

**ANZACATT**

# A Petitions Committee for Queensland — An Idea whose Time has Come? \*

**Karen Sampford\*\***

A stand can be made against invasion by an army; no stand can be made against invasion by an idea.

(Victor Hugo 1802-85: *Historie d'un Crime*)

There is one thing stronger than all the armies in the world; and that is an idea whose time has come.

(Proverbs and Sayings, *The Oxford Dictionary of Phrase, Saying and Quotation*, E. Knowles (ed.), Oxford University Press, Oxford, 1997)

## *Introduction*

Petitions occupy a significant place in the history of Westminster parliamentary systems, deriving from unwritten custom, with origins dating back further still, to Roman times.

Famous petitions in British history include the anti-slavery petitions dating from the 1780s (one such petition contained more than 800,000 signatures, and was rolled down the floor of Parliament)<sup>1</sup> and the later Chartist petitions of 1839, 1842 and 1848, each of which was signed by more than a million people.<sup>2</sup> More contemporary examples of note include the use of petitions during the campaigns for 'home rule' in Scotland and for indigenous rights in Australia.<sup>3</sup>

---

\*Paper submitted in part fulfilment of the requirements for the ANZACATT Parliamentary Law, Practice and Procedure Course, Queensland University of Technology, 2008–09. Due to space, the full bibliography and footnotes for this article and materials on overseas reforms are not included. Anyone interested in obtaining the bibliography should refer to:  
[www.anzacatt.org.au/.../e1fdefa51d35acffca2576800079c0f2!OpenDocument](http://www.anzacatt.org.au/.../e1fdefa51d35acffca2576800079c0f2!OpenDocument) – Cached or  
[www.anzacatt.org.au/.../Karen%20Sampford%20-%20Petition%20Committees.pdf](http://www.anzacatt.org.au/.../Karen%20Sampford%20-%20Petition%20Committees.pdf).

\*\*Team Leader, Queensland Parliamentary Library.

This paper examines the development and current status of the petitioning process in Queensland, seeks to identify its strengths and its weaknesses, and considers and evaluates options to enhance the effectiveness of the petitioning process, in particular its outcomes. A spate of parliamentary inquiries during 2007–2008 alone, in both Australia and overseas, attests to considerable renewed interest in this issue. In view of the recent establishment of a petitions committee at federal level by the Rudd Government, a major focus of this paper is to re-visit Queensland proposals — whose genesis lies in a 1989 Report described as the ‘most famous’<sup>4</sup> in the state’s political history — that petitions should be referred to parliamentary committees.

### *The Current Petitioning Process in Queensland — Procedures and Practice*<sup>5</sup>

In Queensland, Chapter 21 of the Parliament’s Standing Orders governs petitions.

#### **Form and Content**

Individuals petitioning the Queensland Legislative Assembly are able to submit petitions in either paper or electronic format. The adoption of e-petitioning in Queensland followed a trial, launched in August 2002; the first e-petition was tabled on 22 October 2002, and e-petitioning was made permanent in November 2003.<sup>6</sup> Its implementation was the outcome of a package of e-democracy initiatives under the Beattie Good Government Plan: Restoring Integrity.<sup>7</sup>

E-petitions were introduced in Queensland as an alternative to the more conventional, paper petitions. This approach reflects a consensus that electronic forms of communication should complement, not replace, traditional formats (to avoid a ‘digital divide’). In Queensland, both a paper and an electronic petition on the same issue may run concurrently;<sup>8</sup> however, an individual is not permitted to sign or join the same paper or e-petition more than once. E-petitions which comply with Standing Orders are posted on the Parliament’s Petitions webpages whose design allows individuals to monitor an e-petition’s progress, email a link, or join online.

Regardless of the format used, a petition must state a grievance and contain a request for action by the House (such as reconsideration of an administrative decision or even legislative change)<sup>9</sup> and its language must be ‘respectful’ and ‘temperate’.<sup>10</sup> There must also be at least one signatory. While the political visibility of many signatures (as indicated by the examples cited in the introduction to this paper) is undeniable, this *minimum* requirement ensures equality of access to what is, after all, regarded as a ‘fundamental right’.<sup>11</sup>

#### **The Petitions**

The diversity of concerns about which the public may raise petitions has been outlined earlier by reference to a range of historical, and contemporary, examples. Petitions received by the Queensland Legislative Assembly also cover a wide range

of issues and attract a range of signatures, as even a cursory perusal of the Parliament's website will show. The largest number of petitions submitted in any one year in Queensland since 1998 was 209 in 2008 (Appendix, Figure 1); the average for 1998–2008 is 151.

**Figure 2** shows the total number of petitioners to Queensland petitions, by year, from 1998 to 2008 while **Figure 3** shows the average number of signatures per petition, by year, for the same period (refer **Appendix**). Across all the petitions, the average number of signatures per petition is 1,026.<sup>12</sup>

### **Action Taken on Petitions**

Standing Order 125 requires the Clerk to refer a copy of each petition received by the House to the Minister responsible for the administration of the subject matter of the petition (who may, in turn, refer the advice to another Minister for response.) The Minister *may* forward a response to a petition; responses must be tabled, incorporated into the official *Record of Proceedings* and published on the Parliament's website.

### ***Enhancing the Petitioning Process in Queensland***

In Queensland, reform of the petitioning process has been recommended on more than one occasion — by the Electoral and Administrative Review Commission (EARC), and by the Queensland Constitutional Review Commission (QCRC), but never implemented.

### **Earc and the Fitzgerald Reform Era**

EARC's recommendations for reforming the petitioning process in Queensland were delivered as part of a comprehensive review of Queensland's then very limited parliamentary committee system and were an outcome of the significant reform agenda set by the Fitzgerald Report.

### **The Fitzgerald Inquiry**

The Fitzgerald Inquiry, established in 1987, originally to investigate specific allegations of police misconduct, ultimately delivered '... a blueprint for reform of Queensland's political system'.<sup>13</sup> Significant factors fuelling Fitzgerald's reform agenda were the bipartisan political support it engendered and the looming state election.

