

THE PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON PROCEDURE

RESPONSES TO PETITIONS

Report

November 1990

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Terms of reference of the committee

To inquire into and report on the practices and procedures of the House generally with a view to making recommendations for their improvement or change and for the development of new procedures.

Members of the committee

Chairman: Hon. G G D Scholes, MP

Deputy Chairman: Mr P D Shack, MP

Members: Mr R F Edwards, MP
Mr E L Grace, MP
Mr C Hollis, MP
Mr A C Rocher, MP
Mr W E Truss, MP
Hon. F J Walker, QC, MP

Secretary: Ms R Webber

REPORT

1. On 31 May 1990 the Standing Committee on Procedure resolved to investigate the adequacy of the current provisions for responding to petitions presented to the House of Representatives.

2. The right of petitioning Parliament is a fundamental right of the citizen, allowing any individual or body of individuals to place grievances directly before the Parliament. It is one of the most direct means of communication between the people and the Parliament. It is by this means that people can voice their concerns to the House on matters of public interest. However, the committee is concerned that despite the considerable effort spent by citizens preparing and circulating petitions to gather signatures, it is rare that further action is taken once a petition has been presented in, and received by, the House and copies forwarded to the relevant Minister.

3. The view is sometimes expressed that the petitioning process is an ineffective anachronism that places unreasonable demands on the time of the House and that individual grievances can be dealt with more effectively by more direct non-public action by Members, by the Commonwealth Ombudsman and by such bodies as the Administrative Appeals Tribunal. Public grievances may be more effectively brought to public attention through the media, through other parliamentary forms such as questions, debate and committee inquiries, and through direct communication with private Members and Ministers. However, as stated in *The Times* in 1901 - "whatever their practical utility petitions would always have a sentimental value as keeping alive a popular right based upon one of the fundamental principles of the British Constitution".¹

¹ 'Public petitions in the House of Commons',
House of Commons Factsheet, No. 32, p 1.

Presentation of petitions in the House of Representatives

4. Under current sessional orders petitions are presented as the first item of business on each sitting Thursday. An announcement is made by the Clerk indicating the Members who have lodged petitions for presentation, the number and identity of signatories and a summary of the prayer of each petition. It is traditional that a Member to whom a petition is sent for presentation will present it, irrespective of his or her personal views on its content.

5. Current sessional orders provide that every petition must request action by the **House**. Although it is the practice of the House to refer petitions to Ministers and there is provision for Ministers to respond to the House concerning the Government position on those petitions, the committee feels that the practice of addressing petitions to the House should be retained. It is the House to which petitions are presented and the House which receives petitions.

6. 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. Members should be aware that sessional order 130 provides that there are two other motions which may be moved on presentation of a petition. These are:

- (a) that a particular petition be printed; or
- (b) that a particular petition be referred to a committee.

Although it is rare for such motions to be moved and agreed to, there have been instances where such motions have had a significant effect. In 1970, for example, the Select Committee on Wildlife Conservation was appointed following a motion on a petition on the export of kangaroo products.

7. The House of Representatives appears to receive more petitions than comparable legislatures and the petitions presented cover a wide variety of subjects. There is, however, an indication that the Canadian House of Commons and the United Kingdom House

of Commons are beginning to experience an upsurge in the number and variety of petitions presented. The extensive use of the petitioning procedure in the House of Representatives is a relatively recent phenomenon, as the following table shows. There was a dramatic increase in the number of petitions presented to the House in the 1970's.

Petitions presented in the House of Representatives

1901 - 1910	818
1911 - 1920	49
1921 - 1930	19
1931 - 1940	26
1941 - 1950	109
1951 - 1960	227
1961 - 1970	1188
1971 - 1980	15 492
1981 to Oct 1990	24 713

Major developments in follow-up procedures

8. Prior to 1972 Members personally presented petitions to the House, after certification by the Clerk that the petition conformed with standing orders, confining themselves to a statement of the parties from whom each petition came, the number of signatures attached to it and the material allegations contained in the prayer. The Member would then move that the petition be received or

received and read. In the latter case it was read in full by the Clerk, except for the signatures.

9. In 1972 the Standing Orders Committee reported on the process of petitioning, principally with a view to examining the time consumed for their presentation and the lack of follow-up procedures. The committee felt that the petitions process could be made more purposeful by establishing some follow-up procedure for the consideration of petitions. New procedures were suggested in its recommendations under which the Clerk announced the petitions lodged for presentation to the House, indicating the Member lodging it, the identity of the petitioners and the subject matter. The committee noted that -

with no follow-up procedures, Members must rely on repetitive presentation and reading in order to gain publicity which may then cause some Government action. If the petitions were forwarded to the appropriate Government Department for review and report the need for recurrent presentation and reading could disappear.²

10. Follow-up action that was recommended included the printing of the terms of petitions in *Hansard* and referring petitions to the Minister responsible for the subject of the petition. The recommendations were adopted by the House, effective from 26 April 1972 and included the following standing order -

132. 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.

² *Standing Orders Committee Report*, PP 20 (1972).

