

**Extract from Hansard**

[COUNCIL — Wednesday, 19 September 2018]

p6208c-6221a

Hon Martin Aldridge; Hon Sue Ellery; Hon Sue Ellery; Hon Simon O'Brien; President; Hon Rick Mazza; Hon Peter Collier; Hon Alison Xamon; Hon Colin Tincknell; Hon Colin Holt

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**TEMPORARY ORDERS 6(3), (4) AND (5) — RECALL OF THE HOUSE**

*Motion*

Resumed from 12 September on the following motion moved by Hon Martin Aldridge —

- A. That a proposed amendment to standing order 6(3) be considered by the house in the following terms —
- (3) When the Council is adjourned the President:
- (a) 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 may next meet; or
  - (b) shall, at the written request of an absolute majority of the whole number of Members that the Council meet at a certain day and time, fix a day and time of meeting in accordance with that request.
- (4) When varying or fixing a day and time of meeting not less than 4 days' notice shall be given to each Member.
- (5) For the purposes of (3)(b):
- (a) A request by the leader or deputy leader of a party in the Council shall be deemed to be a request by every member of that party who is a member of the Council.
  - (b) A request may be made to the President by delivery to the Clerk, who shall immediately notify the President.
  - (c) If the President is unavailable, the Clerk shall notify the Deputy President, or, should the Deputy President be unavailable, any one of the Deputy Chairs of Committees, who shall be required to summon the Council on behalf of the President, in accordance with this temporary order.
- B. That the proposed amendment is referred to the Standing Committee on Procedure and Privileges for consideration and report within three months.

**HON MARTIN ALDRIDGE (Agricultural)** [1.07 pm]: I commenced my contribution to this motion last week, so I do not anticipate taking up all the time that is allocated. The motion is relatively discrete in its design and focuses on a specific matter. I will briefly recap some of the things that I said last week. Notice of this motion was first given in November 2017. Members would be aware that at that time, in my view, there was a breakdown of trust between the government and non-government parties, particularly regarding the regulation of disallowance on at least two occasions with respect to the gold royalty increase. The Parliament was about to enter an extraordinarily long recess period—if my memory serves me right, it was to be some three months—and there was concern that the government would do something during that time. I believe that it was an appropriate measure to be considered and that it was an adequate insurance policy for the house to consider had the government not given certain assurances during the debate late last year.

Preceding these events, the house had considered in recent years the forty-first report of the Standing Committee on Procedure and Privileges, “Recall of the Legislative Council”, which gave rise to standing order 6(3) with respect to the ability of the President to recall the house upon advice of the Leader of the House. That report resulted in standing order changes and arose from an issue whereby both houses of Parliament were recalled initially by the executive—the government—to fill a Senate vacancy that had arisen from the resignation of Senator Joe Bullock. Obviously, this motion has been amended since that time to reflect conversations that have been had with parties about its construct. As well as the proposal before the house today, the motion is really just asking members to consider a proposed amendment and then obviously refer that matter to the Standing Committee on Procedure and Privileges for review and report. I will speak specifically on the motion and the proposal that I am pursuing for consideration. Standing order 6(3) 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.

That is the current construct of standing order 6(3). Obviously, that gives the President some discretion. “May” does not mean “must”, but the President has the ability, upon the request of the Leader of the House, to recall the house, whereas the former President relied on some inherited powers to do just that for the Senate vacancy that I just spoke of. My proposal to amend the standing orders will introduce a new provision that would state —

- (b) shall, at the written request of an absolute majority of the whole number of Members that the Council meet at a certain day and time, fix a day and time of meeting in accordance with that request.

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That is a requirement that if an absolute majority of the house felt that there was some compelling reason that the house ought to sit, the President, or a representative of the President, would be required to summon the house for that meeting. Separate to that, proposed suborder (4) states —

When varying or fixing a day and time of meeting not less than 4 days' notice shall be given to each Member.

At the moment, under standing order 6(3), no such time requirement is required to be given to members. The risk that I see in that is that the President, acting on the request of the Leader of the House, could potentially summon the house at relatively short notice. This may be a perceived problem rather than potentially a real problem, but the house could certainly be summoned at relatively short notice by, effectively, the government. Proposed suborder (4) would insert a requirement that would apply to proposed suborder (3)(a) and (b) that the time and date of that meeting shall be no less than four days after notice is given to each member. That is a fairly arbitrary figure and I would be interested in members' views on that. I think that, if nothing else, it will strengthen current standing order 6(3) to give some protection to members, keeping in mind that if members are travelling abroad, there could be a change in time zone and a delay in receiving such notice and necessary travel arrangements would need to be made and undertaken. I think four days is not an unreasonable length of time. Some may argue that there may be a more pressing urgency for the house to meet, so four days may unnecessarily delay the house meeting for a relatively urgent matter. If this provision were to be recommended by the house and the standing order amended, it would be used only in very rare circumstances and for the most serious events. I would be interested in the views of the house about that. If nothing else, it will strengthen the current provisions to make sure that the government does not recall the house at unreasonable notice.

Given that the other jurisdictions I mentioned in my contribution last week, the Australian Senate and the upper house of the New South Wales Parliament, have a very similar provision—in fact, this provision is modelled on the Australian Senate provision—it would be very hard to argue that if the house wanted to meet by order or by expression of an absolute majority of the house, it should not meet. I would be interested in whether members have a contrary view to that. If 19 members of a 36-member chamber decide that it should meet for a certain purpose, I would think that the will of the house is that it ought to meet. I think this proposal has merit. I think the proposal is worthy of referral to the Standing Committee on Procedure and Privileges, and I understand that there may be amendments to the referral part of the motion, which I will speak to at a later stage. I thank the house for the opportunity to bring this motion, hopefully, to some conclusion, whether that be this week or next. The consideration of this matter will certainly contribute to a stronger position for the house going forward in choosing the destiny and path that it wishes to pursue. I support the motion. I commend the motion to the house. I look forward to the contributions of others.

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [1.16 pm]: Essentially, there are two things before us, and I propose that there be a third. The first question is the referral to the Standing Committee on Procedure and Privileges. Members will recall that that was not how we were first asked to consider this change to the standing orders. I certainly indicate that the government will support the referral, and I will come back and talk about that. The second question is the substance—that is, the proposal to change the standing orders. I think that there is an argument to be had on that, and that will be had in the Standing Committee on Procedure and Privileges. The third element that is not formally before us, but will be when I move it, is that I am seeking to move an amendment to add to this motion that the leaders of the respective parties be co-opted onto the Standing Committee on Procedure and Privileges for the purpose of dealing with this particular standing order change, and we will get to that in due course. I understand that copies of my amendment have been circulated. Essentially, there are three things before the house—that is, the referral itself, the substance of the standing order change that is proposed and the amendment to co-opt party leaders.