While the Fitzgerald Inquiry's scope and impact were wide-reaching, this paper focuses only on one particularly significant area of reform identified by the Fitzgerald Report and related to the role of Parliament, that of reform of the parliamentary committee system in Queensland, with particular reference to the petitions process.

## The Mandate for Review of Queensland's Committee System

In Queensland, while early Parliaments were characterised by significant committee activity this decreased markedly following the abolition of the Legislative Council in 1922.

Between 1922 and 1987, the Legislative Assembly's operative committees primarily concerned 'in-house' functions. Immediately prior to 1988, the only operative Select Committees were the Parliament's Privileges Committee<sup>14</sup> and the Committee of Subordinate Legislation. In November 1988 the Public Accounts Committee (PAC) was established under the Ahern Government; it was followed, not long after, by the Public Works Committee (PWC). Both committees, whose establishment pre-dated the release of the Fitzgerald Report, were the result of an earlier push for reform which can be traced back to a 1972 report. While the PAC and the PWC formed the beginnings of Queensland's modern committee system, despite their introduction, to which he specifically referred in his report, Fitzgerald concluded that there was a need '... to consider introducing a comprehensive system of Parliamentary Committees to enhance the ability of Parliament to monitor the efficiency of Government.'<sup>15</sup>

Fitzgerald specifically recommended the establishment of a new body – EARC, to report to a parliamentary committee<sup>16</sup> – the Parliamentary Committee for Electoral and Administrative Review (PCEAR or PEARC). Both EARC and PEARC were established under the *Electoral and Administrative Review Act 1989 (Qld)*;<sup>17</sup> together, they were to play an instrumental role in the establishment of a new committee system for Queensland.

### EARC's Review

In October 1992, EARC released its *Report on Review of Parliamentary Committees* in which it concluded that the existing set of committees established by legislation, which had by then been joined by the Criminal Justice Committee (PCJC):

... falls short of providing the Parliament with a facility to undertake a comprehensive review of the activities of government. Some fundamental areas of public administration fall completely outside the scope of committees, including constitutional reform, business, industry, the environment, health, education and welfare, the review of statutory authorities, public corporations and a number of key central agencies. Significantly, committees have no current role in examining estimates of departmental expenditure or examining the policy content of legislation, except by means of the 'Committee of the Whole House'.<sup>18</sup>

The solution EARC proposed to check the Executive's dominance was to expand and revitalise the committee system. The, EARC proposed the establishment of five Standing Committees (Finance and Administration; Legal and Constitutional; Community Services and Social Development; Resources and Infrastructure; and Business and Industry) which, together, would have the power to monitor the entire sphere of public administration in Queensland.

The same set of committees would, among many other functions, consider all petitions in their area of responsibility. It recommended that petitions should 'automatically stand referred by the House' to the relevant policy based committee (above); to give effect to this, Standing Orders were to be amended to make it quite clear that both the responsible Minister and the appropriate committee should receive copies of petitions received by the House. The relevant Standing Order at that time required only that petitions be referred to Ministers, a situation EARC viewed as less than satisfactory:

In the first instance the petition is lodged with the Parliament by the petitioners and a response from Parliament, not a ministerial department is expected. Secondly, transmittal of the petition from Parliament effectively removes further consideration of the matter by the House.

### **PEARC's Review**

EARC viewed its report, in which it placed committees at the core of proposals for parliamentary reform which it described as 'the most far reaching for many decades', as one of its most important. PEARC's report, published twelve months after EARC's, reached a substantially different conclusion as to the best model for a parliamentary committee system for Queensland. PEARC saw the committee system it proposed as designed to recognise that '... some tasks should be accorded a higher priority so as to better enable the committees to assist the Parliament in meeting its core constitutional responsibilities'.

EARC had specifically referred to the significance of petitions in Westminster tradition; however, petitions did not feature in PEARC's assessment of the core functions of Parliament, despite the importance ascribed to the 'expressive' function by constitutional theorists such as Walter Bagehot.<sup>19</sup>

Given PEARC's views on the role and functions of Parliament, it is perhaps not surprising then that it specifically recommended *against* the automatic referral of petitions to committees. PEARC did, however, recommend that the Standing Orders Committee review how Parliament dealt with petitions, but presumably only because Jim Fouras, then the Speaker, indicated in evidence that follow-up procedures for petitions were already under consideration.

### **Standing Orders Review**

Apart from an article by Solomon critical of PEARC's model (discussed later), a search of relevant news archives of the period reveals no mention of the role of petitions in the schemes proposed by EARC and PEARC. However, in an interview published the month after PEARC's report was tabled, Speaker Fouras did address the issue of the absence of a response to many petitions. Mr Fouras subsequently issued a *Discussion Paper* which included the draft of a revised Standing Order requiring the responsible Minister to forward a Government response within 30 days of a petition being referred by the Clerk.

That specific proposal was never implemented, although the rules governing parliamentary procedure were revised in March 1995 to provide for presentation to the House and incorporation in Hansard of any response that might be forthcoming from the appropriate responsible Minister.

Despite assertions to the contrary during debate on the motion,<sup>20</sup> the changes did not mean that the relevant Minister *had* to respond to a petition. Mr Nuttall mistakenly believed a 30 day rule *would* apply,<sup>21</sup> and Mr Campbell argued in favour of the Discussion Paper's proposal,<sup>22</sup> but it was not otherwise mentioned.<sup>23</sup>

### **Parliamentary Committees Act 1995 (Qld)**

Although PEARC recommended that its new parliamentary committee system be implemented 'as quickly as possible', legislation was not enacted until 1995.

The provisions of the 1995 Act did not correspond exactly with the recommendations of either EARC or PEARC; however, it much more closely resembled PEARC's model — even if it was a 'watered down' version. Just as was the case with PEARC's Report, in neither the legislation nor the debates is there any recognition that parliamentary committees might have a role to play in considering petitions.

### ***Queensland Constitutional Review Commission (QCRC) Recommendations***

EARC had recommended that all legislation relating to the operations of the Legislative Assembly and its committees should be consolidated into an omnibus Act; its draft Queensland Parliament Bill subsequently became part of a broader constitutional consolidation process. Ideas about the interaction of petitions and committees re-surfaced in 2000 in recommendations made by the QCRC about Parliament's place in the constitutional system, and given effect to in another draft Bill.

