

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

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 communicating with them or seeking to influence 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 seeks to influence individual Members and the House.

ACCESS TO PROCEEDINGS

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

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

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

² May, p. 85.

³ Campion, p. 96; see also Wright & Smith, *Parliament Past and Present*, Hutchinson, London, 1903, pp. 221–30.

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 1996 about 137 400 people visited the House of Representatives public galleries during the 61 sittings for that year. It is considered that a large majority of visitors would have been tourists making single visits to the galleries.

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

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

Televising and radio broadcasting of proceedings

Televising of proceedings

Access to the proceedings of the House for televising has been permitted since 1991⁷. At the commencement of the 38th Parliament the House agreed to the following conditions in respect of the live broadcast and rebroadcast of the proceedings and excerpts of proceedings of the House, and of the Main Committee⁸:

Access to the proceedings of the House of Representatives and its Main Committee for the recording and broadcasting of proceedings is subject to an undertaking to observe, and to comply with, the following conditions:

- (1) Broadcasting and recordings may only be made from the official and dedicated composite vision and sound feed provided by the Sound and Vision Office (channels 1 and 5 on the House Monitoring System);
- (2) Broadcasts shall be used only for the purposes of fair and accurate reports of proceedings, and shall not be used for:
 - (a) political party advertising or election campaigns;
 - (b) satire or ridicule; or
 - (c) commercial sponsorship or commercial advertising;
- (3) Reports of proceedings shall be such as to provide a balanced presentation of differing views;
- (4) Excerpts of proceedings which are subsequently withdrawn may be rebroadcast only if the withdrawal also is rebroadcast;
- (5) The instructions of the Speaker of the House of Representatives, or the Speaker's delegate, in respect of broadcasting, shall be observed.⁹

The House has further provided that non-compliance with the guidelines may incur penalties. House members of the Joint Committee on the Broadcasting of Parliamentary Proceedings are able to consider breaches, and the House has set as a general guide to the penalties which may be imposed on stations or programs: first breach—access to the broadcast to be withdrawn for three sitting days; second breach—access to be withdrawn for six sitting days; and third or subsequent breaches—such penalty as is determined by

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 Access was originally for a trial period, VP 1990–92/491–2; see also VP 1990–92/1084–5 (continuing approval), VP 1993–95/387–9 (modification by House of alterations proposed by Standing Committee on the Televising of the House of Representatives).

8 The House allowed access to Main Committee proceedings from May 1996, VP 1996/42–3.

9 VP 1996/42–3.

the House members of the Joint Committee on the Broadcasting of Parliamentary Proceedings.¹⁰ Access has been withdrawn for a breach of the conditions.¹¹

The composite vision and sound feed provided to networks, and used within Parliament House, must be produced in conformity with guidelines set for camera operators. The key requirements of the guidelines are that, as a general principle, cameras should focus on the Member with the call, with shots no closer than 'head and shoulders'. Wide angle shots of the Chamber may be used during divisions and Question Time, and sparing use may be made of such shots at other times. Reaction shots of a Member are permitted when the Member is referred to in debate or when the Member has sought information which is being provided. Generally, coverage of the galleries is not permitted. In the event of unparliamentary behaviour or a disturbance by strangers on the floor of the Chamber, the camera must focus on the Chair.

Radio broadcasts of proceedings

The radio 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, the radio broadcast of proceedings in New Zealand having commenced in 1936.

Compulsory radio 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. Since November 1988 the broadcast has been made from a network established to carry the broadcast of proceedings and related material only. The Act extends to all Australia's external Territories.

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.¹² 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 the general principles are subject to endorsement by each House. The committee is empowered to determine, in accordance with the general principles, the days upon which, and the periods during which, proceedings of either House or of a joint sitting are to be broadcast.