On the referral itself, I re-read Hon Martin Aldridge's explanation in last Wednesday's *Hansard*. There is a bit missing in his advice to the house about how this matter came before us. Members will recall that at the time the proposal was being circulated, it was proposed that the house consider making a change to the standing orders, albeit potentially a temporary one. Members will recall that I in particular took umbrage at that. I did not think it was then, and I do not think it is now, a tempered way to make changes of such significance to our standing orders. I took objection to that, and I am pleased that other parties listened to the argument that I put back then and took the view that it should not have been proceeded with in that way at that time. Without revisiting all that, I think it is important that we note that. Because standing orders control the way that we make decisions and deal with our business, it is appropriate that we change them in a very measured and methodical fashion and that we do it outside the heat of a particular debate about a particular issue. In that case, it was about the gold tax, but, frankly, it could have been about anything that was controversial on the day. It is not appropriate to change the rules about how we play the game while we are playing the game. I appreciate that what we have before us now is, in fact, the correct way that we should deal with standing orders, and that is through the Standing Committee on Procedure and

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Privileges of the house. For that reason I think it is entirely appropriate that the matter be referred. That is the process that we should adopt.

The second issue before us is the substance of the proposed change. I note that the honourable member in his comments last Wednesday referred to the circumstances that led to the last change about how the house was recalled. In a particular set of circumstances, the standing orders were found wanting. Is it putting too fine a description on it to say that there was a disagreement between the President and the government of the day about the appropriate process? I do not want to put words in the mouth of the previous President, who is not here, so I will not do that, but there were certainly two different views about how that matter should be dealt with. We do not have, and have not had from the honourable member in his support of his motion today, evidence that the President has ever not been available to recall the house. Part of the proposition before us now goes to a kind of delegated authority to make a decision to recall the house in the event that the President or the Deputy President is not available. I have not heard an argument, or any evidence, that the President of the Legislative Council of Western Australia has not been available when there was a need to consider, for whatever purpose, recalling the house—to deal with an appointment to the Senate or any other reason. I have not heard an argument as to why we need the delegation. I am not aware of any evidence that we need that delegation. In any event, the threshold issue remains, in my mind: that the custom and practice of this house, whatever its make-up, has been that the business of the house is managed by the government.

The changes that we made to standing order 6, when Hon Colin Holt suggested that amendment, dealt with a real issue. The standing orders were found wanting because there was an impasse about how the house was recalled in the past to deal with a matter. There is not a circumstance that has been put yet—no doubt there will be during the course of the discussions in the Standing Committee on Procedure and Privileges—to support a solid argument that we should shift the custom and practice of the house, which is that the government manages the business. The amendments to standing order 6 now provide for consultation with the parties. I have not heard an argument that there is a fundamental reason to shift the custom and practice of the house. I note what other jurisdictions may well do, and good on them. There may be a particular history that led to those decisions. We do not know because that information has not been put before us. However, there is nothing in the history of the Legislative Council, in the 17 years that I have been here, that leads me to think that there is a reason we need to change the standing orders to allow other than the government of the day to control the sitting schedule of the house. I have not heard that argument. I expect that it will be put during the course of consideration in the Standing Committee on Procedure and Privileges, but I have not heard it.

The third element that would be before the house when we make this decision is that which I will do now; that is, I will formally move the motion, which I understand has been circulated.

*Amendment to Motion*

**Hon SUE ELLERY** — without notice: I move —

To amend motion 1, Standing Order 6(3) — Referral to the Standing Committee on Procedure and Privileges, as follows —

- C. That each party leader not a member of the Standing Committee on Procedure and Privileges be co-opted to the committee for the purpose of this referral.

By way of explanation, the debate now is about the amendment and, if the amendment is carried, it becomes part of the substantive motion.

The proposition reflects a conversation that was had between the party leaders at our regular session last Tuesday evening, when I flagged to party leaders that I would like to invite leaders of the respective parties to be part of the Standing Committee on Procedure and Privileges process as full participating members for the purpose of dealing with just this standing order. I was not sure whether every party leader wanted to be on that committee so I thought it was best if we could invite. That was what we discussed and there was general agreement behind the Chair at that meeting that people thought that was a good idea. On advice from the Clerk in getting this amendment drawn up, I was advised that there really was not the capacity to invite—it was too open-ended—and that the correct technical way to proceed would be to co-opt party leaders onto the Standing Committee on Procedure and Privileges for the purpose of this referral. For those who have not been part of something like this before, in practice a lot of work goes on in procedures and privilege. The committee meets on a Wednesday night and the committee may decide—this is how it has been done previously—to structure its meeting agenda, for example, so that the first bit of the agenda is spent debating the particular referral around this.

**Hon Martin Aldridge:** I think the last bit.

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**Hon SUE ELLERY:** I am saying that it “may”. We deal with that for however long that takes and then the committee deals with whatever other business. In any event, that is an administrative matter to be worked out.

This is an important standing order. It fundamentally changes the way the house is recalled. It fundamentally changes a longstanding custom and practice of the house. I think it is important that party leaders are there to be part of considering whether or not we want to make the change in the first instance and, if we do, what should be the nature of the change. The way to do that is to make them full participating members of the committee. When we last did a whole review of all the standing orders, we adopted a similar process. It was the Standing Committee on Procedure and Privileges, with the respective party leaders co-opted on for that purpose. It was considered to be controversial and it was considered to be a serious matter because we were looking at all the standing orders. I do consider this to be a significant change if we go down this path. It is important that the party leaders are part of making the threshold decision, which ultimately, of course, will be a recommendation to the house, about whether we want to make the change and then, if we do, crafting what it looks like. That is why the amendment is before members.

I had a conversation behind the Chair with Hon Martin Aldridge yesterday. I am sure he will not mind if I refer to that. The view he expressed at that time was that he was worried about maintaining a quorum. Obviously, the size of the committee will go up if additional people are co-opted and the quorum will go up. This matter is of such significance to people that personally I do not imagine that there will be a set of circumstances in which the quorum cannot be met if it were the case that people were not available. However, people need to be aware going into it that it is asking those party leaders to commit to the process. Frankly, that is part of what being a leader of one’s respective group is all about. There are additional duties and responsibilities that need to be undertaken. One of those is considering serious matters such as making a serious change to the standing orders.

**Hon Colin Holt:** Your amendment to the motion says “co-opted”, which is a change from “invite”, so really there is no choice about voluntary co-option at all; they are there. Is that correct?

**Hon SUE ELLERY:** That is correct. As I explained at the outset, my original intention was “invite”. Advice from the Clerk was that it was not possible to do that. I am acting on advice. In any event, the member would be aware that all of us—it has been a while since I have been on a standing committee—have participated in committees that have people who, to varying or greater degrees, participate or do not participate.

**Hon Colin Holt:** It’s important.

**Hon SUE ELLERY:** It is very important and it is part of their obligation. Indeed, if one is a member of a standing committee, they are being paid to attend, so I think they have a very serious obligation to attend. In any event, the proposition that I am putting before the house enhances the seriousness with which the house considers the matter that has been put before us by Hon Martin Aldridge and it is consistent with the way in which the house has dealt with these types of matters in the past. I commend the amendment to the house and ask for members’ support in ensuring that leaders of the respective parties are indeed co-opted to be part of the Standing Committee on Procedure and Privileges’ consideration of this particular referral.

**HON MARTIN ALDRIDGE (Agricultural)** [1.30 pm]: I rise to speak on the amendment moved by the Leader of the House that has been circulated to the house just now and to indicate that the Nationals will not be supporting this amendment. Madam President, my understanding, not being a leader of a party nor a member of this so-called business management group, is that there was a discussion in this group in which the Leader of the House indicated her desire to ensure that party leaders could be represented in the inquiry if they so wished. That is certainly not what has transpired with the amendment on the piece of paper that has been moved in the house today.

