



## Petitioning Parliament

by Gareth Griffith

### 1 Parliament, petitions and participation

The relationship between Parliament, politicians and the public is debated in most established democracies. Some commentators write about political disenchantment, disengagement and disaffection.<sup>1</sup> In what respect and to what extent this negative conception of politics applies in Australia is itself debatable.<sup>2</sup> What can be said is that, here as elsewhere, parliamentary systems of government are likely to be enhanced and enlivened by greater levels of public participation and a more open and inclusive process of deliberation.

A minor, yet not insignificant, feature of this broad and many sided debate is the renewed interest in and consideration of public petitions. If it can be said to have had its genesis in the re-opening of the Scottish Parliament in 1999, it has since taken hold in the Australian House of Representatives which now has a dedicated Petitions Committee to receive petitions from the public.

The underlying argument in the Scottish context was that petitions have 'the capacity to be a main driver in expanding and deepening participative democracy'.<sup>3</sup> One objective was that legislation might be

initiated based on demands from outside Parliament. At the same time, by using the Public Petitions Committee as a gatekeeper or filter, the Scottish model was intended to stop short of the more radical idea of the initiation of legislation by direct popular initiative.<sup>4</sup>

The background to this debate is that the theory and practice of representative democracy does not readily accommodate the direct injection of public demands into Parliament.<sup>5</sup> Traditionally, the right to petition Parliament has not involved a correlative obligation to act either on the part of the Member, the House or the Minister concerned.<sup>6</sup> One observation is that:

While petitions clearly have great democratic potential, the reality is that petitions have been far more effective in strengthening community views on an issue than in actually having that issue heard and considered by the House.<sup>7</sup>

The biggest criticism of petitions has been the lack of follow-up to them.<sup>8</sup> As a result, their effectiveness as a means of obtaining redress of grievances is questioned. Moreover, alternative extra-parliamentary methods of obtaining redress have emerged over recent decades, not

least the creation of the Office of the Ombudsman.<sup>9</sup>

At the very least the case for petitions can be made on the basis that they engender communication between the public, Parliament and the Executive by the expression of public views for and against specific matters, legislative or otherwise in nature. They are avenues of popular expression, protest and appeal to action. As such, there is a case that the rules, structures and practices relating to petitions should facilitate access by the public, encourage engagement by the Parliament and require appropriate response by the Executive.

## 2 Definitional and historical note

According to *May's Parliamentary Practice*:

Public petitions may pray for an alteration of the general law or the reconsideration of a general administrative decision, and they may also pray for redress of local or personal grievances.<sup>10</sup>

At its broadest, a petition is a request made by or on behalf of an individual, group or organisation, addressed to a person or body with the decision making power to respond authoritatively to that request. Petitions are a direct communication between those who govern, in a parliamentary context or otherwise, and those who are governed.

In a British context petitions pre-date the history of Parliament as a representative institution. It is said in this respect:

A petition is a formal written request from one or more people to the Sovereign, the Government or to Parliament. The right of the subject

to petition the Monarch for redress of personal grievances has probably been exercised since Saxon times. It was recognised in Magna Carta and more explicitly in an Act of 1406. The Bill of Rights of 1688 restated that right in unambiguous terms, '...it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal'.<sup>11</sup>

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

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

That it is the undoubted right and privilege of the House of Commons to adjudge and determine, touching the nature of such petitions.<sup>12</sup>

Petitions may call for laws to be changed, or even for changes to the institution of Parliament itself, as in the case of the *People's Charter* of 1838, a petition that gave its name to the Chartist movement.

## 3 Petitioning the UK House of Commons

There are several accounts of the early history of petitioning.<sup>13</sup> For the present it is enough to say that in the 16<sup>th</sup> and 17<sup>th</sup> centuries, petitions generally dealt with personal or local grievances. But from the Restoration of the monarchy in 1660, as the Commons' judicial functions ended, it became more usual to make representations or complain about matters of public policy. As explained by the House of Commons Information Office, petitions were traditionally read before debates, and by the 1830s radical MPs were in the habit of using the petitions system as a way of

getting frequent, unscheduled, debates and obstructing government business.<sup>14</sup>

The history of petitioning as a more formal proceeding dates from 1842 when a series of Standing Orders made the presentation of petitions incapable, except in rare cases, of giving rise to immediate debate.<sup>15</sup> However, these changes did not significantly reduce the number of petitions, which rarely fell below 10,000 per session in the 19<sup>th</sup> century. Only after the First World War did the number of petitions fall away ‘almost to nothing’, to the point that, in a typical session in the 1970s about 35 petitions were presented.<sup>16</sup> Only in the 1980s was there a revival of sorts,<sup>17</sup> with figures declining again over the past decade. The following table shows the number of petitions presented to the House of Commons in selected Sessions.<sup>18</sup>

Session	Number
1843	33,898
1893-94	33,742
1983-84	764
1989-90	960
1998-99	99
2002-03	220
2003-04	128
2006-07	161
2007-08	221
2008-09	123
2009-10	393