On this occasion, the recommendation was for a *discrete* Petitions Committee, but the rationale — to 'enable greater public participation in the legislative process', and 'to enhance the accountability and transparency of public administration and extend democratic government in Queensland' — is consistent with EARC's philosophy.

### **Parliament of Queensland Act 2001 (Qld)**

An omnibus *Parliament of Queensland Act*<sup>24</sup> was ultimately introduced in 2001; provisions concerning the operations of committees were incorporated, the existing statutory committees were continued, and the 1995 Act was repealed.

Just as had the 1995 Act, this Act also provided for further committees to be able to be formed. Again, however, and despite the QCRC's specific recommendations, a petitions function is absent from the committees' tasks.

### **Comment and Subsequent Developments**

Commenting in November 1993, following the release of PEARC's Report the previous month, David Solomon, then EARC's Chairman, expressed the view that PEARC had '... missed a singular opportunity to recommend truly full-blooded reform of the Queensland Parliament'. He also specifically noted:

PCEAR expressed the view that the committee system which EARC recommended went beyond the core functions of Parliament ...

Strangely, in referring to 'core' functions of the Parliament, PCEAR did not include the consideration of the content of legislation being considered by the Parliament.

...

Nor was any reference made to the need for committees to look at petitions, as EARC had suggested.<sup>25</sup>

In PEARC's defence, it had described its proposals as 'another stage in the evolution' of Queensland's committee system, recognised further changes might be needed, and recommended another major review before the completion of the next Parliament.

Two significant reviews of the Estimates Committees process were subsequently undertaken. However, to date, there has been no major review of the Queensland committee system of the kind undertaken in the 1990s by EARC and PEARC.

Apart from the significant addition of online petitioning, neither has there been substantial change to the petitioning process laid down by the Queensland Parliament. At the time of EARC's Report, the relevant Standing Order provided only that: '... the Minister may take appropriate action or may comment thereon in the House'. Although, as noted earlier, a mechanism to facilitate tabling of responses to petitions was later introduced, Ministerial responses are not mandatory, nor is there any routine committee involvement in the petitioning process or any scheduled opportunity or trigger for petitions to be debated.

### ***Comparative Perspectives***

It is clear from the preceding discussion that templates for reform of the petitioning process have existed in Queensland for some time. Since then, a number of other parliaments have implemented, or at least considered, changes to their petitioning processes.

The comparative analysis which follows revolves around three key aspects of the petitioning process: e-petitioning, ministerial responses and the extent of committee



involvement in the petitions process, all of which figure in the 2007 report of the House of Representatives' Procedure Committee, as well as in other of the contemporary reviews and reports to which I refer. It is not always easy to discuss these factors divorced from one another. In particular, concerns about the consequences of introducing online petitioning and/or a requirement for a Government response have led some jurisdictions to consider whether a petitions committee of some kind could serve as a filtering or co-ordinating mechanism, performing a range of functions from determining the admissibility of petitions to routing petitions for further action. Awareness of the Scottish committee system, where this is the practice, has undoubtedly influenced these ideas.

### **Electronic Petitioning**

... disallowing electronic petitions in the 21<sup>st</sup> century essentially denies a growing number of petitioners the opportunity to air their grievances.<sup>26</sup>

Increasingly, Parliaments world-wide are using a range of information technologies, including electronic petitioning, to seek to enhance dialogue with their citizens and overcome disengagement with the political process.

Queensland was the first Australian jurisdiction to introduce electronic (e-) petitioning (or online petitioning). Of those jurisdictions at the forefront in implementing online petitioning, Scotland now posts about 2/3 of petitions received as e-petitions; trends for Queensland show that although the number of e-petitions has continued to grow since the system's inception, most petitions tabled continue to be in paper form (**Appendix, Figure 1**) whilst the number of e-petitions received by Tasmania is negligible.

### **Ministerial Responses**

Petitioners expect and deserve a response to the matters raised in their petition.<sup>27</sup>

While EARC did not specifically recommend that Ministers to whom petitions be referred should be required to reply, it did seek to ensure that petitions were referred not only to the relevant minister, but also to a parliamentary committee. In this, EARC went much further than even contemporary Queensland practice and procedure.

Additionally, had petitions been referred to committees, as EARC had proposed, Ministerial responses would have been obligatory in the event that a committee reported on a petition and recommended some action (another key EARC recommendation, endorsed by PEARC, and subsequently given effect to in legislation, was that Ministers should be required to respond to committee reports within three months of their publication). This is, in fact, how the petitions process operates in New Zealand,<sup>28</sup> whose model EARC studied.

To the extent that the absence of a more direct requirement for Ministers to respond to petitions referred to them (like Speaker Fouras proposed) is seen as a flaw in

EARC's scheme, that deficiency remains a part of Queensland's parliamentary procedures; however, it could easily be rectified under a revision of Standing Orders (apparently, the matter may be under consideration).<sup>29</sup>

### **Obligatory Responses?**

Although views differ concerning how best to elicit Ministerial responses, whether they should be compelled and even as to their usefulness, the current balance of opinion seems to be swinging more strongly in favour of a formal requirement for a response.

Notably, the Procedure Committees in both the Australian House of Representative<sup>30</sup> and the UK House of Commons have sought obligatory ministerial responses while, in Victoria, the PAEC has argued that a 'possible reply' is not sufficient and that Parliament's credibility would be enhanced if Ministers and departments were to consider and answer all petitions.<sup>31</sup>

### **Timeframes for Responses**

However, even when a response is insisted upon or, at least, 'expected', as is now the case in Australia's House of Representatives, timeframes differ across comparable jurisdictions. The Australian House of Representatives has opted for 90 days; so did Victoria's PAEC. Canada's House of Commons requires a response within 45 days.

Time limits set by the Tasmanian Parliament are far stricter, requiring a Government response within 15 days of a petition being communicated to the Premier, while the Northern Territory's Legislative Assembly specifies 12 sitting days. (Both jurisdictions combine a mandatory requirement with online publication of Ministerial responses.)