So that party leaders are aware, if this amendment passes, they will be co-opted by direction of the house to the committee. The Standing Committee on Procedure and Privileges will be expanded from five members to 11 members, noting that one party leader is already represented on the committee—that is, Hon Rick Mazza, the Leader of the Shooters, Fishers and Farmers Party. If members accept the premise of the Leader of the House’s argument for her amendment that the PPC considers such serious matters, not the least being referrals of privilege—of which there is currently one before the Standing Committee on Procedure and Privileges—that could result in very serious penalties for members of Parliament and other members of the public of Western Australia. If they are not serious matters, I am not sure what are, as are amendments or consideration of amendments to standing orders. If members accept the Leader of the House’s argument, why is the Standing Committee on Procedure and Privileges not purely made up of leaders of the parties? Why is that not the construction of the Standing Committee on Procedure and Privileges, if members accept the Leader of the House’s argument that there are some matters that are important and other matters that are less important?

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I do not accept the premise of the argument as has been put by the Leader of the House. Firstly, with respect to the practical concerns, there will be challenges associated with achieving quorum for a committee of 11 members. Members need only look at the committee's fifty-first report, which was handed down yesterday, on the very significant matter of proposed amendments to motions on notice that was referred to the Standing Committee on Procedure and Privileges on a motion by the Leader of the House. That standing order is used every single week that this house sits. If that is not a serious matter, I am not sure what is. But as far as I can tell, being a member of the committee, as well as reading this report, there has not been any co-option or substitution, so it is clearly not an important matter by the Leader of the House's assessment, because there was no such amendment to her own motion to co-opt the remaining six party leaders for this inquiry. I draw members' attention to appendix 2 of the committee's fifty-first report, where they will see that even trying to solicit submissions from party leaders in a timely and adequate way was also rather difficult. We are not talking about written submissions; we are actually talking about participation on an inquiry of the Standing Committee on Procedure and Privileges, which is a much more significant contribution than simply making a submission. I ask members to reflect on that in considering how they will vote on this amendment. I do not think it will be easy.

I also want to challenge the notion of convention of the house that the Leader of the House constantly falls back on—that we must never challenge a convention of the house. A convention of the house is something that the Leader of the House likes to define to suit her argument, but the reality is that a convention of the house changes. If a convention does not change, will we return to our Clerks and the President wearing wigs? I am sure that at some stage in the past it was a convention of the house that such attire was worn, but standing orders and customs —

**The PRESIDENT:** Member, I suggest you might want to hold your breath on that one!

**Hon MARTIN ALDRIDGE:** Standing orders and customs change, and the house modernises. If we want to talk about conventions of the house, there were six parties in this house, Madam President, who were voting for you to be our President and there was one that was not. If we want to talk customs of the house, the Labor Party did everything it could to find someone with a pulse who did not hold Labor Party membership to be President of this place. But, nevertheless, let us use convention —

Several members interjected.

**The PRESIDENT:** Order!

**Hon MARTIN ALDRIDGE:** Let us use convention when it suits one's own purposes, Madam President.

*Point of Order*

**Hon SIMON O'BRIEN:** The point of order is that it is a convention of this house that the President not be involved personally or that no member seeks to involve personally the President of the house in the debate before the Chair. I think the member should perhaps find another line of argument.

**The PRESIDENT:** You are correct, Hon Simon O'Brien. I think that Hon Martin Aldridge might have received that message and he will not be going back over that ground again today.

*Debate Resumed*

**Hon MARTIN ALDRIDGE:** Thank you, Madam President. I have made my point in that regard.

I want to go to this issue of convention. In moving this amendment, the Leader of the House —

*Withdrawal of Remark*

**Hon SIMON O'BRIEN:** The point of order that I raised just now is a valid one and the discipline and dignity of the house relies on such precedents. Although my friend is pursuing this matter with vigour, and that is fine, the fact of the matter is that I think the ruling that was very genteelly made was that my point of order was upheld. Therefore, the honourable member is out of order in then persisting with his remark that he had "made the point". That is not the way that we conduct ourselves in this house, and I would ask that he withdraw that remark.

**The PRESIDENT:** Thank you, Hon Simon O'Brien. You are right; we do have to maintain, as you already referenced, some of those conventions. It is appropriate. So, member, I ask you to withdraw those comments you made previously about the election of the President in this chamber and then you can continue on with your other remarks about this amendment.

**Hon MARTIN ALDRIDGE:** Madam President, I thought the direction that you gave me after the first point of order was that you asked me to move on from my point, which is what I did.

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**The PRESIDENT:** Yes, but then you made a comment, member, that you have made your point. If you had not made that comment and you had continued, there probably would not have been a second point of order made to perhaps redirect you. All I am saying is that if you would withdraw those comments that you have made, then you can move on with the rest of your discussion around this amendment.

**Hon MARTIN ALDRIDGE:** I withdraw.

**The PRESIDENT:** Thank you.

*Debate Resumed*

**Hon MARTIN ALDRIDGE:** The other argument that the Leader of the House used in prosecuting her case for this amendment was that this is a very serious matter and it is one that the Standing Committee on Procedure and Privileges has previously upheld in the name of convention. I went back and looked over the Standing Committee on Procedure and Privileges' reports and specifically excluded those that dealt with privilege or other matters unrelated to amendments to standing orders. I want to go through a number of those reports now, because for some reason the house is being asked to consider why every party leader in this house should be co-opted for the purposes of this inquiry. I refer members to the fifty-first report, which I have just mentioned, which is a review of the standing orders relating to motions on notice. The inquiry is underway and was a referral by the house on a motion by the Leader of the House. There is the forty-ninth report, "Treaty function — Standing Committee on Uniform Legislation and Statutes Review", and the forty-sixth report, "Acknowledgement of Country"—if that is not a serious matter, I am not sure what is. There is the forty-third report, "Standing Order 5: Days and Times of Meeting; and other miscellaneous matters". The forty-first report was "Recall of the Legislative Council". That sounds familiar. The fortieth report was "E-Petitions", which is a very significant and fundamental proposed change to our standing orders. The thirty-ninth report was "Reference from the House on 25 February 2015; Standing Order 97: Strangers in the Council; and Standing Order 181: Witnesses' Entitlements". The thirty-seventh report was "Temporary Orders — 2016". The thirty-fifth report was "Legislative Council Prayer". Obviously, that is not a serious matter! The thirty-fourth report was "Special Report: Temporary Orders 2015 – Extension". The thirty-third report was "Temporary Orders — 2015". The thirty-second report was "Further Review of Standing Orders 174 to 178: Committee Evidence, Documentation, Deliberations and Proceedings". The thirty-first report was "Standing Order 37(2): Member's Right of Speech". The thirtieth report was "Application of Standing Orders to the Joint Standing Committee on Delegated Legislation". The twenty-ninth report was "Review of the Report of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament". The twenty-eighth report was "Further Review of the Standing Orders (No. 2)". The twenty-seventh report was "Section 23 of the Parliamentary Commissioner Act 1971 (WA)". The twenty-fourth report was "Further Review of the Standing Orders".