Up until 1974 all public petitions were referred to the Committee on Public Petitions, which had ‘the power to send for persons, papers and records’ and was also ‘entitled to make special reports of any matters which it thought fit to bring to the attention of the House’. In fact, the Committee’s report was no more than a formal procedural requirement, verifying the number of valid signatures attached to the petition and the like, after which ‘no

further action was taken by the House upon the petition’.<sup>19</sup>

In summary, the current arrangements are that only Members may formally present petitions to the House and that, in normal cases, debate on the merits of a petition is not permitted.<sup>20</sup> It is further noted that petitions are forwarded from the House to the relevant Government department, but that the House cannot compel the Government to make any observations on a petition. In 2007, however, the Government committed to respond to all ‘substantive’ petitions. Approved by the House in January 2005 was the recommendation of the Procedure Select Committee that petitions, when sent to Government departments, should also be sent to the relevant select committee.<sup>21</sup> Rogers and Walters comment in this respect:

Petitions are sent to the relevant departmental select committee, but none has yet been taken up; and in that sense, they are not a particularly effective way of making a case.<sup>22</sup>

For Michael Rush:

The modern importance of petitions is as a means of drawing attention to an individual grievance, usually from a constituent, or publicising a more widespread grievance or matter of concern over government policy, often though not necessarily exclusively from constituents. In practice, there are more important and effective ways of dealing with constituency concerns, whether arising from individual grievances or matters affecting constituents more generally.<sup>23</sup>

#### 4 Petitioning in the Scottish Parliament

When the Scottish Parliament was established under the [Scotland Act](#)

[1998](#) (UK) a deliberate attempt was made to facilitate the direct injection of public demands into the parliamentary system. Key to this aim was an innovative petitions process:

specifically designed to distinguish it from the Westminster system and to serve as a hallmark of an open, accountable and accessible Parliament.<sup>24</sup>

The main features of the Scottish petitions system are set out under Chapter 15 of the Parliament's [Standing Orders](#) as follows:

- Members are barred from bringing a petition, but otherwise any person, corporation or unincorporated association may submit a petition that bears their name and address.
- Petitions may be lodged with the Clerk, or sent to the Clerk by e-mail.
- Provision is also made for E-petitions. They are hosted on a designated website for an agreed period, usually between four and six weeks. Each E-petition has its own discussion forum.
- The admissibility of a petition is a matter for the nine-member Public Petitions Committee (PPC).<sup>25</sup>
- Petitions may raise any subject and suggest any action to the PPC that is within the competence of the Scottish Parliament. Matters reserved to the Westminster Parliament are among the subjects considered inadmissible.
- A further restriction is that, unless more than a year has passed since the original petition was considered by the PPC, petitions which are the

same or substantially similar and which are lodged by or on behalf of the same person or organisation during the same parliamentary session are considered inadmissible.

- The role of the PPC is to ensure that appropriate action is taken in respect of each admissible petition. In fulfilling this function, it takes responsibility for the initial consideration of the issues raised.
- This may involve hearing oral evidence from the petitioners or seeking written evidence from organisations - including the Scottish Government - with an interest in the issues raised.
- Following consideration of the written and any oral evidence, a decision will be taken as to whether the issues raised merits further consideration.
- The PPC may conduct its own investigation or refer a petition to the relevant subject committee of the Parliament.<sup>26</sup>
- It can also bid for parliamentary time for a petition to be debated by the whole Parliament.
- Having considered a petition the PPC (or the relevant subject committee) may agree that no further action is required and close it.
- In all cases, the petitioner is notified of any action taken.

The numbers of petitions submitted to the Scottish Parliament in its first decade are as follows.<sup>27</sup>

Session	Petitions
May 99-March 03	625 (9 E-Petitions)
May 03 –March 07	423 (138 E-petitions)
May 07-May 09	215 (77 E-petitions)

In 2006 the PPC commissioned an assessment of the petitions system, conducted by Dr Christopher Carman of Glasgow University. One finding was that petitioners were not a representative sample of Scottish public opinion. They tended to be 'disproportionately male, older, middle-class and better educated'.<sup>28</sup> The PPC's [2010 Annual Report](#) confirmed that 64% of petitioners were male, 68% were over 45, with 32% being retired.<sup>29</sup> But as Vernon Bogdanor commented, the relative failure to engage those traditionally excluded from the political process 'is a problem with all forms of advocacy democracy...'. Professor Bogdanor went on to say:

Dr Carman concluded that the public petitions system is, 'a valuable component of the parliamentary system and clearly provides a vital link between the public and the Parliament'. It has enabled the public themselves to put issues on to the political agenda which the politicians might wish to ignore. Perhaps Westminster has something to learn from it.<sup>30</sup>

As evidence of the potential impact of petitions on the public policy process, the PPC's [First Report](#) in 2001 noted that three petitions had been debated during full meetings of the Parliament and another three had initiated legislative amendment.<sup>31</sup> Its more recent 'successes' were reviewed in the PPC's 2009 report, [Inquiry into the public petitions process](#).<sup>32</sup>