For Queensland, comparisons can also be drawn with the three month timeframe mandated by statute for responses to most of the state's Parliamentary Committee reports. A Minister unable to meet this timeframe must nonetheless provide an interim response, together with reasons for not complying; a final response must then be tabled within six months after the report's tabling.

### **Recent Developments**

#### ***Australia***

In the most recent developments to date in Australia, the House of Representatives has established a dedicated Petitions Committee, while the Victorian PAEC rejected the idea of a petitions committee in any form. Accordingly, at other than federal level in Australia, only Western Australia has established any kind of ongoing petitions committee (although recommendations that a dedicated committee be established<sup>32</sup> have not been actioned).

However, the Government response to the recommendations in the Victorian Parliamentary Committee's report regarding Ministerial responses now appears to leave open the option of a petitions committee. Specifically, the Government suggested that the Standing Orders Committee of each House might 'wish to consider what mechanisms can be put in place to filter vexatious or repetitive petitions before requiring Ministers to respond'. The mechanism the Government then cited as an example was the House of Representatives' Petitions Committee whose functions are discussed further below.<sup>33</sup>

### *Overseas*

Overseas, Wales has followed the Scottish Parliament's lead, establishing a dedicated petitions committee in July 2007.

The UK Commons' Procedure Committee, on the other hand, decided not to recommend the establishment of a petitions committee<sup>34</sup> (although the Government, while agreeing that a petitions committee '... would not — at least under present circumstances — be the right way forward' for the House, has flagged its creation, as a 'sifting mechanism', as subject to review, should an increased volume of petitions or increased expectations follow e-petitioning's introduction).

### **Receiving, Processing and Presenting Petitions**

It remains the case in the UK House of Commons that only Members of Parliament may present a petition, following a 2007 recommendation by the House's Procedure Committee which did not support the introduction of direct petitioning and described the involvement of Members in the presentation of petitions as '... a strength of our system, rather than a weakness'.<sup>35</sup>

By contrast with the House of Commons' traditional approach, which also continues to be followed in Queensland, both the young, devolved Scottish Parliament and the Australian House of Representatives have dispensed with a mandatory requirement for a Member 'intermediary'.

Both the Scottish and Australian committees have also taken on the task of considering the admissibility of petitions.<sup>36</sup>

### **Automatic Referral? A Specialist Committee?**

In New Zealand, petitions are automatically referred by the Parliament — to the relevant select, portfolio based committee;<sup>37</sup> as we have seen, EARC also chose automatic referral — but to Standing Committees based on policy areas (akin to models EARC had observed in South Australia, Victoria and the Australian Senate).

A quite different approach, regarded by the Hansard Society as the ‘most straightforward and effective way of dealing with Petitions’<sup>38</sup> is that implemented by the Scottish Parliament and, more recently, by Australia’s House of Representatives, both of which specifically charge a dedicated Petitions Committee with responsibility for considering petitions. This option also formed the basis of the QCRC’s recommendations, modelled upon comparable Northern Territory proposals, reference to which is not apparent in other discussions about petitions committees.

### **Actions and Outcomes**

In the UK’s House of Commons, the position presently endorsed by Government is that petitions are sent (although not formally referred) to relevant select committees which *may*, but are not compelled to, consider them. However, the Government has recently given its support to the broad objective behind committee recommendations that greater provision be made for debating petitions, and proposed that each Select Committee devote one day per year to taking oral evidence on petitions received.<sup>39</sup>

The latter proposal is directly derived from the Scottish model whose Public Petitions Committee has open to it a range of options, now also adopted by Wales, including referring a petition to another committee,<sup>40</sup> a Minister, or another individual or body. The Committee may also report to Parliament or take any other action it considers appropriate, including closing a petition. In Australia, the House of Representatives’ Petitions Committee may choose to forward a petition to the relevant Minister. Apart from this option, which is made explicit in the Standing Orders,<sup>41</sup> the Australian Committee’s remit does not contain the level of specificity of its Scottish counterpart; however, it has similarly broad over-arching powers, namely ‘to respond to petitions on behalf of the House and report to the House’. The House of Representatives’ Committee has already commenced public hearings to seek further information about issues raised in petitions, through a rolling program of ‘roundtable’ meetings with petitioners or other relevant individuals or groups, including government departments. Among the advantages thought likely to result is the provision of more information for consideration by ministers from whom a response is sought.

These modern, specialist petitions committees possess, and continue to evolve, a more complex array of options than EARC’s model which did, nonetheless, envisage that Queensland parliamentary committees might route petitions to relevant Ministers ‘seeking their advice on any action which is warranted’. The later QCRC recommendations gave its proposed Petitions Committee discretion to recommend that an indicative plebiscite or a referendum, or both, be held — a specific option I have not seen mentioned elsewhere.

### *Evaluation*

Based on the preceding discussion, it is clear that the major strength of the petitioning process in place in Queensland is its implementation of e-petitioning.

The House of Representatives' Standing Committee on Procedure, in formulating principles which underpin petitioning, emphasised that '[i]nformation technologies should be used more effectively'.<sup>42</sup> Against this criterion, the accessible and transparent petitioning system hosted on the Queensland Parliament's website clearly must rate highly.

However, by contrast with the Queensland Parliament's technological initiatives in seeking to enhance the public's capacity to directly communicate issues of major concern to it, the weaknesses of the current petitioning process in Queensland relate to the absence of a requirement for an obligatory response from Ministers to whom petitions are referred and the referral of petitions to Ministers, rather than — at least in the first instance — to the Parliament's committees, its 'watchdogs' and its 'research arm'. Notably, the recent Report of the House of Representatives' Standing Committee on Procedure also included in its 'principles of petitioning' that '[p]etitions sent to the House should be addressed by the House' and that 'Governments should respond'.<sup>43</sup>

Significantly, the shortcomings discussed above have persisted despite strong recommendations to the contrary from prominent reform bodies in the Queensland context, dating as far back as the 1990s. Queensland, a leader in using technology to facilitate submission of petitions, now lags when it comes to options for addressing those same petitions, once received. This is particularly unfortunate given that the broad reform agenda laid down for Queensland by EARC in the wake of the Fitzgerald Inquiry also incorporated a specific solution to enhance the petitions procedure, centring on the committee system as a mechanism to strengthen parliamentary scrutiny of government *and* to connect the parliament with the electorate. It is a solution which is now achieving more widespread recognition.