What do all those reports have in common? On not one occasion did the committee co-opt or substitute a member, or did the house direct the co-option of the remaining six party leaders. That list goes back to 2012 and covers a number of reports. I have not added them up but I have just read out probably 15 or so. One of them was a review of the prayer and another was on the acknowledgement of country in this place. The Leader of the House is prosecuting the argument that this matter is so serious and important that every party leader should be directed by this chamber to be a member of the committee for the purposes of this inquiry, yet every other consideration by the committee about standing order changes was not serious enough for that and did not meet the seriousness threshold required by the Leader of the House.

I have an extract of the twenty-second report, which was tabled on 20 October 2011. This was the last occasion I have found in the recent history of the Standing Committee on Procedure and Privileges when members were co-opted. The twenty-second report, "Review of the Standing Orders", was from a subcommittee of the Standing Committee on Procedure and Privileges, not the committee. It reviewed the entire standing orders, so it was a very significant inquiry. I do not discount that fact. When that inquiry was established, a number of members were co-opted. They were Hon Wendy Duncan, Hon Sue Ellery, Hon Giz Watson and Hon Norman Moore. One would assume that they were the party leaders at that time who were not members of the procedure and privileges committee. The report is interesting because it is directly relevant to the question of whether we support the amendment before the house today. The report states —

- 1.1 On 15 September 2009, the Legislative Council resolved the following motion:

*That the Standing Committee on Procedure and Privileges be required to undertake a comprehensive review of the Standing Orders of the House with a view to modernising the procedures of the House.*

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- 1.2 The motion further prescribed that the Committee would report to the House on 2 March 2010, and that the Leader of the House, the Leader of the Opposition, Hon. Giz Watson and Hon. Wendy Duncan be co-opted members for the purpose of the review. The Committee conducted its first meeting following this referral on 25 November 2009.
- 1.3 This review of the Standing Orders is the first comprehensive review of all the Standing Orders undertaken by the Legislative Council, with the last major review being conducted in 1952.

It was the first comprehensive review of our standing orders since 1952. It continues —

- 1.4 The reporting date for the Committee's inquiry was extended by motion of the House on seven occasions, with the final extension being to 20 October 2011.
- 1.5 On 23 February 2011, the Committee resolved to create a Subcommittee to complete the review of the Standing Orders. The Subcommittee comprised the President, Deputy President and the four party leaders: Hon. Norman Moore, Hon. Sue Ellery, Hon. Wendy Duncan and Hon. Giz Watson. On 24 February 2011, the House resolved that this Subcommittee be empowered to report directly to the House in relation to this inquiry.
- 1.6 On 25 March 2010, the House adopted a set of Temporary Orders, covering matters such as the days and times of meeting and different business proceedings including Non-Government Business time. The operation of these Temporary Orders was also extended over this period, and the proposed Standing Orders include the majority of these temporary arrangements.

I will make two observations. We have to go back this far, past a number of reports that were issued by the Standing Committee on Procedure and Privileges about recommendations that had been initiated by motions on notice. If I recall correctly, the review of the prayer was a referral by Hon Sally Talbot, who moved a motion in motions on notice that such an action be taken. We have to go back as far as the tabling of this report in 2011, which was the first comprehensive review of the standing orders since 1952, to establish a time when the PPC inquired into a matter and members were co-opted to the committee by a motion of the house. In fact, within that time there are not even any occasions when members were co-opted or substituted by the committee. I think it presents a challenge to the case that has been put by the Leader of the House about this matter being of such a serious nature that every party leader who is not a member of the PPC ought to be directed by the house to participate in this inquiry, whether they like it or not. I will be interested to hear the view of all seven party leaders in this house—I note that one of them is already represented on the Standing Committee on Procedure and Privileges—on whether that was their intention and whether it is their intention to participate in this inquiry in the way that has been proposed by the Leader of the House.

I think there are alternatives to this amendment. A number of parties are already directly represented on the Standing Committee on Procedure and Privileges. The committee's structure is you, Madam President, as the chair of the committee; Hon Simon O'Brien as the deputy chair; myself; Hon Adele Farina; and Hon Rick Mazza. My understanding is that we cannot have every party represented on the PPC because of the constraints on membership. In forming this committee, some consideration was given to cross-party representation, as we do with all our committees. I understand that Hon Rick Mazza plays a liaison role—particularly on standing order changes—between the PPC and other minor parties on the crossbench. The party that is clearly not represented directly on the PPC is the Greens.

I put to the house that there are other ways of participating in an inquiry of this nature. It would be normal to seek submissions from not only leaders of parties but also members of parties. Standing orders apply to all members of this place, not just leaders of parties. I do not think that would be an unnecessary approach if a referral were to be made to the PPC. Such engagement could occur in that way. The committee has powers to co-opt members for the purpose of inquiries. Looking at recent history, there have not been a lot of examples—certainly not going back as far as I just have—when that has occurred. Substitutions have occurred. The last substitution I remember is when Hon Sue Ellery substituted for Hon Kate Doust, who was a member of the Standing Committee on Procedure and Privileges, on a matter of privilege. As is apparent from the history of changes to the standing orders that I just went through, the standing order relating to the substitution of committee members has not been used but it could be used. If Hon Sue Ellery felt that she ought to be a member of this committee for this very serious inquiry, she could be substituted for a member on the committee. Indeed, members of the Labor Party are represented on this committee. I think there are other ways in which party leaders could participate in the inquiry, if they felt so compelled, either indirectly or as a direct member of the committee through substitution or, potentially, through co-option.

The challenge of the amendment to the motion before us today is that it directs every leader of a party in this house to be a member of the committee for this inquiry. If we want to talk about previous practice, this certainly has not been the previous practice of this house. I think it presents practical challenges to the operation of the committee.

**Extract from Hansard**

[COUNCIL — Wednesday, 19 September 2018]

p6208c-6221a

Hon Martin Aldridge; Hon Sue Ellery; Hon Sue Ellery; Hon Simon O'Brien; President; Hon Rick Mazza; Hon Peter Collier; Hon Alison Xamon; Hon Colin Tincknell; Hon Colin Holt

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The Leader of the House has not articulated why she could not use the existing standing orders through substitution or, indeed, by making a submission to the inquiry or appearing before the inquiry. Why are those mechanisms not adequate for her or other party leaders who have the desire to pursue the amendment before the house? I am far from convinced that the Leader of the House has presented good reason on either ground, which is custom and practice, given the seriousness of this matter, when we look at other matters that the PPC has considered in recent years. The National Party will not be supporting the amendment.

**HON RICK MAZZA (Agricultural)** [1.51 pm]: I also do not support this amendment. I do not see the need for leaders of parties to be co-opted to the Standing Committee on Procedure and Privileges. I think the PPC is well placed to deal with this motion, should it be successfully referred to it. In the past, as has been mentioned, during debate on motions on notice and the acknowledgement of country, there was a lot of consultation with members in the form of surveys and submissions. Members of the PPC took those issues of concern very seriously, and worked through those issues and the thoughts of all members and party leaders. We are not talking about reviewing a number of standing orders; it is one standing order that may be referred to the PPC should this motion be successful.

I think that we have plenty of things in place to make sure that everybody has a hearing and that everybody is represented. More than doubling the size of the PPC will make it very cumbersome. Having split meetings between a co-opted quorum of people and then the PPC itself would be cumbersome and unwieldy. In short, I will not be supporting the amendment.