## 5 Developments in Australian Parliaments

### 5.1 New South Wales

Parliamentary petitions, presented to the House of Commons, were important in NSW from an early stage,

initially in pursuing individual grievances, including those against the Governor<sup>33</sup> or in agitating for constitutional reform.<sup>34</sup> With the establishment of the first Legislative Council in 1824, from 1829 onwards petitions, on public and private bills, were received from individuals and organisations.<sup>35</sup> Around 150 petitions were received in total between then and 1843, initially introduced by the Governor, or later by a Member of the Council.<sup>36</sup>

Rules for the presentation of petitions were considered by a Select Committee, the report of which formed the basis of the Standing Orders of 1832. Standing Order 27 provided:

In case of Private Bills, or in any cases where individual rights or interests may be peculiarly affected, all persons concerned may be heard before the Governor and Council, or a Committee thereof, as may be ordered.

Standing Orders 28 to 33 then dealt with the examination of witnesses by the Council. Provision was also made for petitions to be presented by legal counsel.<sup>37</sup>

There is something of the flavour of the Medieval Parliament about the earliest Council, in which petitions formed the platform for direct dialogue between the populace (or their counsel) and the monarch's representative and his advisors.<sup>38</sup> Petitions were often the subject of detailed debate by Council Members, sometimes generating an Executive response.<sup>39</sup>

Petitions for leave by a particular person, or counsel, to be heard at the Bar of either House continued in the era of responsible government.<sup>40</sup> This did not extend to the examination of

witnesses. With the arrival of responsible government in 1856, both Houses of the NSW Parliament followed the House of Commons model. Thus, in the case of both Houses, only Members could present petitions, which had to be written in English and appropriately signed. Disrespectful language was not to be used, nor could a petition make reference to debates in the House, and they were barred from praying for a grant of public money. No debate was to follow on the presentation of a petition, even in urgent cases, and the only question to be entertained by the House was 'That the Petition be received'.<sup>41</sup>

The Assembly Standing Orders approved in 1894 and those of the Council approved in 1895, while more detailed, were in substantially similar terms to their predecessors. Both Houses agreed that only Members could present petitions in their respective Houses and, further, that they could not present them on their own behalf. No debate was permitted and no government response required.<sup>42</sup>

For much of the 20<sup>th</sup> century very few substantive changes were made to the relevant Standing Orders of either the Assembly or the Council. The prohibition against a petition requesting a grant of public money was removed in 1996 from the Assembly's Standing Orders, but not from those of the Council. Again in the Assembly's case only, in 1976 a requirement was inserted for copies of all petitions to be referred 'to the Minister responsible for the administration of the matter which is the subject of the Petition'.<sup>43</sup> The Minister was not at this stage required to respond to the petition. Since September 2009, however, relevant

Ministers have been required to lodge a response to a petition which has been signed by 500 or more persons. This must be done within 35 calendar days from the date a petition was tabled. As of March 2010, the House had received 40 such petitions, 35 of which had been responded to by the appropriate Minister.<sup>44</sup> Standing Order 125(3) further provides:

The receipt of the response shall be reported to the House by the Clerk and a copy of the response sent to the Member who lodged the petition. The response will also be published.

For the Legislative Council, the requirement for a copy of every petition to be forwarded to the relevant Minister was first adopted by Sessional Order in 1986,<sup>45</sup> but only inserted into the Standing Orders adopted in May 2004.<sup>46</sup>

## 5.2 Petitions Committees

In 2008 a dedicated Standing Committee on Petitions was established in the House of Representatives. For the Rudd Government, it was 'an important reform which strengthens the democratic rights of citizens and ensured that Parliament is listening and responding appropriately'.<sup>47</sup> This followed a recommendation of the Standing Committee on Procedure based on the view that:

a petitions committee would provide a demonstrable sign that petitions continue to be a respected form of democratic participation and ought to be taken seriously by a modern House, and that a petitions committee would be able to distinguish between petitions that can be actioned by the House and those that would require further government action.<sup>48</sup>



Changes to the Standing Orders included provision for petitions to be presented either via a Member or directly from a petitioner to the Petitions Committee. Standing Order 220 provides:

- (a) A Standing Committee on Petitions shall be appointed to receive and process petitions, and to inquire into and report to the House on any matter relating to petitions and the petitions system.
- (b) The committee shall consist of ten members: six government and four non-government members.

The work of the Petitions Committee was reviewed in June 2010, including the holding of round table meetings with petitioners and public servants to follow up on issues raised in petitions and responses. The Committee reported that it was 'pleased with the work it has undertaken to date and with the way that its role has been evolving'.<sup>49</sup> One recommendation arising from the report was that the Standing Orders be amended to enable the Committee to refer a petition to a House committee for inquiry and report.<sup>50</sup>

An alternative model is found in the Western Australian Upper House where, among other things, the Standing Committee on Environment and Public Affairs is charged with the function of inquiring into and reporting on petitions presented to the Legislative Council.<sup>51</sup> The Committee was established in 2005. In its 2010 report, [Overview of Petitions](#), the Committee explained that if it:

proceeds to investigate the issues raised in a petition, the first step will usually be to request a short submission from the principal

petitioner and tabling Member. Once the initial submissions are received, the relevant Minister(s) will often be requested to comment on the issues raised in the petition.

