



*Parliament House,
Hobart*

13 January 2020

Hon. Matthew Swinbourn MLC
Chairman
Standing Committee on Environment and Public Affairs
Legislative Council
Parliament House
WEST PERTH WA 6005

Dear Chairman,

I refer to your correspondence to me of 25 October last. Thank you for extending an invitation to provide a submission to the inquiry of the Committee regarding the petitioning process and I am pleased to provide the following response for information pertaining to the "history and operation of the petitions process in the Tasmanian House of Assembly".

Chapter 11 of the Standing Orders (SOs 51 to 67) prescribes the rules for petitioning the House. With the exception of SOs 64 to 67, which relate to E-petitions, the SOs are essentially unchanged in form from the original SOs adopted in 1857 by the then 'new' House of Assembly. The relevant SOs, together with some interpretation and details of our practice are as follows:-

51 Petitions.

A Petition shall:-

- (a) be fairly written or printed and shall before presentation, be forwarded for examination not less than one hour before the time of meeting of the House to the Clerk of the House, who, in returning the Petition to the Member in charge thereof, may require its amendment, in accordance with the Rules of the House;
- (b) contain a request at the end thereof;
- (c) be signed by at least one person on the sheet on which the Petition is written or printed;
- (d) be in the English language, or be accompanied by a translation, certified by the Member who presents it; and
- (e) be signed by the parties whose names are appended thereto, by their names or marks, and by no one else, except in the case of incapacity by sickness.

Interpretation & Practice

This suite of SOs deals with perhaps the most ancient form of Parliamentary procedure, public petitioning of the Parliament¹. May says that 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."² May cites two 1669 resolutions of the House of Commons which detail the rights of petitioners and the power of the House to deal with petitions:-

'That is the inherent right of every commoner in England to prepare and present petitions to the House of Commons in case of grievance, and the House of Commons to receive the same.'

*'That is the undoubted right and privilege of the Commons to judge and determine, touching the nature and matter of such petitions, how far they are fit and unfit to be received.'*³

Paragraph (a) provides the basis for the assessment by the Clerk of the House that a petition conforms with the SOs before it is presented to the House. The Clerk signs the top of the first page of the petition indicating it is approval. In the circumstances where a petition is provided to the Clerk for examination and it is found to be incorrectly worded or not compliant with the prescribed form, a judgement will be made as the extent to which the petition offends the prescribed form. If a simple amendment will remedy the text, the Clerk is entitled to inform a change be made, if the text is substantially incorrect, the contemporary practice is that, the Clerk advises that the 'petition' does not conform and may be presented to the House as a paper during the adjournment debate.

This latter practice enables the formal receipt and recording of the document together with the opportunity for the Member responsible to speak to the subject of the document and provides some consolation to the petitioners for whom the importance of bringing the attention of the House to the subject matter is recognised.

The website of the Parliament has instructions for the preparation of petitions and Members and members of the general public are encouraged to seek advice from one of the Clerks-at-the-Table on the preparation of petitions before they are finalised and circulated. There is no word limit on the length of traditional petitions, unlike the House of Commons and House of Assembly E-petitions where there is a limit of 250 words.

Paragraph (b) prescribes that any petition to the House must contain a clear request (formerly referred to as a 'prayer') to the House for a remedy which is within its competence to grant.

Paragraph (c) requires the signature/s of petitioner/s to appear on the same sheet as the printed text petition itself. This requires multi-paged petitions to have the text of the petition on every page, this goes to prove that petitioners

¹ Josef Redlich, *The Procedure of the House of Commons – A Study of its History and Present Form*, Translated by A. Ernest Steinthal, Archibald Constable & Co. Ltd, London, vol. 1, 1908, pp. 7-9. Redlich traces the petitioning process to the thirteenth century with the presentation of petitions of the "povres gentz de la terre" (tr. poor people of the country) becoming, in the fourteenth century, the nucleus of the activity of Parliament forming the basis of the conditions for money grants and nearly all administrative and statutory reforms. Petitions were, as he says, "the roots out of which has grown the far-spreading private bill legislation of Parliament". Redlich goes on to say that the petitioning process was an "irresistible lever by which the influence of the House of Commons was steadily increased, and is therefore not only the inexhaustible source of all its political power but also the clue to its whole constitutional development." p. 9.

² Erskine May, 24th edn, p. 483.

³ Ibid.

have read the petition and having done so, are content to join the petition by signing underneath.

Petitions where the text of the petition appears on a 'cover page' with pages of signatories appended thereto, are out of order.

Paragraph (d) facilitates the requirements of SO 62 that require the Clerk of the House to read the presented petition in order for the House to vote upon whether or not such petition should be received.

Paragraph (e) requires the normal legal form of petitioners' signatures as their formal concurrence with the wording of the petition.

52 Signatures to be written, not attached.

Every signature shall be written upon the Petition itself, and not pasted upon, or otherwise transferred thereto.

Interpretation & Practice

See SO 51(c) above.