**HON PETER COLLIER (North Metropolitan — Leader of the Opposition)** [1.53 pm]: I would like to make a few comments on the amendment. I will talk to the motion in due course. I was very comfortable with this amendment. I thought it was something that we had agreed upon as a group of party leaders last week. I appreciate that everyone is entitled to change their mind, and that is fine. I think this is eminently sensible.

This was a major issue. I was very much a part of it the last time we had to recall Parliament upon the resignation of Hon Joe Bullock. To a degree, there has been rectification of that issue through an amendment to the standing orders. Whether it went far enough is something that we need to debate today, along with whether the Standing Committee on Procedure and Privileges needs to address that. I would like to think that we will ultimately decide that later today. The important question is: who will comprise the privileges committee to make that decision? I think this is an opportunity for everyone to contribute to that decision-making process. If anything, it is more of an advantage to the minor parties to be part of this decision-making process. Fundamentally, they are asking for an absolute majority; they are asking for, say, 19 members to sign a petition to recall Parliament in the event that perhaps the government decides that it is in its best interests not to. It would be highly unlikely that an opposition party with 19 signatures would have the capacity to recall Parliament. We would need a combination of parties to get those 19 signatures. If we are going to go down that path and consider this, it is only appropriate that the very people whom it will impact are part of the decision-making process.

This is a unique opportunity for the Greens, One Nation, the Shooters, Fishers and Farmers Party, the Liberal Democrats and the Nationals WA to have a say on whether we need to change this standing order. This amendment empowers the members of those parties to be part of the decision-making process. That is all we are asking. We are gifting those members—sorry, that is a patronising comment; we are asking them, empowering them with an opportunity to be part of the decision-making process. It is not a case of the two major parties ganging up on the minor parties. We are saying, “Be part of it and let us see whether this standing order needs to be changed.” If it needs to be rectified further, so be it; we will make that decision collectively. It was a problem previously, and I will talk about that when I speak to the motion itself. To a degree, there has been a change. Whether that went far enough is something that the privileges committee—I will be part of it—will determine.

Having said all that, I will leave my comments there. I think it is very sensible that all party leaders are part of the decision-making process. I thought we had landed there but apparently not. That is fine. I respect the decision of all members to change their minds or perhaps have an alternative viewpoint. In conclusion, I say to the minor parties that we are not trying to exclude them from any decision-making process. There is nothing clandestine about this. I think it empowers those parties. The Liberal Party will be supporting the amendment.

**HON ALISON XAMON (North Metropolitan)** [1.56 pm]: Like other members in this place who have already spoken, it was certainly my understanding that there was at least agreement to the context of the motion to amend what is in front of us. I understand that when we were originally talking about moving this amendment, we were considering inviting parties to participate. It is my understanding that the advice is that we cannot invite people on to the Standing Committee on Procedure and Privileges; we need to actively co-opt members in order for it to be valid. I am persuaded by that advice. I am quite happy to listen to the advice given by the Clerk. As such, I recognise that we need to ensure that we have some certainty around the membership of the procedure and privileges committee for the purposes of being able to discuss the proposed standing order.

**Extract from Hansard**

[COUNCIL — Wednesday, 19 September 2018]

p6208c-6221a

Hon Martin Aldridge; Hon Sue Ellery; Hon Sue Ellery; Hon Simon O'Brien; President; Hon Rick Mazza; Hon Peter Collier; Hon Alison Xamon; Hon Colin Tincknell; Hon Colin Holt

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I want to make some comments about the current make-up of the procedure and privileges committee and advise members that when we were considering the early allocation of membership of committees, the Greens indicated that we wanted to be on the procedure and privileges committee, but due to the sheer number of members in this house and the enormous juggling that went into trying to meet the various wishes of the parties around their preferences, it turned out that we missed out on procedure and privileges. Instead, I was invited to participate on the Joint Standing Committee on the Corruption and Crime Commission, which was a very uncontroversial decision. The Greens had sought to be part of this committee from the beginning.

I want to respond to one of the comments made by Hon Rick Mazza; that is, it is difficult for the Greens to actively participate in the deliberations of the procedure and privileges committee through the deliberations that they have undertaken during this Parliament. We have availed ourselves of the opportunity to put forward submissions around decisions that are being made, but it is not the same as being around the table, participating in those discussions and being able to be heard. As such, the Greens would absolutely welcome the opportunity to sit around the table with our parliamentary colleagues to talk about these sorts of matters.

One of the precious conventions of this house is that as far as practicable we try to achieve consensus when talking about amendments to the standing orders of how we operate in this place. That is a good convention that we should be respectful of. But to achieve true consensus, we need to hear from all parties that will be duly affected. This amendment will allow that occur. I do not know whether there is perhaps room for additional amendment around this. I do not propose to put forward another amendment, but I simply put on the table that if there is genuine concern about the sheer number of members looking to be co-opted on to the Standing Committee on Procedure and Privileges for the purposes of discussing the proposed amendment to standing orders, maybe we need to at least look at the parties that do not currently have any representation on the procedure and privileges committee—One Nation, the Liberal Democrats and the Greens—and it may be that we simply extend the opportunity for those parties to have representation. I have said that I have not had the opportunity to talk to the other parties that would be affected by that—namely, the Nationals WA; Hon Rick Mazza of the Shooters, Fishers and Farmers Party WA; the Labor Party and the Liberal Party. Without having had the opportunity to speak to members of those parties to see whether that is the sort of thing that needs to be contemplated, I am most certainly not prepared to move an amendment to that effect.

I suggest that the Greens need to be represented on that committee in whichever form that occurs. If we are given the choice of supporting the proposed amendment or not having the Greens there at all, I ask that we please stick with the arrangement that I thought had been agreed that will at least enable all parties to be represented on the procedure and privileges committee.

**HON COLIN TINCKNELL (South West)** [2.01 pm]: I have paid attention to the debate. I was not at last week's meeting; I was, unfortunately, on other business. I think it is important that every party is represented. If inviting members on to the committee is not the way we can go—if it is co-opting—then the leader of a party represents and speaks on behalf of its members. One Nation wants to be involved in this process. Hon Alison Xamon has explained the situation fairly clearly, and One Nation will be supporting the amendment.

Amendment put and passed.

*Motion, as Amended*

**HON PETER COLLIER (North Metropolitan — Leader of the Opposition)** [2.03 pm]: I can assure honourable members that this was a major issue prior to the amendments to the standing orders. I was Leader of the House when it was an issue. Several years ago, a senator resigned his position during the winter break, but we did not have the capacity to recall Parliament to find a replacement for Joe Bullock. The problem was that we could not fill the casual vacancy, because it has to be done by both houses of Parliament. We could not recall the Legislative Council. I remember at the time negotiating with the President and the Clerk; a whole raft of issues was presented around on how on earth we could recall the chamber. There was talk of going to the Governor, and all sorts of communication took place through the Clerk, the Presiding Officers and the parties et cetera to try to resolve the issue. In the end, we just did it. But that identified that we did not have the capacity to recall Parliament in the event of a significant issue. It was resolved to a degree by amending standing order 6(3), under "Annual Sitting Schedule", which now 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.