The 2010 report shows that the Committee gave careful consideration to the petitions investigated. Ministerial responses were provided in all relevant cases and these were commented upon by the Committee. Between July and December 2009, 15 petitions were finalised by the Committee.

A third committee model, similar to that in the UK, is the New Zealand approach where petitions are referred to the relevant portfolio subject select committee, which reports back to the House.<sup>52</sup> The relevant government department is usually asked to submit its views on a petition and written evidence is invited from the principal petitioner.

More ad hoc arrangements apply in the NSW Upper House. It is said in this respect:

The Standing Committees on Law and Justice, State Development and Social Issues are authorised to inquire into any petition which has been tabled and which is relevant to the functions of the Committee. Unlike the Senate committees which have occasionally undertaken inquiries based on petitions relating to their standing references, Council committees have not initiated an inquiry based on a petition, although the subject matter of petitions often coincides with committee inquiries.<sup>53</sup>

### 5.3 Ministerial responses

In terms of the perceived effectiveness of petitions, a key issue is whether they are considered by the relevant decision maker, who then explains by

way of response what, if any, action is to be taken and why. The House of Representatives Standing Committee on Procedure commented in this respect that 'Petitioners expect and deserve a response to the matters raised in their petition'.<sup>54</sup>

As noted, in the NSW Legislative Assembly Ministers are required to lodge a response to a petition which has been signed by 500 or more persons. In the House of Representatives, on the other hand, petitions 'may' be referred from the Petitions Committee to the relevant Minister, who is then 'expected' to respond within 90 days of a petition being presented to the House. The Committee reported in this respect:

The responsiveness by Ministers to the Committee's referral of petitions has been a very positive aspect of the changes to the petitioning process. For example, in 2007 there was one Ministerial response; in 2008 the figure was 56 responses; in 2009, 94 responses were received; and, as at 3 June 2010, 53 Ministerial responses have been received.<sup>55</sup>

The Committee added:

While it would be rare for a Minister to agree to undertake the action sought in a petition, there is clearly merit in terms of accountability, in receiving an explanation from government as to why a particular circumstance exists and why government acts, or does not act. That explanation by the Minister is made public after the Committee considers it, and is included in Hansard and on the Committee's web page.<sup>56</sup>

Both the Tasmanian Parliament and the Northern Territory Legislative Assembly require a government

response to a petition, within 15 days of a petition being communicated to the Premier in the Tasmanian case, and within 12 sitting days for the Northern Territory.<sup>57</sup>

#### 5.4 E-Petitions

The development of E-petitions in Australia and elsewhere was reviewed in a 2009 report of the Commonwealth House of Representatives Standing Committee on Petitions, [\*Electronic petitioning to the House of Representatives\*](#). The report noted that electronic petitions to parliaments can be created by:

- sending petitions to potential petitioners by email for signature, which are then aggregated;
- exposing petitions for signature on third party sites, such as that maintained by GetUP, resulting in petitions 'created elsewhere' that can be submitted to a chamber, such as the Australian Senate; or
- posting petitions for signature on a dedicated parliamentary electronic petitions website, as in the Queensland and Scottish parliaments.<sup>58</sup>

The Queensland Parliament first accepted E-petitions in 2002 and formalised arrangements in 2003. The procedural requirements include that a Member of Parliament must first sponsor an E-petition before it can be posted on the website to collect signatures. This contrasts with 'traditional paper' petitions which only require action by a Member once signatures are collected.<sup>59</sup> These arrangements have been described as a 'modest level of change'.<sup>60</sup>

It is reported that in Queensland E-petitions have resulted in an increase both in the number of petitions and signatories. It is further reported that the number of Ministerial responses



has 'increased significantly' since the introduction of E-petitioning. Such responses are not required to be made under the current Standing Orders.<sup>61</sup>

The Tasmanian [Upper](#) and [Lower](#) Houses also accept E-petitions, based on the Queensland model, as does the Senate, although in that case no special reference is made to them in its Standing Orders. Basically, in this 'minimal' Senate model petitions that are posted and signed electronically are accepted if a Senator 'certifies that they have been duly posted with the text available to the signatories'.<sup>62</sup>

The 2009 report of the Commonwealth House of Representatives Standing Committee on Petitions recommended that an E-petitions website be established, along the lines of that in place in Queensland. A 2008 report of the Victorian Public Accounts and Estimates Committee also indicated its support for E-petitions on the ground that it 'would improve the efficiency and accountability of Victoria's petitioning system'.<sup>63</sup> Conversely, in 2008 the Western Australian Legislative Assembly's Procedure and Privileges Committee opted for a 'wait and see' approach'.<sup>64</sup>

## 5 Statistical note

### 5.5 Incidence of petitions in NSW

In the 19<sup>th</sup> century petitions were used extensively by the public in NSW 'to air their concerns and desire for social change and to request construction of major infrastructure such as main roads, bridges and schools'.<sup>65</sup> However, by the middle of the 20<sup>th</sup> century the strong flow of petitions had dwindled to a trickle, only to be revived again in the last decade or so of the millennium. In relation to the Assembly, it is said:

From the 1930s up until the start of the 1970s the average number of petitions presented annually to the House ranged between 3 and 9. During the 1990s the average was 1,055 and in recent years over 2,000 petitions have been presented.