Notably, Fitzgerald and EARC also identified the core issues — government *and* parliamentary accountability — which underlie the need for petitions reform and which are evident in other analyses of note such as the 1998 *Report of the Consultative Steering Group on the Scottish Parliament*,<sup>44</sup> and more recently, in 2007, in both the seminal report of the Australian House of Representatives' Standing Committee on Procedure and the UK Government's proposals for reform in *The Governance of Britain*.<sup>45</sup> Also recognised as of major significance by EARC and Fitzgerald was the importance of citizen engagement, which appears as a pervasive theme in many contemporary discussions about parliament and public affairs generally, and petitions specifically, as evidenced by the resolution of the

House of Commons on *Connecting Parliament with the Public* (2004–05);<sup>46</sup> the Ministerial Statement by the Leader of the House of Commons (2008) in response to committee reports on the petitions process (2007) and e-petitions (2008);<sup>47</sup> reports by the House of Representatives' Standing Committee on Procedure from *It's your House* (1999) through to *Promoting community involvement in the work of committees* (2001) and, more recently, that Committee's first principle underpinning petitioning — that 'petitions belong to the public'.<sup>48</sup>

Seen in this context, EARC's recommendations, made as they were at a very early stage in the development of Queensland's modern parliamentary committees, now appear quite far-sighted.

### *The Way Forward for Queensland?*

While the Queensland political landscape has changed dramatically since the Fitzgerald era, in no small part due to the work of reform bodies such as the Fitzgerald Inquiry and the Electoral and Administrative Review Commission, Fitzgerald's and EARC's message that the Executive is accountable to Parliament, and Parliament is accountable to the public, is still relevant. In Parliaments dominated by majority governments, as has been the case in Queensland for a number of years and during a number of significant periods of Queensland political history, the idea that committees might accept and report on petitions continues to present a significant opportunity for truly making Parliament the 'forum for ... differing views' 'in which all or any aspects of public administration can be raised' that Fitzgerald envisaged.

It is somewhat surprising that the implementation of online petitioning in Queensland was not accompanied by complementary mechanisms to enhance the outcomes of the petitions process, especially given the e-democracy policy framework from which e-petitioning originated, an acknowledged objective of which was to encourage engagement.<sup>49</sup> After all, both EARC and the QCRC had paved the way with their emphasis on committees as vehicles to make possible greater public participation in governmental and parliamentary processes.<sup>50</sup> Perhaps the involvement of parliamentary committees in the consideration of petitions seemed too radical, even in 2002.

Perhaps implementing technological change seemed easier than undertaking an innovative social experiment like a petitions committee. More likely, the reasons revolve around resourcing, workloads, and concerns about petitioners' expectations, and repeat or out of order petitions, as they have in other parliaments and as they did in EARC's time. Whatever the reasons, the trajectory of developments in countries such as the United Kingdom, particularly in Scotland, and Australia, spurred on by concerns that petitions have to a large extent been 'ignored' within parliamentary processes, now points strongly to petitions reform,

and the involvement of parliamentary committees as a key component, as an idea whose time has come. What then is 'the right way forward' for Queensland?

At the very minimum, consideration should be given to revision of the Queensland Parliament's Standing Orders to include a requirement that Ministers should respond to petitions, and to set a time limit. A timeframe of 90 days would be consistent with the new rules for responses to petitions in the Australian House of Representatives; it also maintains consistency with the timeframe which was laid down for Ministerial responses to committee reports following EARC's recommendation (and PEARC's endorsement) and which itself appeared to be based upon House of Representatives' practice.

Secondly, it is to be hoped the establishment of a dedicated Petitions Committee at federal level in Australia may give impetus to Queensland to re-consider the 'singular [missed] opportunity'<sup>51</sup> EARC's *Report on the Review of Parliamentary Committees* had offered back in 1992. The 20<sup>th</sup> anniversary, in 2009, of the Fitzgerald Report may also give pause to reflect upon the significant role committees can play in ensuring Parliament is, and remains, relevant and responsive to those it represents.

If it does, the form such committee involvement should take today is open to debate. The committee system in Queensland, fledgling at the time of EARC's Report, is now mature but has remained basically unchanged since the mid-1990s. PEARC's Chair at the time of the *Review of Parliamentary Committees* has proposed re-examining EARC's model and systems like New Zealand's (both multi-functional systems).<sup>52</sup> Should the Queensland Parliament consider forwarding petitions to relevant portfolio or broad policy based committees, the difficulty presently, as I have sought to show earlier in this paper, is that a comprehensive system spanning the range of portfolios or policy areas cannot be said to exist; additionally, the functional areas of the existing committees are now becoming quite dated.

However, the dedicated or specialist Petitions Committees established overseas by Scotland and in Australia by the House of Representatives (and recommended by the QCRC) offer a new kind of response. Moreover the principles upon which the Scottish Parliament's Public Petitions system is premised (openness, accessibility, participation, and accountability) are not dissimilar to the democratic ideals which resonate throughout the reports by Fitzgerald, EARC and the QCRC. There are similarities, too, between the two jurisdictions in relation to the number of petitions received and in the emphasis both Parliaments place on their role as 'people's Parliaments'. Although, at present, there are no indications that a review of Queensland's statute-based system of Standing Committees is planned, another option, which I would recommend, is to establish a discrete Petitions Committee as a Select Committee, allowing the concept to be trialled.

