation

Only Members may lodge a petition for presentation to the House but a Member cannot lodge a petition from himself or herself.⁷² However, a Member may sign a petition to be lodged by another Member.⁷³ While it is traditional for Members to lodge for presentation any petition which is forwarded to them, they are not bound to do so.⁷⁴ The fact that a Member lodges a petition for presentation does not mean that he or she necessarily agrees with its content. It is the practice of the House that the Speaker does not lodge petitions for presentation.⁷⁵ If a petition submitted to the Speaker is in order, another Member is asked to sponsor it. Ministers frequently lodge petitions for presentation.

A petition to be presented to the House is lodged with the Clerk by the Member concerned but before doing so the Member is required to:

- affix his or her name (that is, signature) and, under current sessional orders, to record his or her electoral Division and the number of signatories, at the beginning of the petition⁷⁶ but not in such a manner as to confuse the Member's details with those of the petitioners, and
- check the petition to ensure that it conforms with the standing orders.⁷⁷

Under current sessional orders, a petition must be lodged with the Clerk (in practice the Table Office) by 12 noon on the Wednesday previous to the Thursday on which

67 S.O. 120, as amended by sessional orders of 9.12.87.

68 S.O. 121.

69 S.O. 122.

70 *May*, p. 148, but *see also Parliamentary Privileges Act 1987*, s. 4.

71 VP 1907-08/91-2,165,267; H.R. Deb. (18.9.07)3408-19; H.R. Deb. (13.12.07)7457-8.

72 S.O. 126.

73 *See May*, pp. 865-6.

74 H.R. Deb. (19.9.47) 94; *see also May*, p. 864.

75 *See also May*, p. 864.

76 S.O. 127, as amended by sessional orders of 9.12.87.

77 S.O. 128.

it is proposed that it be presented.⁷⁸ Petitions lodged outside a normal sitting week or during a prorogation are kept for presentation at the next sitting.

The Clerk or Deputy Clerk is required to check the petition and certify that it is in conformity with the standing orders.⁷⁹ When a petition is found to be not in order, it is returned to the Member concerned with an explanation as to why it is not in order.

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. After stating the identity of the petitioners and the material allegations contained in the prayer, a Member would then move that a petition be received or that it be received and read. In the latter case it was read in full by the Clerk, except for the signatures. With the increasing number of petitions, this practice was found to be absorbing a considerable amount of prime parliamentary time, and the procedures were therefore considered by the Standing Orders Committee. On the recommendation of the committee new procedures were adopted by the House and came into effect on 20 April 1972.⁸⁰ The changes provided for less time-consuming procedures in the presentation of petitions but still provided for proper recognition of the petitioning process. When the Speaker calls for petitions, the Clerk announces the petitions lodged for presentation, indicating in the case of each petition the Member who lodged it, not by name but by electoral division, the identity of the petitioners and a brief summary of the action sought by the petition. Current sessional orders provide for the Clerk to announce the number of petitioners and any ministerial responses to petitions previously presented. The full terms of the petitions and responses are printed in Hansard.⁸¹ If petitions in the same terms are lodged by more than one Member, they are grouped together for the purposes of the announcement. Petitioners are usually identified simply as certain citizens of Australia, certain residents of a State, certain electors of an electoral division or occasionally certain members of a particular group.

Other changes in the announcement have been experimented with in order to save time⁸², but the only further change acceptable to Members prior to the 1988 changes was in relation to Ministers who are now referred to in the announcement by their electoral divisions, instead of by their portfolios.

In 1986 the Standing Committee on Procedure recommended, inter alia, that petitions should be announced on one day per week only.⁸³ The committee's recommendations relating to petitions were adopted by the House on 9 December 1987⁸⁴ and current sessional orders provide that petitions be presented as the first item of business on each sitting Thursday.⁸⁵

A petition referring to a motion or an order of the day may be presented when such a motion or order of the day is called on or read for the first time.⁸⁶

Following the introduction of the current sessional orders some petitions which were out of order under the new rules but which would have been acceptable under

78 S.O. 112, as amended by sessional orders of 9.12.87.

79 S.O. 113, as amended by sessional orders of 9.12.87.

80 *Standing Orders Committee Report*, PP 20(1972)8-11; VP 1970-72/1012-13; H.R. Deb. (18.4.72)1703-43.