The same source observes: 'Whilst the number of petitions has increased petitions are often presented with only a few signatures...'.<sup>66</sup> Multiple petitions can be presented on the same issue.

In terms of subject matter, petitions are windows on their time. In the 1856-57 Session, the first under responsible government, the Upper House received 29 petitions, no fewer than 12 of these praying for the suppression of railway traffic on Sundays. In the same Session, the Legislative Assembly received 127 petitions, some relating to individual grievances, others to issues of broad public interest, and several submitted for or against private and public bills. The following Table indicates the total number of petitions received by both Houses in selected sessions since 1856.

Session	Leg Assembly	Leg Council
1856-57	127	29
1887-88	217	22
1924	47	2
1933-34	2	0
1948-50	3	2
1959-60	7	1
1974-75	279	1
1976-78	1223	732
1988-90	1236	213
1994	452	96
1996-97	2580	113
1997-99	2783	59
1999	126	11
1999-2002	3298	233
2002-03	1045	105
2003-06	5358	692
2006-07	813	170
2007-09 (continuing)	2582	232

Even taking the tendency towards longer parliamentary sessions in recent years into account, the upward trend in petitions, following the noticeable dip in the early and middle years of the 20<sup>th</sup> century, is clear. Occasional spikes in numbers occurred even in those years, usually the result of similar petitions on one or more issues. The 1976-78 session is a case in point, when the Legislative Council received 729 (of a total of 732) petitions opposing the legalising of casinos. The increase in petition numbers during the same session in the Assembly was broader based, on a variety of subjects, including those opposing anti-discrimination legislation and any changes to the laws on homosexuality (218 petitions), with other petitions on Sunday trading and casinos (72 petitions).

In more contemporary terms, the Legislative Assembly website listing those petitions with 500 or more signatures for which a Ministerial response has been received shows a preponderance of local issues, to do with:

- planning related decisions,
- opposing the proposed closure or downgrading of specific medical facilities,
- or requesting that such facilities be constructed in particular localities,
- or else opposing the proposed closure of local fire or police stations.

This emphasis on local concerns, and the sheer volume of petitions in the Lower compared to the Upper House, is a reflection of the fact that the Assembly is the more obvious avenue through which to vent constituency based issues. In the Legislative Council, on the other hand, in elections to which the State of NSW operates as

a single constituency, there is an expectation that petitions would be fewer in number, but tending to deal with broader issues and attracting larger concentrations of signatures, as in the case of a 2004 petition on the deregulation of pharmacies which attracted 500,000 signatures.<sup>67</sup> Of course this is only to suggest a tendency not an absolute rule, as all Houses of Parliament are likely to attract a mixture of petitions on broader and more local issues.

By way of illustration, taking the 88 petitions tabled in the NSW Legislative Council in the first half of 2010 as a sample, 23 of these (26%) were either for or against the holding of scripture or ethics classes in schools, another 12 petitions (13.6%) were for or against adoption by same sex couples.<sup>68</sup> One point to make is that 49 petitions (56%) were tabled by the 8 cross-benchers in a House of 42 Members. A further point is that petitions on the same subjects were also received by the Assembly.

### 5.6 Incidence of petitions in Australian Parliaments<sup>69</sup>

The following table shows the number of petitions in the Commonwealth, Victorian and Tasmanian Parliaments annually since 1999.

Year	Cth Sen	Cth HR	Vic LC	Vic LA	Tas LC	Tas HA
1999	194	232	n/a	98	2	18
2000	26	289	n/a	74	2	21
2001	35	250	n/a	90	5	24
2002	99	319	n/a	65	-	18
2003	129	369	28	179	3	24
2004	180	471	71	254	-	19
2005	86	235	69	412	-	32
2006	161	276	88	264	1	8
2007	77	250	48	179	9	23
2008	53	109	126	282	1	16
2009	48	150	121	407	1	15

The comparable figures for the South Australian and Western Australian Parliaments have been calculated on a sessional basis, as follows.

**South Australia**

Session	Leg Council	House of Assembly
1999-00	39	184
2000-01	56	177
2002	-	3
2002-03	43	138
2003-04	6	93
2004-05	30	139
2006-07	26	80
2007-08	26	120

**Western Australia**

Session	Leg Council	Leg Assembly
1999-00	39	133
2000	31	60
2001-2002	63	211
2002-05	123	434
2005-08	203	313
2008-June 2010	140	308

The Queensland figures show the breakdown of paper and E-petitions since 2002.