### *Postscript*

Following the early election called at short notice for Queensland and held on 21 March 2009, the Parliament of Queensland Amendment Bill 2009 was introduced into the Legislative Assembly on 23 April 2009<sup>53</sup> (only two days after the opening of the 53<sup>rd</sup> Parliament), together with an associated motion without notice of the same date.<sup>54</sup> Under the changes the existing Legal, Constitutional and Administrative Review Committee (LCARC) was effectively replaced with a Law, Justice and Safety Committee (LJSC) and the existing PAC and PWC were amalgamated into a combined Public Accounts and Public Works Committee, thereby reducing the number of statutory committees created by the 2001 Parliament of Queensland Act from six to five. Additionally, three new committees were established: the Economic Development Committee (EDC), the Social Development Committee (SDC) and the Environment and Resources Committee (ERC). The Parliamentary Crime and Misconduct Committee (a continuation of the old PCJC) remains in existence but a Travelsafe Committee was not re-established in the new Parliament. While the three new committees established by resolution and aligned with departmental arrangements have the power to instigate their own inquiries about legislative and policy issues in their areas of responsibility, matters referred to them by the Parliament itself take priority. In addition to the statutory functions it took over from its predecessor LCARC, the new LJSC was also imbued with policy functions (in the areas of policing and public safety, emergency services, corrective services, justice and industrial relations) by the same resolution of the Parliament which conferred a policy role upon the EDC, SDC and ERC. Each of the four new committees was given a reference by the Parliament on the same date the amending Bill and motion were introduced.

More recently, on 25 February 2010, a new Select Committee was appointed to report, by the end of 2010, on how parliamentary oversight of legislation could be strengthened and how the current parliamentary committee system could be enhanced.

A discrete Petitions Committee was not part of the 2009 committee system's re-structure and while EARC's original concept of parliamentary committees spanning portfolio areas has ultimately come to fruition — all the key subject areas identified by EARC's scheme would now appear to be covered — one function — the petitions function — is still not specifically encompassed, although it would appear that an issue the subject matter of concern to petitioners could be considered by the four committees endowed with a 'policy' function, either of the relevant committee's own volition or via a reference from the House — but the latter scenario has, in any case, always been within the scope of the role of the current statutory committees. The Select Committee is required to include in its report 'options on models for structuring the Queensland Parliamentary Committee



system<sup>55</sup> — it will remain to be seen whether a petitions function for Queensland's parliamentary committees is among them.

In a separate but related, and significant, development, under amendments adopted on 28 October 2009, SO 125 now provides that Ministers shall respond to petitions within 30 days; where a Minister is unable to comply, an interim response is nonetheless to be provided within that timeframe and a final response must be forwarded within 3 months. ▲

## End Notes

I should like to thank both Julia Morris, Inquiry Secretary to the Australian House of Representatives' Standing Committee on Petitions and Fergus Cochrane, Clerk to the Scottish Parliament's Public Petitions Committee (PPC), for their assistance in answering my enquiries about the operations of those committees. In particular, I gratefully acknowledge the interest shown in this research topic by Mr Cochrane, who also kindly read a draft of this paper. The views and conclusions in the paper, and any errors are, of course, my own.

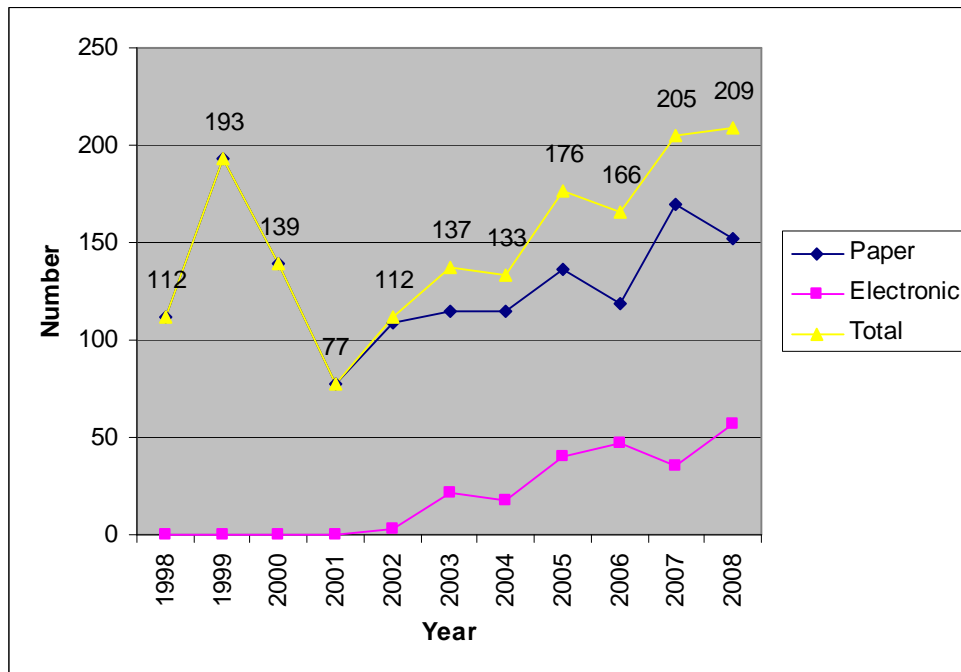
- <sup>1</sup> 'Bicentenary of slave trade abolition' 'Biggest surviving anti-slave trade petition and 1807 Act of Parliament go online' <<http://www.parliament.uk/documents/upload/slavetradepetition.pdf>>; 'Parliament and the British Slave Trade 1600–1807' <<http://slavetrade.parliament.uk/slavetrade/history/petitioningparliament/>> at 28 Nov 2008.
- <sup>2</sup> 'Humble suppliants ... Petitions in social history', Humanities and Social Sciences Net Online at <<http://www.h-net.org/announce/show.cgi?ID=125563>> at 10 November 2008.
- <sup>3</sup> John Maynard, *Fight for liberty and freedom: the origins of Australian Aboriginal activism*, Aboriginal Studies Press, Canberra, 2007; 'Early petitions' and 'The Referendum 1957–67/National petition campaign, 1962–63' <<http://indigenoustrights.net.au>> at 8 September 2008.
- <sup>4</sup> Paul Reynolds, *The Politics of Queensland 1980–2007*, Brisbane, April 2007, p 1.
- <sup>5</sup> The information in this section of the paper is drawn from the Standing Rules and Orders (SOs) of the Queensland Legislative Assembly (QLA)
- <sup>6</sup> Via amendments incorporating reference to e-petitions into the Standing Orders, passed on 27 November 2003 (Hon PD Beattie, 'Standing Rules and Orders', *QPD*, 27 November 2003, pp 5,275–8).
- <sup>7</sup> Australian Labor Party. Queensland Division, *Restoring Integrity: the Beattie Good Government Plan for Queensland*, 21 January 2001, tabled in Parliament by the then premier, Peter Beattie, 'Ministerial Statement', *QPD*, 2 May 2001, p 541).
- <sup>8</sup> E-Petitions 'Information and guidelines'.
- <sup>9</sup> 'Humble suppliants ... Petitions in social history'; Queensland Parliament Petitions: 'Introduction' <[http://www.parliament.qld.gov.au/view/EPetitions\\_QLD/Default.aspx?LIndex=0](http://www.parliament.qld.gov.au/view/EPetitions_QLD/Default.aspx?LIndex=0)> at 30 December 2008.
- <sup>10</sup> QLA, SO 121(4).
- <sup>11</sup> Ian Harris (ed), *House of Representatives Practice*, 5<sup>th</sup> edn, Department of the House of Representatives, Canberra, 2005, p 612; *The Governance of Britain*, Cm 7170, para 157; *Erskine May's treatise on the law, privileges, proceedings and usage of Parliament*, 23rd edn, LexisNexis, 2004, p 932.

