

## Chapter 13 Petitions

### 13.1 History of petitions

A petition is an ancient right by which citizens can have their grievances brought to the notice of the Parliament by a member on their behalf. The petition is a direct means by which any citizen or group of citizens can place concerns before the Parliament. According to *May* public petitions in the House of Commons “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>1</sup>

The petition dates back to the reign of King Edward I in the thirteenth century. Some of the earliest forms of legislation were merely petitions which had been agreed to by the King. Thus, the practice of petitioning the Crown predates early parliament. In fact the origins of Parliament can be traced back to those meetings of the King’s Council which considered petitions.

In modern times the importance of the petition has been diminished by other parliamentary forms such as questions, and by bodies such as the New South Wales Ombudsman, the Administrative Decisions Tribunal and the Independent Commission Against Corruption, which can often deal with individual grievances by more direct non-public action. Public grievances are often effectively publicised in the media. However, petitions are still seen by many as an important and direct means of placing their concerns before the Parliament.

In the early years of the New South Wales Parliament, petitions were seen as an important means for the public to air their concerns and desire for social change and to request construction of major infrastructure such as main roads, bridges and schools. For example, in 1896 a petition was received by the House which requested a bridge to be built from Sydney to North Sydney.

The number of petitions presented to the Legislative Assembly continued to increase after 1970. 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. Whilst the number of petitions has increased petitions are often presented with only a few signatures as the number of signatures are not recorded in the records of the House.

### 13.2 Rules and practice

Each sitting day in the House, the Clerk announces the receipt of petitions from members. Petitions presented to the Legislative Assembly are required by standing orders 119-125, and the practice of the House, to conform with the following principles:

- Be addressed to the Speaker and members of the Legislative Assembly in Parliament assembled.

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<sup>1</sup> *May*, p. 932.

- Be clearly written, typed or printed, not have anything attached to it, and not contain any alterations (unless for a private bill). (S.O. 121(1), 122(1)).<sup>2</sup>
- State the facts which the petitioners wish to bring to the notice of the House (S.O. 121(3)).
- Conclude with a request that the House do, or do not do, something or take some course of action.
- Contain at least one signature (S.O. 121(5)).
- Contain the name, address and original signature of each petitioner (S.O. 121(4)).
- Not make reference to debate in the House (S.O. 122(2)).
- Members must sign the front sheet (S.O. 123(3)).
- It is the responsibility of the member to ensure that the petition is in order (S.O. 123(2)).
- A copy of every petition received is referred to the Minister responsible for the subject contained in the petition and a copy of that letter is sent to the member presenting the petition (S.O. 125).
- Petitions must be lodged with the Clerk by 12 noon on the day it is to be reported (S.O. 119). Petitions received after this time will be presented the following sitting day.
- The member presenting the petition cannot be a signatory. (S.O. 122(3)).
- Must be in the English language or be accompanied by an English translation, certified to be correct by the member who lodges it. (S.O. 121(2)).
- Petitions are only accepted if they have the prayer at the top of all its sheets.

In the past a petition could not directly or indirectly request a grant of public money. However, this prohibition was removed from the standing orders in September 1996.<sup>3</sup>

Standing order 123 sets out the procedure for presenting a petition.<sup>4</sup> Under the standing order the Clerk announces to the House that petitions have been received and that the terms of petitions presented will be printed in *Hansard* and in the *Votes and Proceedings*.

No discussion is allowed upon the subject matter of petitions when presented and every petition presented is deemed to be received by the House unless a motion, moved on the next sitting day (not being a Friday), is agreed to, without debate or amendment, that a particular petition be not received (S.O. 124). Only on very rare occasions has the House refused to receive a petition.<sup>5</sup> There is however, no requirement for a member to present a petition to the House when requested to do so. This was established in *Chaffers v Goldsmid*<sup>6</sup> where it was held that no action at

<sup>2</sup> Petition ruled out of order for containing an alteration, PD 12/06/1996, p. 2907. This ruling was given following attempts to censure the member who had altered the petition, see PD 05/06/1996, pp. 2577-87.

<sup>3</sup> PD 25/09/1996, p. 4586.