81 S.O. 129.

82 H.R. Deb. (6.11.79)2591-2; H.R. Deb.(7.11.79) 2684. On 7 November 1979, a Member gave a

notice of motion to revert to the previous method of announcement, NP 36(8.11.79)7825.

83 'Days and hours of sitting and the effective use of the time of the House', *Standing Committee on Procedure*, PP 108 (1986).

84 VP 1987-89/301-2.

85 S.O. 100 as amended by sessional orders of 9.12.87.

86 S.O. 114.

the old were tabled as papers by the Leader of the House, who made it clear that this would be a temporary arrangement.⁸⁷

No discussion upon the subject matter of a petition is allowed⁸⁸ at the time of its presentation. For discussion to take place, leave must be granted or standing orders suspended.⁸⁹

Following criticism of the lack of follow-up procedures for the consideration of petitions, the matter was considered by the Standing Orders Committee in 1972.⁹⁰ The standing orders now 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 the subject of the petition, it is referred to the Minister having the greater responsibility. Current sessional orders provide 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.⁹¹ Every petition presented is deemed to have been received by the House unless a motion, moved forthwith, that a particular petition be not received, is agreed to.⁹² As petitions which do not conform with standing orders are not presented to the House⁹³, it is unlikely that a motion that a petition be not received would be moved on procedural grounds.⁹⁴ The only other motions which may be moved on the presentation of a petition are:

- that a particular petition be printed, or
- that a petition be referred to a committee.⁹⁵

No Member may move that a petition be printed unless he or she intends to take action upon it and informs the House accordingly.⁹⁶ Motions for the printing of petitions are relatively uncommon. In speaking to such a motion a Member may not discuss the contents of the petition, but must relate his or her remarks to the need to have it printed.⁹⁷ Two cases are of special interest because of their relevance to the question of the effectiveness of petitions. In 1963, a Member presented a petition from the Aboriginal people of Yirrkala praying that the House, inter alia, appoint a committee to hear their views before permitting the excision of any land from the Aboriginal Reserve in Arnhem Land. The Member indicated his intention to submit a notice of motion in connection with the petition and moved that the petition be printed. The motion for printing was agreed to.⁹⁸ The Member's subsequent motion for the appointment of a select committee was also agreed to.⁹⁹ In 1970, a similar sequence of events followed the presentation of a petition praying that the export of all kangaroo products be banned. The House subsequently agreed to a motion, which had been foreshadowed by the Member presenting the petition, appointing the Select Committee on Wildlife Conservation to examine, inter alia, the issues raised in the petition.¹⁰⁰

87 H.R. Deb. (19.5.88)2674-5. Out of order petitions have been described by a Member in the House, 25.5.89(2943).

88 S.O. 129; H.R. Deb. (15.8.62)343.

89 H.R. Deb. (30.8.79)830-4.

90 VP 1970-72/1012-13; H.R. Deb. (18.4.72)1703-41; PP 20 (1972)4,8-11.

91 S.O. 132.

92 S.O. 130.

93 S.O.s 113,128.

94 The House has rarely debated the question that a petition be received; VP 1907-08/91.

95 S.O. 130. VP 1980-83/102, 294; VP 1987-89/1119-23.

96 S.O. 131.

97 H.R. Deb. (1.11.77)2583-4.

98 VP 1962-63/531; H.R. Deb. (28.8.63)561.

99 VP 1962-63/549; and see 'Grievances of Yirrkala Aborigines, Arnhem Land Reserve', *Report from Select Committee*, PP 311 (1963).

100 VP 1970-72/133,147-8; and see 'Conservation and commercial exploitation of kangaroos', *Interim Report of Select Committee on Wildlife Conservation*, PP 219 (1971).