To a degree that resolved the issue, particularly around the joint sitting of Parliament. It did not, of course, resolve the issue if the situation became more political, which happened last year. This is where I have some sympathy for the frustration of some members with regard to the incapacity of the house to be recalled, apart from at the hands of the government. I am not suggesting or pre-empting anything that may come from the Standing Committee on Procedure and Privileges, should this motion be successful in terms of where we land on that. All I am saying is

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that it presented some issues for those who felt that they did not have the capacity to have a say in the recall of Parliament. Of course, logic would prevail in that instance and we would just say that the government is the government of the day and it should be the one that recalls Parliament. Having said that, of course, given the motion we are dealing with at the moment, we are asking: if a majority of the house would like to recall Parliament, should the majority equally not have the capacity to do so? That is something that the Standing Committee on Procedure and Privileges will have to look at.

The issue that arose last year was quite compelling. In that instance, the government introduced a disallowance motion on the gold royalty rate. The house voted down that disallowance motion, and then the government reintroduced that disallowance motion just over a month later. I am not quite sure why it wanted to do that or what the tactics of the government were, but it did it.

**Hon Martin Aldridge:** They introduced the regulation.

**Hon PETER COLLIER:** That is what I am saying: the government introduced the regulation, sorry. I apologise; I will go back on that.

The government introduced the regulation to try to increase the gold royalty rate, and a disallowance motion was moved. About six weeks later the government reintroduced that regulation, just after the house had already made its determination. What happened then, of course, was that the house was due to rise at the end of last year and was not due to sit again for three months. That is when a number of us felt—cynically, possibly—that the government would use this opportunity to reintroduce the regulation, and therefore the regulation would be carried as a result of the fact that Parliament would not have the capacity to disallow that regulation. During the debate on the motion to change the standing orders, the Leader of the House gave an undertaking that the government would not reintroduce that regulation. That motion lapsed, and that issue is what we are dealing with at the moment. Whether we make a determination to allow a majority of the house to recall Parliament, or petition to recall Parliament, is what we need to consider now. That is what this motion deals with.

The Liberal Party will support the amended motion to send this matter to the privileges committee to consider this situation. Those are the issues we have to look at. Given the increasingly pluralistic party make-up of this chamber, we now have a fundamentally broad cross-section of the Western Australian community represented, and we have to ask whether it is still up to the government to make that determination—logically, we would more than likely say yes, because it is the government of the day—or whether we need the capacity for a majority of the house to recall Parliament. That is something that the privileges committee will consider. Given the fact, as I said in my earlier comments, that every party will be represented, I think that is a good thing. Yes, we will now have 11 members. Quite frankly, I do not think it will ever be an issue to get a quorum out of 11, but we will at last now have an opportunity for all members to have a say and make a determination on whether standing order 6(3) is adequate. The Standing Committee on Procedure and Privileges will make that determination. Having said that, I am sure that the arguments for and against will be thrashed out by the privileges committee, but that is the background for it as far as the Liberal Party and, I think, members of the chamber are concerned—that is, whether the capacity to recall Parliament rests entirely in the hands of the government or in the hands of a majority of members or some other format. Personally, I look forward to being on the privileges committee to consider these alternatives and to represent the Liberal Party. From the Liberal Party's perspective, we will also have Hon Simon O'Brien on the committee, who has a wealth of experience in parliamentary processes. Having said all that, the Liberal Party will be supporting the motion.

**HON SIMON O'BRIEN (South Metropolitan)** [2.10 pm]: When this motion is passed, which I suspect it will be, this will be a matter that the Standing Committee on Procedure and Privileges will work through, as it always does, and report to the house, as it always does, so that the house can consider the recommendations and either adopt them, vary them or reject them, as it always does, because it is the master of its own destiny. I think there has been a little bit of unnecessary hand-wringing over some of these matters. I might get an opportunity to elucidate on that when this greatly expanded PPC meets in some church hall somewhere or some other venue that is big enough. Even if committee members do not agree with me, members will certainly hear about it back in the chamber when the committee reports.

The comments I want to offer members now are in response to some of the things we have heard about the circumstances in which the house might or should be recalled and about the meaning of words such as “co-opt”, because that is now part of our motion, and one or two other things that have been mentioned in passing. I agree with just about everything the Leader of the House observed in her remarks today. I also concur with what the Leader of the Opposition said and have no trouble in marrying the two together. The machinery that we relied on before standing order 6 appeared in its current form—I think my memory is correct here—is that we would have a special adjournment motion, which stated not only that we were not coming back next Tuesday but also when we were coming back, which would inevitably be some other Tuesday somewhere. It would also carry with it an

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enabling element—that if circumstances should arise, there was a process for the house to be recalled by the President. The next iteration was standing order 6(1) and (2). For some reason, people seem to think that they have to codify these things; it has to be set in stone. We did this—I guess as a member I have to accept some collective responsibility for it, even though I remained silent at the time. A situation arose as recently as yesterday when a draft sitting schedule was tabled, which is going to be set in stone. It can be varied only by an absolute majority of the Council on motion. Some wriggle room is allowed in standing order 6(2) to still allow for the Council to adjourn until a date and time to be fixed by the President. We thought that would cover everything. The trouble is that when we set these things in the stone of our standing orders and then an actual situation arises, suddenly fine print arises out of the ether and sweeps us all up in it and we have the sorts of problems that the leaders referred to in their remarks earlier this afternoon.

As I recall, we then had the advent of standing order 6(3), which is now proposed to be amended. I would have thought that a standing order that said that despite anything about the schedule of sittings, which is set in stone, when the Council is adjourned—that is, when we are not in our normal sitting routine, which might even be over a weekend, not just a six-week winter recess; it might be between Thursday and Tuesday—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 on which the Council will next meet. That could even be to abandon a sitting day or a sitting week. “Vary” does not mean the house convenes for an extra sitting; it might mean something else. There is some room in there for that to occur, although there is probably someone in the “Clerks’ Party” somewhere in the commonwealth who might be able to say, “No, it doesn’t say that at all”, even though it actually says it in black and white. Perhaps I am channelling the late Laurie Marquet a little much—he had a knack for drafting these wonderful standing orders that meant the exact opposite of what they actually said. We have to be careful when we amend the standing orders, because we might find that it is not as simple as it might prima facie appear to be. Indeed, we have discovered that. That is what has, in several ways, brought us to where we are now, with people trying to find constructive ways to make sure that it does not happen again. One thing members will find in all this is that no matter what we do to try to cover every eventuality, something will happen that is a bit different that is not covered by what has been chiselled into granite. No matter what safeguards we try to put in place to circumvent tricky dicky governments or tricky dicky ministers who, for example, want to re-gazette regulations that this house has just disallowed, ways will be found to get around or to try to get around the rules. If the house tries to tie itself up by chiselling into the stone of its standing orders every possible permutation it thinks of, that will restrict the ability of the house to operate properly in some circumstances. That is why we need to proceed with caution in all these matters.

That brings us, then, to the procedure and privileges committee. I do not think anyone disagrees that this is a well-established process for the mature contemplation of these issues and the provision of advice to the house, upon which the house may seek to act. That is why I am not going to object to this motion being passed, because everyone has agreed behind the Chair or in smoke-filled back rooms somewhere, if any such things still exist, that this is what should happen. Okay; fine. I have also given an indication of how I am looking forward to making a contribution when we get behind closed doors—all 27 of us, or however many we end up with—as we contemplate the matter that has been proposed.