<sup>4</sup> The procedure was first adopted as a sessional order in November 2005 VP 15/11/2005, p. 1742. Prior to the adoption of this sessional order the Clerk announced the petitions received, indicating in the case of each petition the member who lodged it and the subject matter of the petition.

<sup>5</sup> Disrespectful, VP 08/07/1863, p. 75; unjustifiable interference (calling for prohibition of alcohol on precincts, VP 27/11/1890, p. 469; calling for legalised abortion and free birth control and sex education centres, VP 20/04/1971, p. 23.

<sup>6</sup> (1894) 1 QB 186.

common law lay against a Member of the House of Commons who refused to present a petition forwarded to him by a constituent.<sup>7</sup>

Members are able to petition the Parliament. For example, in 1998 two members of the Legislative Assembly petitioned the Legislative Council praying that, in view of the absence of any clear procedure or protocol for the removal of a judicial officer under the Constitution Act, the Legislative Council agree to a conference of representatives of all parties and Independents of both Houses being held on Thursday, 25 June 1998, to decide on the process by which the Houses will consider the report of the Conduct Division of the Supreme Court concerning complaints against Justice Vince Bruce, and that the Legislative Council refrain from debating or voting on any motion regarding the report until after the conference has reported to both Houses.<sup>8</sup> No motion was moved in the Legislative Council to appoint a conference of representatives from both Houses. However, Justice Bruce was ordered to appear before the Legislative Council to show cause why he should not be removed from office.<sup>9</sup> A motion was subsequently moved in the Legislative Council to remove the judge. However, the motion was negatived.<sup>10</sup> For further information on the removal of judicial officers see Chapter 33 of Part One.

### **13.2.1 Electronic petitions**

Given the existing requirements for “signatures” as provided for in the standing orders the Legislative Assembly does not accept petitions which have been received electronically.

### **13.2.2 Petitions for the production of the proceedings of the House in court**

Until recently, petitions were received by the House requesting the production of proceedings of the Legislative Assembly in court or a Special Commission of Inquiry. In such cases it was necessary for the House to agree to a resolution granting the prayer of the petition before any proceedings could be used in court.<sup>11</sup>

It is now accepted that the proceedings of Parliament may be tendered as evidence in court and other places out of Parliament for the purpose of establishing facts so long as no questioning or impeaching of the proceedings of Parliament occurs.<sup>12</sup> Accordingly, there is no need for the House to grant permission for the proceedings to be used in court for such purposes. In addition, it has been recognised in statute that the proceedings of Parliament can be used in courts for specific purposes. For example, section 34 of the *Interpretation Act 1987* provides that parliamentary proceedings, including *Hansard*, reports from committees and the *Votes and Proceedings* can be used in the interpretation of Acts and statutory rules.

### **13.2.3 Petitions for leave to appear at the Bar of the House**

On occasion, the House has received petitions requesting that leave be granted to enable a particular person or counsel to be heard at the Bar of the House. These types of petitions request leave to appear to enable persons to speak for<sup>13</sup> or

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<sup>7</sup> See *May*, p. 103.

<sup>8</sup> Minutes of the Proceedings of the Legislative Council 24/06/1998, p. 580; Legislative Council PD 24/06/1998, p. 6319.

<sup>9</sup> Legislative Council PD 27/05/1998, pp. 5207-8.

<sup>10</sup> Minutes of the Proceedings of the Legislative Council, 25/05/2000, p. 601-2.

<sup>11</sup> For examples, see VP 14/10/1982, pp. 95-6; VP 03/11/1982, pp. 120-2; VP 24/05/1984, pp. 140-2; and VP 18/04/1985, pp. 370 and 372.

<sup>12</sup> See section 3.4 of Part Two for further discussion on the admissibility of parliamentary proceedings in court.

<sup>13</sup> See for example, VP 05/03/1878, p. 135.

against<sup>14</sup> bills currently before the House or in relation to individual grievances against the Government.<sup>15</sup> As noted, individual grievances in modern times tend to be dealt with by agencies such as the Office of the Ombudsman and the Administrative Decisions Tribunal and as such petitions requesting leave to appear in relation to individual grievances are no longer submitted to the House – the last one being presented on 23 October 1929.