In 1977, a Member was not permitted to proceed with his motion to print a petition when the Speaker ruled that the form of action proposed to be taken by the Member on the petition was not available to him under the standing orders.¹⁰¹

All petitions presented which have not been ordered by the House to be printed automatically stand referred to the Publications Committee, which may recommend to the House what petitions ought to be printed. In 1909, the House agreed to a motion, moved by leave, that a petition be printed, even though the then Printing Committee had considered it and had not recommended its printing.¹⁰²

Petitions from unusual sources

Petitions from individual citizens¹⁰³ and from minors¹⁰⁴ may be received.

In 1962, a Member presented a petition from certain Members of the Northern Territory Legislative Council praying that the House debate and redress the grievances set out in a remonstrance earlier made by the Council.¹⁰⁵ In 1975, a petition was presented from the Northern Territory Legislative Assembly praying that the recommendations of the Parliament's Joint Committee on the Northern Territory on the transfer of executive powers and administrative functions to the Territory be implemented.¹⁰⁶

The House does not normally receive petitions from foreign citizens abroad.¹⁰⁷ An exception was a petition signed by citizens of the United States of America which was presented by a Member by leave of the House.¹⁰⁸ Petitions sent directly to the Speaker from foreign citizens abroad have normally been referred to the relevant Minister for information and the petitioners have been informed. Receipt by the House of petitions from Australian citizens abroad is permitted.¹⁰⁹

Abuse of the right of petition

Various abuses of the right of petition have been dealt with as contempts in the United Kingdom. The following are some examples cited by *May*¹¹⁰:

- frivolously, vexatiously, or maliciously submitting to either House a petition containing false, scandalous or groundless allegations against any person, whether a Member of the House or not, or contriving, promoting and prosecuting such petitions;
- presenting a petition containing gross misrepresentations;
- inducing parties to sign a petition by false representations;
- threatening a Member that a petition will be submitted to the House charging him with misconduct unless he takes specified action;
- forging signatures or subscribing fictitious signatures to petitions;
- tampering with a petition;
- causing a petition to be presented to the House well knowing, or having good reason to believe, that numerous fictitious signatures are attached to the petition and that the names of persons have been subscribed to the petition without their authority;

101 VP 1977/430; H.R. Deb. (8.11.77)3022-3.

102 VP 1909/39; H.R. Deb. (8.7.09)983; H.R. Deb. (9.7.09)1058-61.

103 VP 1970-72/475.

104 VP 1970-72/681; *see also* S. Deb. (14.5.68)943.

105 VP 1962-63/203. A remonstrance is a document in which grievances are stated and remedial action is sought. The Speaker later announced that he had received the remonstrance and that

it had been placed in the Parliamentary Library for the information of Members, H.R. Deb. (29.8.62)793; *and see* H.R. Deb. (23.8.62)656-7.

106 VP 1974-75/1085.

107 This practice reflects House of Commons practice *see May*, p. 863.

108 VP 1970-72/357.

109 *May*, p. 863.

110 *May*, pp. 147, 166-71.

- bringing an action against petitioners for a libel alleged to be contained in a petition presented by them to the House, and
- casting aspersions on persons for having petitioned the House.

The House of Representatives has only once taken action on an alleged abuse of the right to petition. The case concerned allegations that signatures had been forged (see p. 749). With the enactment of the *Parliamentary Privileges Act 1987* any action proposed in such matters in the future would need to be considered, inter alia, in terms of section 4 of the Act which provides, in effect, that conduct does not constitute an offence against a House unless it amounts to an improper interference with the House, its committees or its members.

