

**STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES**

*Forty-first Report — “Recall of the Legislative Council” — Motion*

Resumed from 13 September on the following motion moved by Hon Adele Farina —

That recommendation 1 contained in report 41 of the Standing Committee on Procedure and Privileges, “Recall of the Legislative Council”, be adopted and agreed to.

**HON ADELE FARINA (South West)** [3.22 pm]: This committee inquiry resulted from the Senate vacancy created as a result of the resignation of Senator Bullock and the fact that it needed to be filled. That was when the house was not sitting and was not scheduled to resume until 10 May 2016. However, the Premier of the state made an announcement that the matter would be dealt with before that date, so an issue arose with the recalling of both houses of Parliament earlier in order to deal with this vacancy. Some issues arose as a result of the lack of any standing orders for the Legislative Council to enable that to be done easily. We got around those issues and were able to deal with the vacancy left by the resignation of former Senator Bullock. However, the committee felt that it was necessary to deal with that gap in our standing orders so that there would be a clear procedure should this type of incident arise in the future. The committee has recommended that standing order 6 be amended as follows —

To insert after (2) —

- (3) When the Council is adjourned, the President may, on the request of the Leader of the House and after consultation with the Leader of the Opposition vary the day and time at which the Council will next meet.

I think that sums up nicely what the report covered. I commend the report to members and also take the opportunity to thank the Clerk and other officers who served on the committee and helped us with the consideration of this matter. I also draw members’ attention to the extensive opinion provided by the Clerk as an appendix to the report for their information. I think most members will find it very informative and I thank the Clerk for the time that he has taken to provide that advice.

*Amendment to Recommendation*

**HON COL HOLT (South West — Parliamentary Secretary)** [3.25 pm] — without notice: I move —

To delete “Leader of the Opposition” and insert —  
leaders of all parties

I support the report, but I have moved an amendment to recommendation 1. In this place we often run on consultation and courtesy. The recommendation as it stands extends a courtesy to the Leader of the Opposition to be involved in the request of the President to bring the house back. In the spirit of consultation and the way we do things, I think that courtesy should be extended to leaders of all parties. This house is becoming broader in its representation. We have five recognised parties in this house now and in my opinion they should be consulted about any decision to bring the house back. We all know our first obligation is to Parliament and I am sure that will still happen in the consultation to bring the house back. This is the sort of courtesy that we go through in this place all the time. We consult and provide courtesy on bills and a range of matters every day in this chamber. In my opinion, we should accept the amendment to the recommendation that I have put forward that consultation be extended to the leaders of all parties.

Talking about the leaders of all parties, I will go back to a President’s ruling made on 14 August 2013. That ruling was about standing order 21 and time limits on speeches. Some questions arose about who the leaders of parties were and how much time they could contribute to speeches. I quote the President’s ruling —

Standing order 21 provides the time limits for members speaking to different categories of business being considered by the Council. In particular, these arrangements provide members who are party leaders with an unlimited time to contribute to certain debates. In recent weeks several members have raised with me the interpretation being applied by the Chair to the title of “party leader” for the purposes of this standing order.

Members have specifically inquired whether the definition of “party” would be consistent with the relevant definitions in the Electoral Act 1907 or whether the definition applied by the Salaries and Allowances Tribunal would be operable. I have considered the matter and, in particular, the purpose for these arrangements in relation to time limits and party leaders, which is to provide these members with the capacity to express their views on a matter before the Council on behalf of not only their constituents, but also their respective parties. To this end, I consider that the leader of any registered political party, as defined by section 62C of the Electoral Act 1907, is a party leader for the purposes of standing order 21.

I see no reason that that cannot be extended to this amendment and be an addition to standing order 6. In conclusion, I believe we should extend the courtesy of consultation in a matter such as this to the leaders of all parties.

**The ACTING PRESIDENT (Hon Liz Behjat):** Members, we are dealing with the forty-first report of the Standing Committee on Procedure and Privileges, “Recall of the Legislative Council”, and the motion that recommendation 1 contained in the forty-first report of the Standing Committee on Procedure and Privileges, “Recall of the Legislative Council”, be adopted and agreed to. Recommendation 1 states —

That **Standing Order 6** be amended as follows —

To insert after (2) —

- (3) When the Council is adjourned, the President may, on the request of the Leader of the House and after consultation with the Leader of the Opposition vary the day and time at which the Council will next meet.