**Queensland**

Year	Paper	E-petitions	Total
2002	109	3	112
2003	115	22	137
2004	115	18	133
2005	136	40	176
2006	119	47	166
2007	170	35	205
2008	137	72	209
2009	108	63	171

Petitions may decline in number but increase in terms of average signatories. Queensland is a case in point, with fewer petitions in 2009 than in 2008 or 2007, but a higher number of signatures (254,274 in 2007, 151,238 in 2008 and 419,746 in 2009).

The spike in signatories in 2009 was due to petitions received on daylight saving, a controversial subject in the State. The average number of signatures in 2009 for E-petitions was 4,776, and for paper petitions 1,100, compared to 470 and 856 respectively for 2008, and 2,920 and 894 respectively for 2007. It is also reported that, in 2006, two E-petitions on daylight saving attracted almost 70,000 signatures.<sup>70</sup>

The following table shows the number of petitions presented per calendar year to the NSW Legislative Council and per financial year to the NSW Legislative Assembly over the past decade.

**New South Wales**

Year	NSW Leg C	Financial Year	NSW Leg A
1999	50	1998/99	1317
2000	53	1999/00	1135
2001	141	2000/01	1482
2002	105	2001/02	1223
2003	131	2002/03	801
2004	260	2003/04	1836
2005	249	2004/05	1882
2006	222	2005/06	1551
2007	68	2006/07	906
2008	57	2007/08	1016
2009	107	2008/09	918

**6 Conclusion**

If nothing else, the foregoing discussion shows that in NSW in particular, as in Australia generally, petitions play a significant role in the parliamentary process. It also confirms that petitions operate within the wider parliamentary context. For example, an active crossbench in either House may attract a significant number of petitions, especially on issues of special interest to crossbench Members.

A further consideration is that the reforms that have already been made in the various jurisdictions show that the Houses of Parliament are actively seeking to enhance the relevance and importance of this direct form of communication between the public and their elected representatives.

The effectiveness of petitions will always be hard to gauge. Executive decisions are made in response to a variety of factors. But this does not challenge either the rationale behind petitions or the basic argument that the rules, structures and practices relating to them should facilitate access by the public, encourage engagement by the Parliament and require appropriate response by the Executive.

- <sup>1</sup> C Hay, *Why We Hate Politics*, Polity Press 2007,.
- <sup>2</sup> K Turner and M Hogan eds, *The Worldly Art of Politics*, The Federation Press 2006, pp 3-23.
- <sup>3</sup> V Bogdanor, *The New British Constitution*, Hart Publishing 2009, p 140.
- <sup>4</sup> Bogdanor, n 3.
- <sup>5</sup> AH Birch, *Representation*, Pall Mall Press 1971, chapter 3.
- <sup>6</sup> Petitions are 'received' by an MP who is not then obliged to submit the petition to the House
- <sup>7</sup> House of Representatives Standing Committee on Procedure, [Making a Difference: Petitioning the House of Representatives](#), August 2007, para 1.7.
- <sup>8</sup> 'Turning up the volume on petitions', [About the House](#), June 2008, p 62.
- <sup>9</sup> D Judge, 'Public petitions and the House of Commons' (1978) 31 *Parliamentary Affairs* 391.
- <sup>10</sup> *Erskine May Parliamentary Practice*, 23<sup>rd</sup> ed, 2004, p 932. Public petitions are to be distinguished from petitions relating directly to private business, notably in the form of Private Bills.
- <sup>11</sup> House of Commons Information Office, *Public Petitions*, [Factsheet P7](#), Procedure Series, p 2.
- <sup>12</sup> *Erskine May Parliamentary Practice*, 23<sup>rd</sup> ed, n 10, p 932.
- <sup>13</sup> For example Lord Compton, *An Introduction to the Procedure of the House of Commons*, 3<sup>rd</sup> ed, Macmillan 1958; R

Butt, *A History of Parliament: The Middle Ages*, Constable 1989.