Privilege attaching to petitions

Under the *Parliamentary Privileges Act 1987* the presentation or submission of a document (including a petition) to the House, and the preparation of such a document, is absolutely privileged.¹¹¹

Parliamentary committees

The citizen has many opportunities to inform and influence Members, the Parliament, and ultimately the Government on particular issues through the activities of parliamentary committees. Most investigatory committees advertise the terms of inquiries widely and seek submissions from the general public. Committees not only receive written submissions but also invite people to appear as witnesses to expand on, and answer questions about, their submissions. In order to facilitate this process, committees frequently hold hearings, open to the public, outside Canberra. Committee inquiries and reports not only have an influence on Members and the Government but also assist in educating sections of the electorate on issues of national importance.¹¹²

THE MEMBER AND THE HOUSE IN THE DEMOCRATIC PROCESS

Members of the House of Representatives are elected by universal adult suffrage. They therefore hold office only with the support of the electorate and must retain its confidence to remain in office. As a result the influence which citizens exert on individual Members and their parties is a fundamental strength of the democratic system.

Members are influenced by what they perceive to be public opinion as expressed by the media, by other parliamentarians and by the people they meet in performing their parliamentary and electorate duties. They are also informed and influenced by specific representations made to them by way of requests by groups and individuals for support of particular causes, expressed points of view or expressions of interest in some government activity, or requests for assistance in dealings with government departments and instrumentalities.

Representations may be made by individuals acting on their own account or as part of an organised campaign. Major letter campaigns, for example, have been launched on such issues as abortion law reform and family law legislation. These campaigns may be supplemented by other measures, such as telephone campaigns and by the sending of delegations to speak to Members personally.

¹¹¹ *Parliamentary Privileges Act 1987*, s.16; the Senate Committee of Privileges considered related matters in its report on 'The circulation of petitions', PP 46 (1988).

¹¹² See Ch. on 'Parliamentary committees' for a detailed account of the operations of committees.

Representations may also be made to Members, especially Ministers, by professional lobbyists and highly organised pressure groups, such as industry associations and trade unions, which may have significant staff and financial resources.

Accessibility of Members to citizens in the electorate is important for the proper operation of the democratic process. Members are conscious of the importance of being accessible to their constituents and of identifying and promoting the interests of their electorates. This has been summarised as follows:

They accept that generally the seats of all MPs will depend on the overall performance of the party, but they believe that they themselves are in a slightly better position because of the work they do in their electorates. Most of them certainly behave as if they were firmly convinced that their future was dependent on the contribution they make to the condition of their electorates and its residents, rather than anything they might do in the parliament.¹¹³

In short, the democratic system makes Members responsible and responsive to the constituents they represent and to the Australian electorate generally. This is not to ignore the fine balance which must at times be struck between leading and responding to the people. Edmund Burke's view of this still carries weight:

Your representative owes you not his industry only, but his judgement, and he betrays instead of serving you, if he sacrifices it to your opinion.¹¹⁴

In turn, the House must be responsive to the views of its Members and, through them, to the electorate at large, if it is to be effective as a democratic institution.

House of Representatives practice and reform

This chapter has focussed on the avenues through which communication takes place between the citizens of Australia and their elected representatives, individually and collectively, that is, through petitions, committees, Members' constituency activities, and the use of the media. Other chapters have described how this interaction is translated into procedural forms such as questions directed to Ministers, the production of papers, and debate, steps often taken to influence government. These and other processes, some of which are external to the parliamentary process itself, may ultimately produce legislation for consideration of both Houses of Parliament.

The effectiveness of Parliament in Australia and elsewhere has been the subject of a continuing debate, sometimes ill-informed, as to its present failings and past effectiveness. Parliament is, and always has been, an imperfect institution, but it has a flexibility which enables it to change and so remain relevant and responsive to the changing aspirations and demands of the society it serves. To advocate reform of the Parliament is not necessarily to question its worth or significance but rather to seek to ensure its continuing resilience and enhance its effectiveness as a democratic institution.

Speaker Snedden emphasised the neglect of reform in the following statement to the House in 1979:

There is much debate on how this Parliament can become more effective and how the practices and procedures of the two Houses, and of this House in particular, might be made more responsive to the demands made upon a modern legislature. I have been aware of the deepening interest of members in these matters and their belief that reform must ultimately come from the House itself. The past was a history of neglect of reform of the House's practices and procedures. Rarely had reform been an important issue for government or for the majority of members. For 49 years the House operated under

¹¹³ David Solomon, *Inside the Australian Parliament*, George Allen & Unwin, Sydney, 1978, p. 126.