I support the view, though, which I think both leaders have expressed, that it is up to the government to decide when the house sits. Members of the house collectively have the option to keep the house sitting. It used to be easier in days gone by when an actual vote was taken on the question that the house adjourn and that question could have been defeated. But now members have conspired, collectively or otherwise—I am not adversely reflecting on any former decision of the house when I say this—and decided that, no, they want greater certainty about when the house will sit and when it will not sit. I have to advise the house that if it ever got to the stage when it was necessary for the house to sit, to be recalled, during a time when the house was not sitting, and the government of the day failed to act—I cannot contemplate that happening—it would be a matter of great concern, and it probably would not be up to an individual member taking up a petition to resolve the issue. Perhaps we will discuss that a little bit more, if members want to, another time.

Other questions need to be contemplated if a majority of members get together to recall the Council. One of them is: If the house is recalled, then what? For what purpose is the house meeting? Who directs or calls on the business of the house? The government does. What would we do if the house were to meet and no minister was in attendance because they are all off at some important council somewhere else? A range of issues need to be contemplated, but the purpose of me rising is to point out to members that, by and large, these issues do not need to be contemplated. I think it betrays a lack of understanding about how our Parliament works to think that this sort of mechanism is somehow a recourse to address some deficiency.

I also indicated earlier that I wanted to address co-opting versus inviting. People get caught up in semantics, but sometimes words actually make a difference. I am sure that the Clerk—if it was the Clerk who perhaps advised

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that using “invite” was not the correct way to construct this motion and that “co-opt” would be the correct word—was not dealing in semantics; he was dealing in firm advice about how this house and its committees operate. I almost rose to debate this when the house was considering the amendment to the motion, but I thought other people had spoken about it outside of session and that it was going through. I also thought that the amendment was perhaps unnecessary because the PPC knows damn well it can co-opt members. It does not need an amendment to a motion to tell it that. Collectively, it knows very well that it is important that if other members of the house, perhaps leaders of the several parties, ought to be involved at a certain stage of the process, they can be asked to be involved. That is what generally happens. It happens every time this house appoints members to its standing committees. There is consultation and a bit of working out of whether the workload is fair and people are doing what they are interested in, and all those sorts of things. Hon Alison Xamon alluded to some of that. That is what happens. Of course, members can be co-opted with a capital “C”, in which case the house will say, “Hon Bill Bloggs will be a member of this committee”—passed—and that is what is going to happen. Of course, Hon Bill Bloggs can turn around and resign from any position, and can easily do so unless the house then decides on insisting that Bill Bloggs be a member. But, again, we are getting into the realm of fantasy here. When it comes it a matter of convenience, I do not think we really need to have motions to accommodate the sort of consultations that the Standing Committee on Procedure and Privileges might well take. If we are looking for evidence, we only need to go back to yesterday. If members read the report on another matter that was tabled yesterday, they will see that the procedure and privileges committee, clearly said, “In our contemplation of the matters referred, we really need to take another body of information, interim information, back to the whole house and seek some further submissions.” The PPC knows very well how to consult the membership and to, hopefully, take the vast majority, if not the totality of members, with it.

Members might want to contemplate that the next time we elect a President. There is a tradition in Westminster Parliaments that when a presiding member is elected, it is at the direction of the house. The house decides that Hon Bill Bloggs will be our President. Traditionally, this goes back to the House of Commons in Westminster, members of the house seize the unhappy Bill Bloggs and drag him to the chair, because, typically, Speakers of the day were unwilling. Of course, we now acknowledge that as a tradition, but as a tradition only, in that the Leader of the House and the Leader of the Opposition typically escort the President-elect to the chair, rather than drag them kicking, screaming and biting to that office! Again, let us not read too much into these words.

The only reason I do not oppose referring this matter to the Standing Committee on Procedure and Privileges is that I know darn well that the Standing Committee on Procedure and Privileges will deal with it competently, fairly, and involve further input of members as necessary and as required, without anyone having to be necessarily co-opted, pre-empted, press-ganged or invited, and we can have some reliance on that. Although I have some misgivings about the course that is being proposed, I am not going to disagree that the matter be referred to the PPC, although I certainly would not move it myself.

In the course of the debate, members have also touched on what is referred to as conventions of the house. The conventions of the house are very important. One thing I found when I joined the Parliament, and I guess everyone else did as well, is that there are all these standing orders—hundreds of them. People say to us when we go into the house, “One thing you’ve got to know is you’ve got to know your standing orders”, which, of course, sadly, are evolving all the time. It is confusing when they are changed. Probably twice as many other conventions of the house, be they traditions or form and practice, are not necessarily written down but collectively make the house work. I was told by someone as they were on the way out the door and I was on the way in to remember one thing, and perhaps I can conclude by passing on this piece of advice, because it struck me at the time as intuitively right but, with experience, I have found that it is definitely right. The one human failing that is universal is that humans sometimes think they are smarter than those who came before them, and that, of course, is not the case. If conventions exist, they were formed and developed for very good reason. That does not mean that we should never question why they exist. It does not mean that procedures and practices should not evolve with changing times and, indeed, with changing values. But it does mean that we should exercise some caution and prudence in doing so. That is why I think we have a very valuable asset in the Standing Committee on Procedure and Privileges and why I think this debate now needs to be taken quietly behind that committee’s closed doors for a mature reflection. No doubt, the advice will then flow to the house. I look forward to joining my numerous colleagues there. Co-opted members will be treated well. They are not second-class members. We have no system whereby regular members have Tim Tams and co-opted ones get Milk Arrowroots! There is none of that. Everyone will be equal and everyone will get their say. Members can rely on that.

**Hon Nick Goiran:** Not like on the CCC committee.

**Hon SIMON O'BRIEN:** Without any discordant notes creeping in, perhaps that is all that needs to be said for now, but we will come back to it on another day.

**HON COLIN HOLT (South West)** [2.32 pm]: I will make a brief contribution to the debate. I was very interested in the debate on the amendment to the motion, as well as the debate on the substantive motion. The debate on the amendment offered up a number of alternative views from members. It was good to listen to that debate. I cannot reflect on any decision that was made behind the Chair about agreement to the amendment; however, it seems that when it got to this place, there was no agreement, so we had a debate about the amendment and people put forward their points of view. Although there was some disagreement across the chamber, we had a vote and we have moved on. To me, it is a healthy sign of debate when members can come to this place and put forward their points. We can always agree to disagree. We are not always going to agree on things; that is for sure. In this chamber we take a vote, and often it is decided on the voices, and we move on, and that is what happened with the amendment. Now we are dealing with the motion, as amended, and there have been a number of contributions about how it is a good idea for the Standing Committee on Procedure and Privileges to look at this issue, as it does with lots of issues to do with standing orders and our rules.

I was very encouraged by the words of Hon Simon O'Brien when he said that we have a well-established process to deal with these things—that is, the PPC. We have often referred to the PPC issues of a critical nature to the house and the way we operate, and it reports back to the house so that we can look at those issues and potentially change the way we do things. I was also encouraged by his use of the words “conventions of the house”. I know that the Leader of the House talks about the convention of consensus when we change the standing orders in this place. I note—I have raised this point before—and I hope that other members note, that a number of reports from the Standing Committee on Procedure and Privileges are listed on the notice paper. The question, Hon Simon O'Brien, is: when are we going to deal with them?