Petitions requesting a person to attend at the Bar of the House must be agreed to by the House. Leave to appear at the Bar of the House has been granted following the receipt of a petition on 17 occasions. The majority have been in relation to legislation before the House with leave being granted in relation to individual grievances on only two occasions.<sup>16</sup> A former member who had been judged guilty of conduct unbecoming a member has been granted leave to appear before the Bar of the House<sup>17</sup> and counsel has been granted leave to appear in relation to a report of a select committee.<sup>18</sup> The last occasion on which leave was granted to appear at the Bar of the House was in May 1931 in relation to the Administration of Justice Bill, when the House heard from counsel of both the Bar Council of New South Wales and the Incorporated Law Institute of New South Wales.<sup>19</sup>

The Legislative Assembly continued to receive requests for leave to be given to appear at the Bar of the House every few years up until the 1960s but have not received any since that time.<sup>20</sup>

### **13.3 Petitions not in accordance with the standing orders**

Petitions which are not in accordance with the standing orders have been referred to as "representations" and some have been presented, by leave, by the Leader of the House.<sup>21</sup> Members may also refer to petitions which are out of order in private members' statements and, with the leave of the House, can place such petitions on the Table for the information of members. However, most petitions which do not conform to the standing orders are returned to the member for forwarding to the relevant Minister by letter.

### **13.4 Petition formats**

The House will accept petitions from members in both the modern and more traditional formats.

#### **13.4.1 Modern format**

To the Honourable the Speaker and Members of the Legislative Assembly of New South Wales. *(The preamble)*

The Petition of..... *(The petitioners - identify here who the petitioners are, in general terms e.g., citizens of New South Wales or residents of the State of New South Wales or residents of [name of town, region or electorate])*

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<sup>14</sup> See for example, VP 19/03/1874, p. 350; VP 05/03/1879, p. 319.

<sup>15</sup> See for examples: VP 23/11/1897, p. 435; VP 04/12/1902, p. 532; VP 15/09/1920, p. 47.

<sup>16</sup> VP 20/04/1886, p. 193; and VP 03/11/1920, p. 119.

<sup>17</sup> VP 03/04/1883, p. 186.

<sup>18</sup> See VP 30/08/1882, p. 17 (Petition Presented); VP 01/09/1882, p. 31 (Prayer granted); and VP 12/09/1882, p. 55 (Counsel heard).

<sup>19</sup> VP 13/05/1931, p. 193 (Petitions presented); and VP 19/05/1931, p. 198 (Leave granted to both petitioners to appear).

<sup>20</sup> A petition requesting leave for Counsel to appear at the Bar of the House in relation to the *Judicial Officers Bill* was received by the Legislative Council in 1986. However, the Council did not grant leave, see Legislative Council Minutes 28/10/1986, p. 403 and 29/10/1986, p. 415.

<sup>21</sup> VP 09/09/1999, p. 56.

Brings to the attention of the House..... *(The grievance - insert here the petitioners' grievance or the circumstances of the matter)*

The undersigned petitioners therefore ask the Legislative Assembly to..... *(The request - outlining the action that the House should, or should not, take)*

*(Signatures) (Names) (Addresses)*

*Note: The request of the petition (the fourth paragraph) must be repeated at the head of each sheet of signatures.*

**13.4.2 Traditional format**

To the Honourable the Speaker and Members of the Legislative Assembly of New South Wales in Parliament assembled. *(The preamble)*

The Petition of..... *(The petitioners - identify here who the petitioners are, in general terms, e.g., citizens of New South Wales or residents of the State of New South Wales or residents of [name of town, region or electorate])*

Respectfully sheweth.....*(The grievance - insert here the petitioners' grievance or the circumstances of the matter)*

Your Petitioners therefore humbly pray that your Honourable House ..... *(The request - outlining the action that the House should, or should not, take)*

And your Petitioners, as in duty bound, will ever pray.

*(Signatures) (Names) (Addresses)*

*Note: The request of the petition (the fourth paragraph) must be repeated at the head of each sheet of signatures.*