GENERAL PRINCIPLES

The general principles in force at the time of publication were adopted in August 1994. They include a provision that, although there would be a usual allocation of broadcasts between the Houses, the joint committee or its subcommittee, can, in making determinations, take into account the importance of an impending debate and the public interest attaching to it. The principles recognise that over time the coverage of each House will be approximately equal. The general principles also provide that, at the conclusion of the broadcast of live proceedings each day, the recording of Question Time from the House whose proceedings were not broadcast live shall be broadcast. Where a Member makes a personal explanation in rebuttal of a misrepresentation in a question or an answer, the question and answer are excluded from the re-broadcast. The principles also provide that while they are to be observed generally by the committee, they are not

¹⁰ VP 1996/42-3.

¹¹ VP 1990-92/1437 (penalty determined by (then) Committee on Televising, but House informed).

¹² See also Ch. on 'Parliamentary committees' for reference to the committee's powers, procedures, etc.

to be taken as preventing the joint committee from departing from those principles in order to meet any unusual or special circumstances.¹³

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 has issued notifications of the broadcasting arrangements for a particular week or period. Such notifications have been numbered serially and signed by the secretary to the committee who is usually the Serjeant-at-Arms.

Determinations in force at the time of publication include the following:

- *Allocation of broadcasts between the Houses:* unless the committee or a subcommittee decides otherwise (because of the significance of a particular debate), the allocation is as follows:

Monday—House of Representatives

Tuesday—Senate

Wednesday—Senate

Thursday—House of Representatives

Friday—House of Representatives.

If the Houses sit on a weekend, on Saturday the broadcast is from the Senate and on Sunday from the House.

- *Transfer of broadcast:* when proceedings of the House allocated to be broadcast on a day conclude, the broadcast may be transferred to the other House; similarly if the House not allocated for broadcast meets before the allocated House, the proceedings of the House not allocated may be broadcast until proceedings in the allocated House commence.
- *Announcements from the control booth:* announcements from the control booth are limited to relevant particulars of the Member/Senator speaking and the names of Members/Senators scheduled to speak; to descriptions of procedure and business before either House; general information about debates or proceedings is permitted, provided political views or forecasts are not included.

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.¹⁴ 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. 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,

¹³ VP 1993-95/1272-3.

¹⁴ See advice of Attorney-General's Department, dated 5 June 1950.

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

The descriptions of radio broadcasting arrangements given above apply to the official ABC radio broadcast. Since November 1988 all radio stations or networks have also been permitted to broadcast excerpts from proceedings. After some development¹⁵, the following conditions 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.
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.

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 radio 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 in this regard and the oversight of the procedure involved are the responsibility of the committee, which also

15 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.

decides the items to be put into safe keeping 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.

The taking of photographs and films

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. A specified number of photographers representing major newspapers have been permitted to attend during Question Time, provided they have registered their wish to attend beforehand. Their activities are subject to guidelines intended to put them on the same footing as the camera operators; for example, the Member with the call must feature as the central figure in all photographs and must be in focus. General photographs of the Chamber are permitted, provided both sides of the Chamber are shown. Photographs are also taken of Members making their first speeches.

In respect of film or video productions 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, film or video recording prepared, unless specifically approved.¹⁶

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 media reports 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 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 a degree of formal and informal interaction. The ability to use excerpts from proceedings in television and radio programs has added to the ability of the electronic media to report on parliamentary proceedings.

¹⁶ *Parliamentary Proceedings Broadcasting Act 1946*, s. 14. For further discussion see Ch. on 'Parliament House and the House of Representatives Chamber'.

Parliamentary Education Office

The Parliamentary Education Office (PEO) was established in 1988 with the objective of increasing the awareness, understanding and appreciation of the significance, functions and procedures of parliamentary government. The office is jointly funded by the Department of the House of Representatives and the Department of the Senate. Its functions include:

- the provision of an information service on Parliament for Senators and Members, teachers and students and members of the public;
- the provision of active learning programs for visiting school students in the Education Centre;
- the writing of curriculum material;
- the conducting of professional development courses for teachers; and
- assistance to community organisations in organising programs for young people at Parliament House.

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. 742).

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'.¹⁷

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.¹⁸

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. The presentation of a petition to the House is protected by absolute privilege.

¹⁷ Redlich, vol. II, p. 239.

¹⁸ Hatsell, vol. III, p. 240.

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.