- <sup>14</sup> House of Commons Information Office, n 11, p 6. Chartism was one radical cause that resulted in the upsurge in petitions in the 1830s and 40s. Massive petitions were also presented on such issues as the Corn Laws, the Poor Laws and Factory Legislation: D Judge, n 9, p 392.
- <sup>15</sup> *Erskine May's Parliamentary Practice*, 23<sup>rd</sup> ed, n 10, p 932.
- <sup>16</sup> [House of Commons Information Office](#), n 11, p 7.
- <sup>17</sup> On subjects as diverse as proportional representation, contraception, abortion, embryo research and capital punishment.
- <sup>18</sup> [House of Commons Information Office](#), n 11, p 10. Statistics on Government observations are provided in the full table.
- <sup>19</sup> D Judge, n 9, p 395. Even Committee members were of the view that its proceedings were 'a waste of time', which led to it being disbanded on 4 April 1974.
- <sup>20</sup> However, by Standing Order 134, which dates from 1842, an exception is made for petitions on matters of urgent moment to be debated on the floor of the House. According to the House of Commons Information Office, the last occasion this Standing Order was applied was on 29 November 1960.
- <sup>21</sup> [House of Commons Information Office](#), n 11, pp 4-5. In 2006 direct E-petitioning was permitted on the 10 Downing Street website. In 2007 the Brown Government agreed to introduce E-petitions in the House of Commons: [The Governance of Britain](#), CM 7170, Chapter 3. But a more cautious approach was subsequently adopted: House of Commons Procedure Committee, [E-Petitions: Call for Government Action](#), 2<sup>nd</sup> report of Session 2008-09, HC 493.
- <sup>22</sup> R Rogers and R Walters, *How Parliament Works*, 6<sup>th</sup> edition, Pearson Education Ltd 2006, p 341. Rogers and Walters added: 'But they [petitions] can achieve a great deal of publicity and on a local issue can have a snowball effect. On national issues, either the sheer numbers of signatories to a petition or the fact that similar petitions from scores of constituencies are presented week after week can be a powerful statement of concern that for practical political reasons the government must heed'.
- <sup>23</sup> M Rush, *Parliament Today*, Manchester University Press 2005, p 243.

- <sup>24</sup> CJ Carman, [The Assessment of the Scottish Parliament's Public Petitions System 1999-2006](#), Public Petitions Committee Report, SP Paper 654, Chapter 2, para 5. See also [Report of the Consultative Steering Group on the Scottish Parliament](#), 1998, Chapter 3.6. The petitions system is said to be key to meeting the Parliament's objectives of: power sharing; accountability; accessibility; and equal opportunities: The Scottish Parliament, [How to Submit a Public Petition](#).
- <sup>25</sup> The PPC generally meets fortnightly when the Parliament is sitting and all its meetings are held in public. Its membership broadly reflects the balance of the various political groupings in the Parliament: [How to Submit a Public Petition](#).
- <sup>26</sup> Note that, like all committees of the Scottish Parliament, the PPC may propose legislation.
- <sup>27</sup> PPC, [3<sup>rd</sup> Report 2009 \(Session 3\), Inquiry into the public petitions process](#), para 45.
- <sup>28</sup> [Carman](#), n 24, Chapter 8, para 4. For a comment on gender and petitioning see: M Sawyer et al, *Australia: The State of Democracy*, Federation Press 2009, p 250.
- <sup>29</sup> The Scottish Parliament, *Public Petitions Committee, 1<sup>st</sup> Report 2010 (Session 3), Annual Report*, SP Paper 448, para 43.
- <sup>30</sup> Bogdanor, n 3, p 141. See also A Thiec in *Parliaments, Estates and Representation edited by A Cowan, Volume 28, 2008*.
- <sup>31</sup> Note that, further to Standing Orders under *Government of Wales Act 2006*, a similar petitions system has been established in the Welsh Assembly, with the creation of a [Petitions Committee](#). Since 2008 provision has also been made for the submission of E-petitions. A [Petitions Committee](#) also operates in the [German Bundestag](#), as discussed in SA Palmieri, 'Petition effectiveness: improving citizens' direct access to Parliament' (2008) 23(1) *Australasian Parliamentary Review* 121 at 131.
- <sup>32</sup> The PPC conducted its own inquiry into a 2008 petition seeking support for mandatory sentencing for knife crimes: PPC, [1<sup>st</sup> Report \(Session 3\), Knife Crime](#). While the proposal was ultimately rejected by the Executive, the example remains suggestive of the contribution petitions can make to the parliamentary process.
- <sup>33</sup> ACV Melbourne, *Early Constitutional Development in Australia*, University of Queensland Press 1963, p 53. The reference is to a petition presented to the House of Commons in 1819 from 'Blake and Williams, two men who had undoubtedly suffered from the arbitrary behaviour of the Governor [Macquarie]'.  
<sup>34</sup> ACV Melbourne, n 33, p 61. The reference is to an 1819 petition to the House of Commons.  
<sup>35</sup> The first of these was from William Charles Wentworth, John Dixon and Henry Brookes against the *Bill Regulating the Slaughter of Cattle*.  
<sup>36</sup> Standing Order 25 of 1832.  
<sup>37</sup> In the years 1829 to 1843 legal counsel was heard in five out of 150 petitions. For example, in 1840 a petition, signed by 373 persons, on a provision in the *Municipal Corporations Bill* disqualifying certain former convicts from holding municipal offices was received 'from certain Inhabitants of Sydney and other parts of the Colony' praying that 'the Petitioners may be heard by counsel'. This was approved and after hearing addresses by counsel the Governor withdrew the Bill: *Votes and Proceedings of the Legislative Council of NSW*, 19 August 1840. Concluding the matter, Governor Gipps stated: 'that being decidedly of opinion that the consequence of hearing the Counsel for the Petitioners must be a revival of those agitating and exciting feelings between the Free and Emancipist Population, which he was aware had formerly existed, but which he hoped had now subsided; he deemed he would best perform his duty, by proceeding no further with the Bill at present'.  
<sup>38</sup> With the creation of a partially representative Legislative Council in 1843 new Standing Orders were introduced. Standing Order 113 provided petitions were not to 'be heard at length except on a Motion made and seconded' and that 'no debate shall take place' unless 'notice be given in the usual manner'. The only question to be put on the presentation of a petition was 'That the Petition be read'.  
<sup>39</sup> In 1840, this time in relation to the *Claims to Grants of Land in New Zealand Bill*, both the petitioners Busby and Wentworth and their counsel (William a'Beckett) were heard in person. On that occasion the Bill was passed, but not before the Governor entered into a lengthy explanation on the subject of the extinguishment of native title: *Votes and Proceedings of the Legislative Council of NSW*, 9 July 1840.  
<sup>40</sup> As discussed in RD Grove editor, *NSW Legislative Assembly Practice, Procedure*