11. During debate in the House on the new standing order many Members expressed dissatisfaction with the lack of effective follow-up procedures for petitions and argued that standing order 132 did not go far enough in satisfying the needs and expectations of petitioners. It was stated that the provision would probably "transfer the petition from one pigeonhole in the basement of this building to a pigeonhole in a Minister's office."³ Two amendments were moved by Opposition Members to the standing order. One proposed that Ministers report back to the House within 21 sitting days of the presentation of a petition or the presentation of the first petition of a series of petitions. The second amendment proposed the appointment of a Petitions Committee to which all petitions would be referred for examination and reference to the appropriate Department. The amendments were defeated.

12. In 1985 a question was asked on notice to all Ministers about the procedures used in the Minister's office to respond to petitions referred by the House. The answers revealed that in the majority of cases the matter was referred from the Minister's office to the Department "for information" or "for consideration". Only two Ministers said that they took direct action and replied to the individual who initiated the petition.

13. As a result of recommendations in the 1986 Procedure Committee report on days and hours of sitting and the effective use of the time of the House, sessional order 132 was agreed to, operative from 15 March 1988, to provide for a Minister to be given the option to respond to a petition by lodging a response with the Clerk for presentation to the House -

132. 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. A Minister

³ H.R. Deb. (18.4.72) 1707.

may respond to a petition by lodging a response with the Clerk for presentation to the House, such response being announced at the end of the petitions announcement.

Following the presentation of petitions to the House a letter is sent from the Clerk to the Minister responsible for the matter which is the subject of the petition. If more than one Minister is responsible for the matter it is referred to the Minister having the greater responsibility. The letter refers the terms of a petition to the Minister.

14. The change to the standing orders to enable Ministers to respond to petitions was made in an attempt to improve the follow-up procedures for the consideration of petitions, in line with the issues that had been raised by Members in the debate on the 1972 Standing Orders Committee report. It is apparent that the sessional order has not proved as effective as hoped. In nearly three years of operation of the sessional order there have been no instances of any responses being announced to, or tabled in, the House. (This compares unfavourably to the U.K. House of Commons where although Ministers are not obliged to respond to petitions, approximately 70% of petitions do receive a response).

Follow-up procedures in other legislatures

15. Follow-up action in relation to petitions varies in comparable legislatures, however it appears that the House of Representatives has less formalised procedures than other legislatures. Action varies from making a response discretionary, but encouraging a Minister's formal written response, to initiating committee inquiries. Under procedures of the Indian Lok Sabha all petitions are referred to a Committee on Petitions; and in the New Zealand House of Representatives petitions are referred to either the Petitions Committee or to the appropriate select committee. In the United Kingdom House of Commons petitions are referred to the appropriate Minister but a response is not compulsory. In the

Canadian House of Commons petitions are referred to the Government and a response must be provided within forty-five days and tabled in the House.

Improving follow-up procedures

16. Petitions provide a means by which the House, its Members and the Government are informed in a direct and public way of the views of sections of the community on current issues. Petitioning can form an important link between Parliament and the people. This link can be strengthened by making the process a two-way one and ensuring that the grievances of petitioners receive consideration.

17. Petitions are only accepted as being in order if they request action by the House (or the Parliament). However, in most cases the matter at issue is within the Government's responsibilities and the House's action takes the form of having the Clerk refer a copy of each petition to the relevant Minister. The committee believes that, for all practical purposes, only the Government is in a position to provide useful responses to most petitions. Nevertheless the committee wishes to affirm the House's responsibility in the receipt of, and action taken on, petitions by having a formal motion moved in the House to receive petitions and refer them to the relevant Minister for response.

18. The lack of any formal responses to petitions since the inclusion in sessional orders of provision for them is disappointing. The committee feels that this failure of Ministers to provide responses points to a need for the House to order that Ministers respond to petitions referred to them by the House and to impose a time limit on the receipt of the responses from Ministers. Once the response to the House has been received it should be published in *Hansard* in a similar manner to answers to questions on notice.

19. Once a Minister has responded to a particular petition it would not be necessary to respond again should the same petition be presented on a future occasion, unless a change in circumstances has

affected the accuracy or relevance of the original response.

20. The Member lodging a petition is not required to acknowledge it or respond to the petitioners. Many Members do, however, acknowledge petitions by advising one or more of the petitioners that their petition has been presented in the House. The Member may forward a copy of the *Hansard* record or provide some comment on the subject of the petition. The committee strongly encourages Members to acknowledge petitions so that the petitioners are advised that their petition has been presented in the House and so that they receive an immediate response to their grievance from the Member who lodged the petition on their behalf.

Recommendations

21. **The committee recommends that:**

- . Following the Clerk's announcement on Thursday morning of petitions lodged for presentation a motion, not open to debate, be moved by a Minister that the petitions be received by the House and referred to the appropriate Minister;
- . Standing order 132 be amended to provide that Ministers shall respond to petitions within 21 sitting days of their referral by the House:
Provided that: a Minister is not required to respond again to a petition which is the same as one presented previously;
- . Minister's responses be lodged with the Clerk of the House who will arrange printing of the responses in *Hansard*.
The receipt of responses to petitions need not be announced to the House, and

. Present provisions enabling the printing of petitions and their reference to a committee remain unchanged. Reference of a petition to a committee would obviate the requirement for a response from the Minister unless such response is specifically requested by the House or the committee.

GORDON SCHOLES, MP

Chairman

13 November 1990