The practice of accepting petitions has been viewed from time to time as an ineffective anachronism which makes excessive demands on the time of the House. It is true that the importance of petitions has diminished over the centuries. Individual grievances can often be dealt with by more direct non-public action by Members, by the Commonwealth Ombudsman and by such bodies as the Administrative Appeals Tribunal. Public grievances may be more effectively brought to public attention through the media, through other parliamentary forms such as questions, debate and committee inquiries, and through direct communication with private Members and Ministers.

To concede that petitions have diminished in importance is not to suggest however that they have no importance at all. The number of petitions increased considerably after 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.¹⁹ In 1996, 430 petitions were presented.²⁰ In 1993 a petition was presented from an estimated 513 445 citizens (concerning health care funding).²¹ 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 formal and 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. 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. It is important that those involved in drawing up petitions follow a suitable format and familiarise themselves with the rules governing petitions before taking steps to collect signatures. This will avoid the possibility of the petition being found to be out of order and not presented to the House.

The standing orders do not impose any particular style of expression²², but a recommended form of a petition to the House of Representatives, in contemporary language, is shown opposite.

19 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.

20 It is considered that since it has only been possible for petitions to be presented on one sitting day each week the number of petitions recorded as presented each year has dropped because there have been bigger 'groupings' of sheets of petitions.

21 VP 1993–95/71.

22 H.R. Deb. (19.8.82) 694–5.

Form of a petition

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)

Name	Signature	Addresses
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Petitions must be fairly written, typed, printed or reproduced by mechanical process, without interlineation or erasure²³, 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.²⁴ A petition must be free of any indication that a Member may have sponsored or distributed it.²⁵

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.²⁶ A translation was submitted with the Aboriginal bark petitions.

Petitions should:

- be properly addressed to the Speaker and Members of the House of Representatives²⁷;

²³ S.O. 115.

²⁴ VP 1962-63/515, 531; VP 1968-69/223.

²⁵ S.O. 115.

²⁶ S.O. 117.

²⁷ H.R. Deb. (23.7.01) 2823; H.R. Deb. (10.9.36) 18; H.R. Deb. (30.9.53) 798-9.

- state the facts which the petitioners wish to bring to the notice of the House;
- request action by the House; and
- conclude with a prayer²⁸ that the House do, or refrain from doing, something or take some course of action.

A 'prayer' has been defined by the Chair as a request.²⁹ In earlier times the phrase 'humbly pray' was commonly used, but there is no requirement for the words and alternatives such as 'urge' or 'request' are common. If a petition consists of 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.³⁰

No letters, affidavits or other documents may be attached to a petition.³¹ On rare occasions petitions have been received with attachments to them.³² 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.³³

Content

No reference may be made in a petition to any debate in Parliament.³⁴ Petitions relating to bills before the Senate have been received³⁵, as have petitions relating to matters currently on the Notice Paper³⁶, and petitions praying for the repeal of Acts.³⁷

Petitions must be respectful, decorous and temperate in their language and must not contain irrelevant statements.³⁸ In particular, reflections must not be cast upon the Queen, members of the Royal Family, the Governor-General, members of the judiciary, or Members and Senators. The Clerk of the House has declined to certify 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.³⁹ 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 explicitly, was not accepted, as it was considered to impugn his character.

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

29 H.R. Deb. (24.9.07) 3619–20.

30 May, p. 757. A petition may be received even if the matter complained of has passed, VP 1993–95/1790.

31 S.O. 123.

32 VP 1907–08/41; VP 1909/83; VP 1917–19/197.

33 VP 1907–08/41.

34 S.O. 124. A petition praying that boisterous behaviour by Members be dealt with harshly has been received, VP 1996/404.

35 VP 1911/107, 113.

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

37 VP 1960–61/139.

38 S.O. 125.

39 VP 1978–80/662; H.R. Deb. (6.3.79) 601.

According to *May*, petitions should not impugn the character or conduct of Parliament, the courts or any other tribunal or constituted authority.⁴⁰ In 1977 the Clerk certified petitions which were critical of individual members of the Australian Broadcasting Tribunal and the Schools Commission.