- <sup>12</sup> Figures cited have either been compiled by the QLA's Chamber and Procedural Services Office or calculated from figures compiled by them.
- <sup>13</sup> John Wanna, 'Parliamentary Commissions of Review: The Criminal Justice Commission and the Electoral and Administrative Review Commission', p 208 in Rosemary Whip and Colin Hughes (eds), *Political Crossroads: The 1989 Queensland Election*, University of Queensland Press, St Lucia, 1991.
- <sup>14</sup> Established in 1976 — 'Committee of Privileges', *QPD*, 7 April 1976, pp 3,521–6.
- <sup>15</sup> Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (Chairman GE Fitzgerald) (Fitzgerald Inquiry), *Report of a Commission of Inquiry pursuant to Orders in Council*, 1989 (Fitzgerald Report), p 124.
- <sup>16</sup> Fitzgerald Report, p 370.
- <sup>17</sup> Via Parts II and V respectively. The Act is now repealed.
- <sup>18</sup> EARC Report, Executive Summary, p xiii.
- <sup>19</sup> Walter Bagehot, *The English Constitution*, first published 1873, republished by Cosimo Classics, New York, 2007, p 133.
- <sup>20</sup> Laurel Power (then Member for Mansfield), *QPD*, 21 March 1995, p 11,140.
- <sup>21</sup> as was proposed in the same debate for answers to questions on notice. See Mr Nuttall (then Member for Sandgate), *QPD*, 21 March 1995, p 11,174.
- <sup>22</sup> Clem Campbell (then Member for Bundaberg), *QPD*, 21 March 1995, p 11,154.
- <sup>23</sup> Based on a search of the debates using keywords '30, 30 day, petition', together with physical perusal.
- <sup>24</sup> <<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/ParliaQA01.pdf>> at 23 December 2008.
- <sup>25</sup> David Solomon, 'The reform that might have been', *Courier Mail*, 4 November 1993, p 9. David Solomon was EARC's Chairman from 15 June 1992 to 14 June 1994: EARC *Annual Report 1994*, p 4.
- <sup>26</sup> *Making a difference*, p 38.
- <sup>27</sup> *Making a difference*, p 4.
- <sup>28</sup> New Zealand. Parliament. 'Petitioning the House of Representatives', Office of the Clerk of the House of Representatives, 2005, pp 11–13 <<http://www.parliament.nz/NR/rdonlyres/30BB3D87-F173-4990-A352-2568C296C2C4/19122/3petitioningthehouse1.pdf>> at 26 November 2008.
- <sup>29</sup> Submission No 12 (by the Queensland Parliament's Speaker) to the federal Inquiry into Electronic Petitioning.
- <sup>30</sup> *Making a difference*, para 2.48.
- <sup>31</sup> Parliament of Victoria. PAEC, *Report on Strengthening government and parliamentary accountability in Victoria*, pp 62, 67–68 and Recommendation 26(a).
- <sup>32</sup> Western Australia. Legislative Council, Environment and Public Affairs Committee (2001–2005) Report No 14, para 6.6 and Recommendation 1 at p 95.
- <sup>33</sup> Government Response to the Parliamentary Public Accounts and Estimates Committee *Report on Strengthening government and parliamentary accountability in Victoria*, p 16.
- <sup>34</sup> *Public Petitions and Early Day Motions*, HC 513, pp 9–12 at pp 11–12.
- <sup>35</sup> *Public Petitions and Early Day Motions*, pp 8–9.
- <sup>36</sup> Standing Orders of the Scottish Parliament, 3rd Edition (2<sup>nd</sup> Revision, December 2008) [http://www.scottish.parliament.uk/business/so/so\\_final.pdf](http://www.scottish.parliament.uk/business/so/so_final.pdf) at 16 January 2009, Rules 6.10(1)(a) and 15.5.
- <sup>37</sup> SO 360 and see Geoffrey Palmer and Matthew Palmer, *Bridled Power: New Zealand's Constitution and Government*, 4<sup>th</sup> edn, Oxford University Press, 2004, pp 173–4.