53 Petitions of Corporations.

Petitions of Corporations aggregate shall be under their Common Seal.

Interpretation & Practice

This SO requires the normal legal form of a corporate entity signifying formal concurrence with the wording of the petition.

54 Petition of a Public Meeting, signed only by Chair.

A Petition signed by the Chair of a Public Meeting on behalf of such meeting, shall be received as the Petition of the person signing it only.

Interpretation & Practice

This SO is literally interpreted and practiced.

55 No letters, affidavits, &c., shall be attached.

Letters, affidavits, or other documents shall not be attached to any Petition.

Interpretation & Practice

This SO prescribes that a petition 'stand-alone' and be self-explanatory without any need for recourse to refer to other documentation to explain its terms.

56 Debates shall not be referred to.

References shall not be made in a Petition to any Debate in Parliament conducted within the previous twelve months, except that a request to repeal a Bill or a vote be rescinded may be made.

Interpretation & Practice

This SO conforms with the other SOs that provide a proscription against repetition of matters already dealt within twelve months. In addition to that aspect, this provision also proscribes what might be a reflection upon a vote of the House.

The contemporary practice is that this SO is not strictly observed and that the House is able to exercise its authority as to the content of a petition when the question is put to receive it.

57 Petitions for losses contingent on passing of Bills may be received.

Petitions requesting that provision may be made for the compensation of the Petitioners for losses contingent upon the passing of Bills pending, may be received.

Interpretation & Practice

This SO is literally interpreted and practiced.

58 Member responsible.

A Member presenting a Petition to the House shall:-

- (a) affix the Member's name at the beginning thereof;
- (b) take care that the same is in conformity with the Rules and Orders of the House; and
- (c) ensure that such Petition is respectful, decorous, and temperate in its language, and free from any disrespectful reference to the Sovereign or the Governor, of offensive imputations upon the character or conduct of either House of Parliament, or the Courts of Justice, or other tribunal or constituted authority.

Interpretation & Practice

Conformity with paragraph (a) is achieved by having the Member presenting the petition by sign the top of the first page adjacent to the Clerk's certification.

Paragraph (b) makes clear the responsibility of Members to observe the aforementioned SOs. It should be noted that any Member presenting a petition does so in his or her capacity as a representative of the people and should not be assumed that such presentation is taken as support for the matters contained therein. It is rare for a Member to refuse to present a petition when asked to so do.

Paragraph (c) is literally interpreted and practiced.

59 Petition presented by a Member only.

A Petition shall only be presented to the House by a Member.

Interpretation & Practice

This SO prescribes the appropriate method of communication of a petition is by a Member of the House as opposed to, for example, some expectation that a representative of the petitioners may personally present it.

60 Petition from a Member.

A Petition from a Member shall not be presented.

Interpretation & Practice

Members clearly have many forms and procedures open to them to bring matters to the attention of the House. This SO reinforces the fact that petitioning is the only form of the House which enables a direct communication from the community to the House.

61 Member presenting Petitions confined to statement of certain facts.

A Member offering to present a Petition to the House shall state the number of signatures attached to it and certify that such Petition complies with the Standing Orders.

Interpretation & Practice

In conformity with this SO, the contemporary practice of the House is that the following 'script' is followed for the presentation of a petition:-

"Mr/Madam Speaker, I have the honour to be the bearer of a petition signed by approximately (number) petitioners and it complies with the Standing Orders."

62 No Debate upon proceedings on presentation.

When a Petition is presented which contains no matters in breach of the privileges of the House and which is in accordance with the Rules and Practice of the House, it shall be read by the Clerk of the House, without a Question first put; after which a Question shall be put, "That the Petition be received", but no other Question relating to such Petition shall be then entertained.

Interpretation & Practice

Having read the script described in SO 61, the Member presenting the petition will then hand the petition to the Clerk of the House at the Table who, standing, will read the text of the petition to the House. At the conclusion of the reading the Speaker will automatically put the Question as prescribed and the House will vote, no debate being permitted.

There are a number of precedents concerning the suspension of this SO to enable a petition to be noted (but not at the time of presentation).

63 Government response to Petitions.

- (1) The text of each Petition which the House has received shall be communicated to the Premier by the Clerk of the House.
- (2) A Government response to each Petition shall be laid before the House within 15 sitting days of its communication to the Premier.

Interpretation & Practice

The basis of this SO was recommended by the Select Committee on the Reform of Parliament in 1994⁴. The House resolved to adopt a Sessional Order in the existing terms on 9 November 1994.

This purpose of this SO is to elicit a response from the Executive to the matter raised in the petition.

It is a matter for the House itself to ensure conformity with the response deadline.

The number of petitions (including E-petitions) received by the House is, on average, around a dozen per year, with perhaps another half dozen 'non-compliant' petitions tabled as papers (see above).

I hope this assists.

Yours sincerely,



Shane Donnelly
CLERK OF THE HOUSE

⁴ House of Assembly Select Committee: Reform of Parliament, Paper No. 14 of 1994, p. 16.