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.⁴¹

Signatures

A petition:

- must be signed by at least one person on the sheet on which the petition is inscribed⁴²;
- 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 witness⁴³;
- must contain signatures written on the petition or on sheets containing the prayer of the petition and must not be pasted on or otherwise transferred⁴⁴, for example, by photocopying;
- is received only as a petition of the parties signing it⁴⁵;
- of a corporation aggregate is required to be made under its common seal.⁴⁶ 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 in the House of Commons for the forgery of signatures to petitions, the subscribing of fictitious signatures to and tampering with petitions being regarded as contempts.⁴⁷ In the House of Representatives 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.⁴⁸

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

40 *May*, pp. 756–7.

41 VP 1976–77/315.

42 S.O. 119.

43 S.O. 118.

44 S.O. 120.

45 S.O. 121.

46 S.O. 122.

47 *May*, p. 118, but see also *Parliamentary Privileges Act 1987*, s. 4.

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

Presentation

Only Members may lodge a petition for presentation to the House but a Member cannot lodge a petition from himself or herself.⁴⁹ However, a Member may sign a petition to be lodged by another Member.⁵⁰ While it is traditional for Members to lodge for presentation any petition which is forwarded to them, they are not bound to do so.⁵¹ 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. If a petition submitted to the Speaker is in order, another Member is asked to present 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 to record his or her electoral Division and the number of signatories, at the beginning of the petition⁵² but not in such a manner as to confuse the Member's details with those of the petitioners; and
- take care to ensure that the petition is in conformity with the standing orders.⁵³

A petition must be lodged with the Clerk (in practice the Table Office) by 12 noon on the Friday previous to the Monday on which it is proposed that it be presented.⁵⁴ Petitions lodged outside a normal sitting week or during a prorogation are kept for presentation at the next sitting.

Every petition when presented must bear a certificate signed by the Clerk or the Deputy Clerk that it is in conformity with the standing orders.⁵⁵ 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, but since then presentation has been effected by means of an announcement by the Clerk.⁵⁶ 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 (such as 'citizens of Australia' or 'residents of . . .'), to state the number of petitioners and giving a brief summary of the action sought by the petition. The Clerk also announces any ministerial responses to petitions previously presented. The full terms of the petitions and responses are printed in Hansard.⁵⁷ 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.

49 S.O. 126.

50 See *May*, p. 760.

51 H.R. Deb. (19.9.47) 94; see also *May*, p. 759.

52 S.O. 127.

53 S.O. 128.

54 S.O. 112.

55 S.O. 113.

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

57 S.O. 129.

Since February 1988⁵⁸ petitions have only been presented on one day each week. Current standing orders provide for petitions to be presented after Question Time on each sitting Monday.⁵⁹ A petition referring to a motion or an order of the day may also be presented when such a motion or order of the day is called on or read for the first time.⁶⁰

No discussion upon the subject matter of a petition is allowed⁶¹ at the time of its presentation. For discussion to take place, leave must be granted or standing orders suspended.⁶²

Following criticism of the lack of follow-up procedures for the consideration of petitions, the matter was considered by the Standing Orders Committee in 1972⁶³ and the standing orders subsequently amended to provide that a copy of every petition lodged with the Clerk and received by the House shall be referred by the Clerk to the Minister responsible for the administration of the matter which is the subject of the petition. If more than one Minister is responsible for the matter the subject of the petition, it is referred to the Minister having the greater responsibility. Since 1992 standing orders have provided for a Minister to be able to respond to a petition by lodging a response with the Clerk for presentation to the House, such responses to be announced at the end of the petitions announcement.⁶⁴

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.⁶⁵ As petitions which do not conform with standing orders are not presented to the House⁶⁶, it is unlikely that a motion that a petition be not received would be moved on procedural grounds.⁶⁷ The only other motions which may be moved on the presentation of a petition are:

- that a particular petition be printed⁶⁸; or
- that a petition be referred to a committee.⁶⁹

No Member may move that a petition be printed unless he or she intends to take action upon it and informs the House accordingly.⁷⁰ 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.⁷¹ 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

58 'Days and hours of sitting and the effective use of the time of the House', *Standing Committee on Procedure*, PP 108 (1986); VP 1987-89/301-2.