¹¹⁴ 'Speech to the Electors of Bristol, 1774', quoted in Michael Rush, *Parliament and the Public*, Longman, London, 1976, p. 35.

provisional Standing Orders based on those of the State Houses of Parliament whose own standing orders were in turn substantially based upon those of the House of Commons at Westminster in the 19th century. Apart from increasing controls over the time allowed to members to speak, the only wide-ranging and fundamental reforms which had taken place in this House in the previous 77 years were the reforms adopted in 1963 to modernise and streamline financial procedures.

Accordingly, a large backlog of issues has built up at the heart of the parliamentary institution and for which reform is now overdue . . . I wish to see a patient and careful review with full, deliberate and informed debate leading towards the adoption of a range of reforms. To do that the debate needs to be more structured and to find direction . . .¹¹⁵

In 1976, the Joint Committee on the Parliamentary Committee System recommended that the Senate and the House each establish a Committee on Procedure, that is, a parliamentary means of initiating, examining and recommending reform proposals and procedural change on a continuing basis. The terms of reference suggested were:

To maintain a continuing surveillance of the practices and procedures of the Senate (House) with a view to making recommendations for their improvement or change and for the development of new procedures; such recommendations being made normally by report to the Senate (House) but, on certain occasions, being made directly to the Presiding Officer when the recommendations relate to the exercise of existing powers.¹¹⁶

The House of Representatives appointed a Standing Committee on Procedure on 27 February 1985, its terms of reference requiring it to inquire and report upon the practice and procedures of the House generally with a view to making recommendations for their improvement or change and the development of new procedures. On the same day standing order 25, providing for the appointment of the Standing Orders Committee, was suspended for the remainder of the session.¹¹⁷ By the end of 1988 the Procedure Committee had presented six reports recommending a number of significant procedural changes, several of which gained the acceptance of the House.

The reforms that have taken place since the publication of the first edition, in particular the advent of the new standing committee system¹¹⁸ and the provision of increased opportunities for private Members¹¹⁹, have made the concluding sentence of the following statement by Sir Billy Snedden less apposite, in that the balance between the Parliament and the Executive is not now as strongly tilted away from the Parliament. Nevertheless the remainder of his words retain their validity.

Democracy means that the executive government is responsible to the people. From that the executive cannot escape and continue to be democratic. Hence the parliament has become the institution by which the executive government is responsible to the people. Responsible government cannot be guaranteed without representative parliament. Parliament is the all important link between government and the people. It is indispensable to democracy.

That the parliament should be allowed to atrophy and be threatened with irrelevancy because it has not adapted to change would be a tragedy. But unless it is reformed that will happen . . .

National sovereignty lies in the people. The elected parliament is the manifestation of that sovereignty to which the executive arm of government must be accountable . . .

¹¹⁵ H.R. Deb. (5.4.79)1591.

¹¹⁶ 'A new parliamentary committee system', *Report of Joint Committee on the Parliamentary Committee System*, PP 128 (1976) 71-2.

¹¹⁷ VP 1985-87/56-7.

¹¹⁸ See Ch. on 'Parliamentary committees'.

¹¹⁹ See Ch. on 'Private Members' business'.

In order that a parliament might influence, advise, criticise, or scrutinise efficiently and effectively it must, firstly, be better equipped with knowledge and information and, secondly, its procedural arrangements must be seen as to allow the full flow and exchange of views, ideas and information. It is these means by which the executive can be made accountable and where the balance has been gradually tilted away from parliament.¹²⁰

120 Sir Billy M. Snedden, 'Ministers in Parliament—A Speaker's Eye View', in *Responsible Government in Australia*, Weller & Jaensch (eds), Drummond Publishing, Richmond, 1980, p. 71.