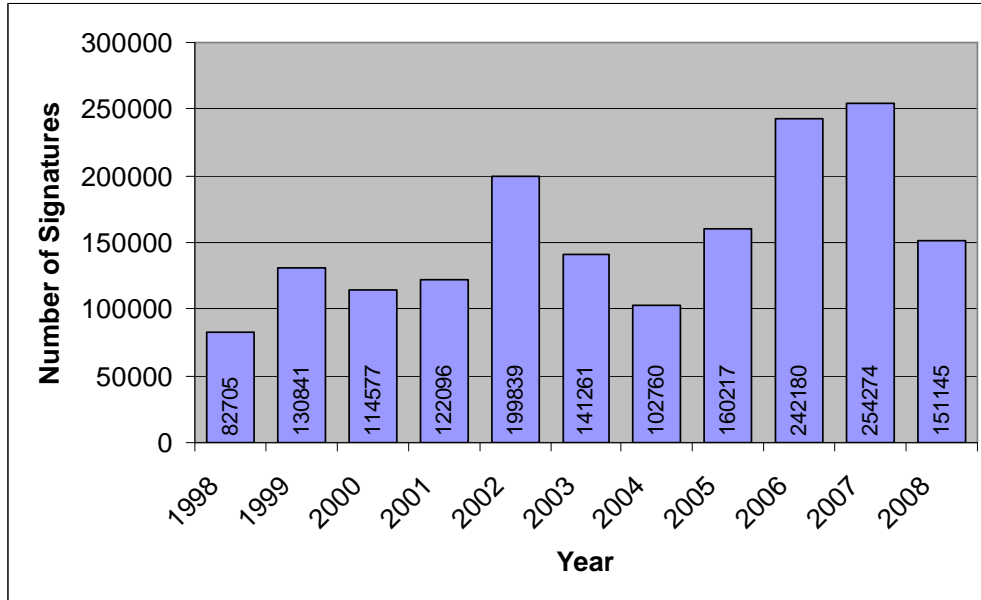
- <sup>38</sup> Memorandum from the Hansard Society, Written evidence, Ev 12–15 at Ev 13 in *Public Petitions and Early Day Motions*.
- <sup>39</sup> ‘The Governance of Britain — Petitions’, Cm 7193, para 14; United Kingdom. Leader of the House of Commons, Written Ministerial Statement, ‘e-Petitions’, 22 July 2008.
- <sup>40</sup> This now occurs only infrequently eg if another parliamentary committee was undertaking an enquiry into the issue the petition related to: Email communications with Fergus Cochrane, Clerk to the Scottish PPC, 5 February 2009. Instead, over time, the PPC has moved towards considering most petitions itself.
- <sup>41</sup> SO 209(a).
- <sup>42</sup> *Making a difference*, pp 4–5.
- <sup>43</sup> *Making a difference*, p 4.
- <sup>44</sup> ‘The Key Principles: Putting them into Practice’ <<http://www.scotland.gov.uk/library/documents-w5/rcsg-01.htm>> at 21 December 2008.
- <sup>45</sup> *The Governance of Britain*, Cm 7170.
- <sup>46</sup> <<http://www.parliament.uk/documents/upload/modcomevidence.pdf>> at 23 December 2008.
- <sup>47</sup> Written Ministerial Statement, ‘e-Petitions’.
- <sup>48</sup> *Making a difference*, p 4.
- <sup>49</sup> M & P Henderson and Associates Pty Ltd, ‘E-democracy evaluation framework’, p 1.
- <sup>50</sup> EARC Report, p 90, para 3.274; Queensland Constitutional Review Commission (QCRC), *Report on the Possible Reform of and Changes to the Acts and Laws that relate to the Queensland Constitution*, February 2000, pp 37–39, 83.
- <sup>51</sup> David Solomon, ‘The reform that might have been’, p 9.
- <sup>52</sup> Dr Lesley Clark, ‘Parliamentary Committees in Queensland: Retrospect and Prospects 15 Years On’, Transcript of Proceedings, Australasian Study of Parliament Group (Queensland Chapter), Brisbane, 27 March 2006, p 5.
- <sup>53</sup> Parliament of Queensland Amendment Bill, Second Reading Speech, *QPD*, 23 April 2009, p 171.
- <sup>54</sup> ‘Parliamentary Committees — Orders of Appointment; membership; referrals’, Motion without notice moved by Ms Spence, Leader of the House, *QPD*, 23 April 2009, pp 156–8.
- <sup>55</sup> JC Spence MP, ‘Review of the Parliamentary Committee System Committee – Order of Appointment’, *QPD*, 25 February 2010, p 540.

*APPENDIX — PETITIONING THE QUEENSLAND  
LEGISLATIVE ASSEMBLY, 1998–2008\**

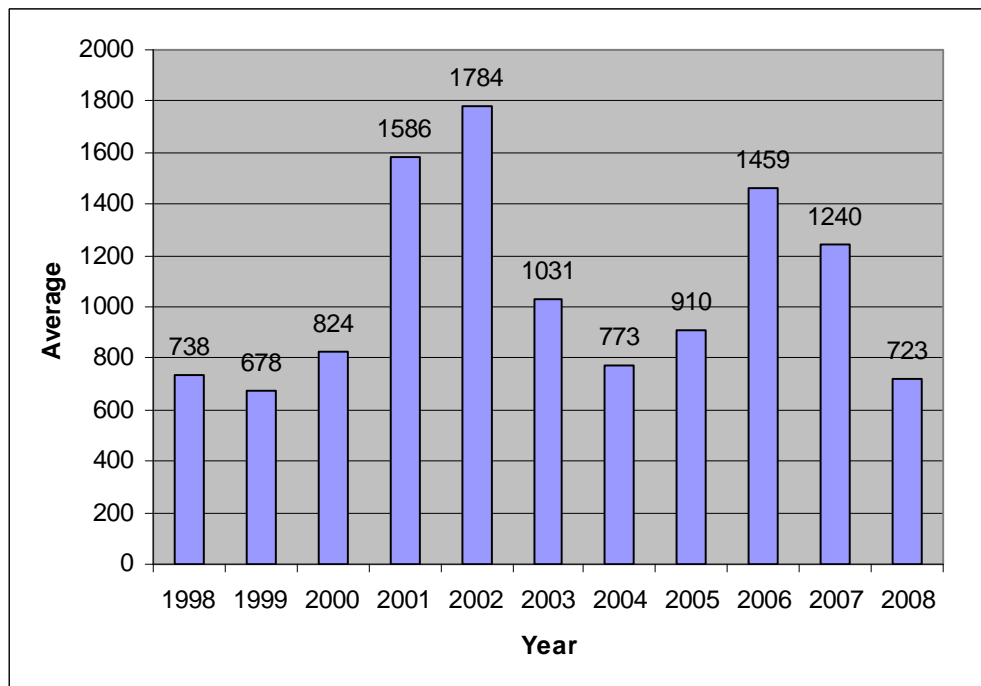
**Figure 1: Number of Petitions Submitted by Year**



**Figure 2: Total Number of Signatures by Year**



**Figure 3: Average Number of Signatures per Petition by Year**



\*Source: Data produced by the Queensland Legislative Assembly’s Chamber and Procedural Services Office. The graphs were prepared by Ms Melissa Cook, Executive Assistant to the Queensland Parliamentary Librarian.