59 S.O. 101.

60 S.O. 114.

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

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

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

64 S.O. 132. VP 1996/60.

65 S.O. 130.

66 S.O.s 113, 128. Some petitions which have been technically out of order have been tabled as papers by the Leader of the House, e.g. VP 1996/531-2. Out of order petitions have been described by a Member in the House, H.R. Deb. (25.5.89) 2943; and presented by leave during the grievance debate, VP 1996/162.

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

68 That is, printed as a parliamentary paper—the terms of all petitions presented are printed in Hansard.

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

70 S.O. 131.

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

agreed to.⁷² The Member's subsequent motion for the appointment of a select committee was also agreed to.⁷³ 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.⁷⁴

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.⁷⁵

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.⁷⁶

Petitions from unusual sources

Petitions from individual citizens⁷⁷ and from minors⁷⁸ may be received. The House does not normally receive petitions from foreign citizens abroad.⁷⁹ 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.⁸⁰ 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.⁸¹

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.⁸² 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.⁸³

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

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

74 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).

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

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

77 VP 1970-72/475.

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

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

80 VP 1970-72/357.

81 *May*, p. 758.

82 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. On 28 October 1996 the Speaker reported receiving a remonstrance from the N. T. Legislative Assembly praying that the Commonwealth Parliament not proceed with the Euthanasia Laws Bill 1996. The Speaker also reported a letter and an accompanying resolution adopted by the Norfolk Island Legislative Assembly on the same matter, VP 1996/714. The documents were included in the records of the House and copies circulated in the Chamber. The texts of the documents (also received and reported by the President of the Senate) were incorporated in the Senate Hansard.

83 VP 1974-75/1085.

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*⁸⁴:

- frivolously, vexatiously, or maliciously submitting 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;
- 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 (the petition thus being a falsified or fabricated document); and
- tampering with a petition.

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. 737). With the enactment of the *Parliamentary Privileges Act 1987* any action proposed in such matters needs 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 or is intended to amount 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.⁸⁵

May notes that petitioners are considered as under the protection of Parliament and that obstruction of or interference with such persons or conduct calculated to deter them from preferring or prosecuting petitions may be treated as a breach of privilege.⁸⁶ *May* gives as an instance of this kind of offence bringing an action against petitioners for a libel alleged to be contained in a petition presented by them to the House.⁸⁷

Parliamentary committees

The citizen has many opportunities to inform and to seek the influence Members, the Parliament, and 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.

(*See* Chapter on 'Parliamentary committees' for a detailed account of the operations of committees.)

⁸⁴ *May*, pp. 118, 132–3.

⁸⁵ *Parliamentary Privileges Act 1987*, s. 16.

⁸⁶ But *see* also the Senate Committee of Privileges report on 'The circulation of petitions', PP 46 (1988).

⁸⁷ *May*, p. 133.

THE MEMBER AND THE HOUSE IN THE DEMOCRATIC PROCESS

Members of the House 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.

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.⁸⁸

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.⁸⁹

In turn, it may be considered that 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. 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

⁸⁸ David Solomon, *Inside the Australian Parliament*, George Allen & Unwin, Sydney, 1978, p. 126.

⁸⁹ 'Speech to the Electors of Bristol, 1774', quoted in Michael Rush, *Parliament and the Public*, Longman, London, 1976, p. 55.

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 perceived 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.

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. This committee may be seen as the agent through which much successful change has been achieved. By the end of 1996 the Procedure Committee had presented 27 reports recommending a number of significant procedural changes, several of which had 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 system⁹⁰, the provision of increased opportunities for private Members⁹¹, the introduction of the Main Committee and provisions to enable bills to be referred to committees for advisory reports have made the concluding sentence of the following statement by Sir Billy Snedden less apposite. 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 . . .

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.⁹²

90 See Ch. on 'Parliamentary committees'.

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

92 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.