- and *Privilege*, 1<sup>st</sup> ed, NSW Parliament 2007, pp 133-34; L Lovelock and J Evans, *NSW Legislative Council Practice*, The Federation Press 2008, p 493.
- 41 *Legislative Assembly Standing Orders 1856*, Nos 14-25; *Legislative Council Standing Orders 1856*, Nos 96-105. For comparison with the House of Commons see – *Erskine May's Parliamentary Practice*, 3<sup>rd</sup> ed, 1855, pp 399-411.
- 42 In the case of the Council, provision was made for a sessional abstract of petitions, to be prepared by the Clerk. For the Assembly, unless otherwise ordered by the House and except for petitions on private bills, the Clerk was to cause all petitions to be printed.
- 43 *Legislative Assembly Standing Orders 1976*, No 99.
- 44 Legislative Assembly, Standing Orders and Procedure Committee, *Amendments to the Standing Orders*, Report No 1, 2009; NSWPD, 25 June 2009, p 16836; R Cartwright, 'Procedural Notes – Petitions', *Assembly Lines*, March 2010, p 10. Standing Order 125 was approved by the Governor on 3 July 2009.
- 45 *Legislative Council Journal, 1986-88*, p 26 (20 February 1986). A resolution to the same effect was adopted in all subsequent Sessions.
- 46 Standing Order 68(9). The current procedures relating to petitions in the Legislative Council are set out in Chapter 17 of L Lovelock and J Evans, n 40.
- 47 Media Release by Anthony Albanese, 11 January 2008 quoted in House of Representatives Standing Committee on Petitions, [The work of the first Petitions Committee: 2008-2010](#), June 2010, para 1.7. Its establishment followed on from the 2007 Report of the House of Representatives Standing Committee on Procedure, [Making a Difference: Petitioning the House of Representatives](#).
- 48 [Making a Difference: Petitioning the House of Representatives](#), para 2.45.
- 49 [The work of the first Petitions Committee: 2008-2010](#), para 3.43.
- 50 [The work of the first Petitions Committee: 2008-2010](#), para 3.42.
- 51 Except petitions raising a matter of privilege or where all available legal remedies have been exhausted: WA Legislative Council, [Standing Orders](#), Ch XI.
- 52 NZ House of Representatives, [Standing Orders 2008](#), SO 185. These different models are discussed in K Sampford, [A Petitions Committee for Queensland – An idea whose time has come?](#) ANZACATT paper 2009.
- 53 Lovelock and Evans, n 40, p 469.
- 54 [Making a Difference: Petitioning the House of Representatives](#), para 1.16.
- 55 [The work of the first Petitions Committee: 2008-2010](#), para 2.14.
- 56 [The work of the first Petitions Committee: 2008-2010](#), para 2.15.
- 57 Sampford, n 52, p 24.
- 58 [Electronic petitioning to the House of Representatives](#), para 1.4.
- 59 Ibid, para 2.6.
- 60 Ibid, para 3.3.
- 61 Ibid, paras 6.2-6.5.
- 62 Ibid, para 1.20.
- 63 [Report on Strengthening Government and Parliamentary Accountability in Victoria](#), April 2008, p 69.
- 64 Sampford, n 52, p 19.
- 65 *NSW Legislative Assembly Practice, Procedure and Privilege*, n 40, p 131.
- 66 *NSW Legislative Assembly Practice, Procedure and Privilege*, n 40, p 131.
- 67 Lovelock and Evans, n 40, p 468.
- 68 Supplementing such broader concerns were petitions with a more local bias, such as 10 petitions (11%) opposing a major planning project in Coogee. Eleven petitions with over 500 signatures each were also presented on the same subject to the Legislative Assembly in the first half of 2010.
- 69 The figures for the Tasmanian, South Australian and Western Australian Parliaments were provided by their respective Parliamentary Libraries.
- 70 [Electronic petitioning to the House of Representatives](#), para 6.8.

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