Hon Col Holt has moved without notice an amendment to delete the words “Leader of the Opposition” and insert the words “leaders of all parties”. The question is that the words to be deleted be deleted.

**HON SUE ELLERY (South Metropolitan — Leader of the Opposition)** [3.31 pm]: Madam Acting President, I seek your guidance on this complicated debate. We will support the amendment, but am I constrained to talk only about the amendment? I am? In that case, it would have been helpful if the honourable member had moved the amendment a bit later. We will support the amendment. The effect of the amendment is to reflect what would be common practice in any event. I am not sure that we need to do it, but it certainly does not hurt to do it, so we will support the amendment.

**HON PETER COLLIER (North Metropolitan — Leader of the House)** [3.32 pm]: In similar terms, in the spirit of, dare I say it, collective unity but also what I think is right, the Liberal Party will support this amendment. Having said that, I would like to think that that would happen anyway, but this amendment will formalise the fact that should the situation arise again, all parties will be consulted before we make a collective decision. The Liberal Party will support the amendment.

**HON LYNN MacLAREN (South Metropolitan)** [3.33 pm]: I did not want to miss an opportunity to stand and say that I am in furious agreement with the National Party on this matter! Of course, it makes excellent sense and we are very pleased that the honourable member has moved this amendment. Every party should be party to that discussion. I am delighted to formalise it and support the amendment to this recommendation.

**HON RICK MAZZA (Agricultural)** [3.33 pm]: I also rise to support the amendment, which will basically formalise what happens in practice anyway. It is not often that I agree with the Greens either, so it is one of those days when everybody is in furious agreement! We support the amendment.

Amendment put and passed.

*Recommendation, as Amended*

**HON PETER COLLIER (North Metropolitan — Leader of the House)** [3.34 pm]: Far from repeating the arguments that I presented on the amendment, I assumed that this would have been in practice anyway, but it took the unique circumstances of the casual vacancy in the Senate recently to identify that it did not exist. Believe it or not, the process of recalling Parliament was extremely arduous and, at times, very tense. I had a number of conversations with the Leader of the Opposition and other members in the chamber on this issue to try to get to a point at which we could do something that was eminently sensible to fill a casual vacancy so that we could have a full quota of senators for Western Australia—that is, recall Parliament—and we simply could not do it. We had legal advice, we had consultation and we had advice from the Governor. It became a three-ring circus, with all due respect. I do not mean to be flippant about it, but it was just ridiculous. There was no formal procedure to recall Parliament once Parliament had risen for that session.

As I said earlier, this is a commonsense amendment, which we assumed already existed but did not. The amended motion will mean that if there is ever an occasion, whether it be a casual vacancy in the Senate or the like, when Parliament needs to be recalled, the President, after consultation with members of all parties in the chamber, will make a decision on when Parliament can be resumed. We will not have to seek legal advice and advice from the Governor et cetera to try to get to a point that everyone wants but there is no capacity to achieve.

I thank the Standing Committee on Procedure and Privileges for the work it has done in getting it to this point. As I said, it is a very simple resolution, but ideally it will overcome the issue that existed and identified itself earlier this year. The Liberal Party will certainly support this motion.

**HON SUE ELLERY (South Metropolitan — Leader of the Opposition)** [3.36 pm]: Earlier this year, we found ourselves in the extraordinary position when there was a gap or a vacuum in our standing orders and there certainly was, from my perspective, an impasse for a period about how we ought deal with it. I am grateful to the

**Extract from *Hansard***

[COUNCIL — Wednesday, 16 November 2016]

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Hon Adele Farina; Hon Col Holt; Hon Sue Ellery; Hon Peter Collier; Hon Lynn MacLaren; Hon Rick Mazza

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Standing Committee on Procedure and Privileges for conducting an inquiry and coming up with a standing order. I think it is important to understand the standing order. It states —

When the Council is adjourned, the President may, on the request of the Leader of the House and after consultation with the leaders of all parties vary the day and time at which the Council will next meet.

It is not a collective decision; it is the President exercising his or her discretion on the request of the Leader of the House. It is effectively the President and the Leader of the House, who will consult with others. That does not mean that people will be involved in the decision; it means that they will consult, and that can be more or less depending on the circumstances. It is sensible to amend the standing orders so that we do not find ourselves in an impasse. It would also be good if other events that happened with the swearing-in of our most recent senator from WA did not occur again.

**The ACTING PRESIDENT:** I note that there is an absolute majority in the house, because an absolute majority is required to amend standing orders.

Question put and passed with an absolute majority.