**Hon Simon O'Brien:** It is up to the government to bring on those orders of the day. Why are they avoiding it?

**Hon COLIN HOLT:** That is the contentious point.

**Hon Stephen Dawson:** If you go to your leaders —

**Hon COLIN HOLT:** Let me finish my contribution before you guys interject. That is the point.

**Hon Stephen Dawson:** You're encouraging interjections, member.

**Hon COLIN HOLT:** Come on, then.

**Hon Stephen Dawson:** Conversations happen behind the Chair. Parties meet on Tuesday evenings and we agree on this stuff together, as has been the convention of this place for a very long time, and the conversations continue to happen. We meet on the first Tuesday of every sitting block and we continue to talk about this.

**The PRESIDENT:** Order! I think that might have been a rhetorical question.

**Hon COLIN HOLT:** That was not in the context of what I was talking about, but that is okay.

We have now referred yet another matter to the PPC to look at the nature of the business of the house on our behalf.

**Hon Peter Collier:** Not yet.

**Hon COLIN HOLT:** I apologise—not yet. We might get some people to vote against it after my contribution, because that is the way that debates work! I might convince people not to send it, although I am quite encouraged to send this matter to the committee, because I believe in the work of the PPC. That is why I keep asking when we are going to deal with the other reports that the PPC has done in good faith on behalf of the house.

The Leader of the House keeps saying that we need consensus to change the standing orders. If I remember correctly, we changed standing orders not long ago to introduce the concept of an acknowledgement of country. I remember contributions in this house that clearly indicated that not everyone agreed with the way it would be introduced in this house. There was not consensus in that sense, but there was compromise to ensure that we had an acknowledgement of country after our prayers. That was not done with consensus, because some members indicated that they thought it should be this way around or that these words should be used, so we do compromise.

Now we are referring another matter to the PPC. The PPC will have 11 members for this inquiry. I wish those 11 members good luck in getting consensus on the issue in their report to this house. Without pre-empting anything—I do not know how it will operate—we know from other committees of this house that have been charged to do the work of the Council that committees can come back with a minority report. That means that there is not consensus within the committee, which is quite fair and reasonable. I hope the 11 members can work to the point at which there is at least consensus when the report comes back to the house, for debate or not—and that will depend on the will and the plan of the government. If the government is going to stick to the convention of a consensus before we even discuss in this house the changes to the standing orders, I hope the committee gets to that point. We have not yet debated the reports listed on the notice paper that are the result of the good work of the PPC. Now another matter will be sent to the committee and we will get a report back in, I think, three months,

**Extract from *Hansard***

[COUNCIL — Wednesday, 19 September 2018]

p6208c-6221a

Hon Martin Aldridge; Hon Sue Ellery; Hon Sue Ellery; Hon Simon O'Brien; President; Hon Rick Mazza; Hon Peter Collier; Hon Alison Xamon; Hon Colin Tincknell; Hon Colin Holt

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which means that the house will not be sitting when the committee completes its work, so we will get the report early next year. The fate of that report will be with the government. If and when the house debates the outcomes of that report will be at the discretion of the government. The government will make a decision about whether there will be a consensus way forward or whether we have a debate and look at a compromise way forward. That is the way this house should operate. That way we can deal with some of the Standing Committee on Procedure and Privileges reports that sit on the notice paper. Let us have the debate. We go away, give the motion to the PPC to do the work on our behalf, and it can come back and convince us of that. However, there should still be a debate about how that affects each of those members or the way that we operate in this house. I am more than happy to support the amendment on the motion to the PPC. I wish it good luck in its deliberations. I hope we get to a point at which there is some consensus around the outcomes of that discussion, and maybe we can get one of the reports delivered by that committee off the notice paper.

**HON MARTIN ALDRIDGE (Agricultural)** [2.40 pm] — in reply: Given that there are no further speakers, I thank members for their contribution to the debate today. I respect the will of the house on the insertion of part C to the motion, but in reply I want to make some observations on that matter in particular. Obviously the amendment was supported by five out of seven parties represented in the house. Without reflecting directly on *Hansard* at a later time, nearly all those submissions, particularly from those parties that are not directly represented, went to the fact that they thought it was a good thing to be directly represented at the table of the Standing Committee on Procedure and Privileges. I did not hear any argument, apart from that of the Leader of the House, that went to the specifics of this matter and the requirement for that to occur, which I think presents an interesting position for the house going forward. I do not know whether Hon Alison Xamon was in the house when I responded to that amendment, but I pointed out the direct lack of representation that the Greens have on the PPC, noting the role of Hon Rick Mazza in providing a conduit to the minor parties of the crossbench. That is clearly a deficiency. What the house has resolved today, by supporting part C of the amendment to the motion, with five out of seven parties supporting that position, has in my view set an interesting precedent for the house to consider in the future. As I said, when we consider the next motion on notice, or motion of the government as an order of the day, or indeed a matter of privilege that is being referred to the PPC, the principles that were articulated by those who spoke in favour of the amendment would apply in just about every other circumstance. The PPC's membership is confined to matters set out in schedule 1 of standing orders, which has the committee comprising five members, noting that the Legislative Council has seven parties represented in it, and obviously the Labor Party has two members on the Standing Committee on Procedure and Privileges, one being yourself, Madam President, and Hon Adele Farina. There is an issue there for the house to consider at a future time. That would be looking potentially at the membership of the Standing Committee on Procedure and Privileges if party representation was something that was important.

The amendment moved by the Leader of the House went beyond party representation; it went to the leadership of every party, not merely party representation. I respect the views that were put, particularly by Hon Colin Tincknell and Hon Alison Xamon and I agree with them that often the role that members of the PPC play on that committee is, at times, a conduit back to their own parties. With respect to the minor parties, Hon Rick Mazza often plays a role there, and indeed other members play a role in being that conduit for the Greens. I accept the argument that there can be opportunities for members to make their voice heard in other ways, including on the floor of this house when a recommendation of a committee, whether it is the PPC or another committee, is discussed or, indeed, resolved. I accept the argument that was put that crafting a proposition, making a point, is best done at the earliest point in consideration. Often that is around the committee table itself.

With that in mind, and noting that five out of seven parties support this amendment, following this debate the house should reflect on the sentiments that were expressed, and reflect on whether the membership and size of the Standing Committee on Procedure and Privileges should be considered in light of the arguments that were made today and in light of seven parties being represented in this chamber. That is something that should be further considered. If a matter is brought to this place for referral to the PPC—I mentioned that it could come in many different forms—there would be nothing stopping a member saying that we need to co-opt all the party leaders for the purposes of an inquiry, particularly on a matter of privilege, which could result in a recommendation to the house, if I am not mistaken, that a member be expelled from the membership of the house. If that is not a serious matter, I am not sure what is. It is important to reflect on those matters after this motion is resolved and certainly ahead of another matter coming before the house with regard to a referral to the PPC, in whatever form that takes. I look forward to the committee's consideration of this matter, if indeed this amendment passes, and will participate in inquiries as a member of the Standing Committee on Procedure and Privileges. I thank again members who have spoken and I appreciate the time and attention that other people have given to this issue.

Question put and passed.