

STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

Sixty-third Report — Review of standing orders—Extension of Reporting Time — Motion

Resumed from 3 August on the following motion moved by Hon Martin Aldridge —

That the reporting date of the Standing Committee on Procedure and Privileges inquiry into the review of the standing orders be extended from 10 August 2021 to 2 September 2021.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [6.02 pm]: What an amazing place we find ourselves in, honourable members. Do members remember the debate we had a few weeks ago when the opposition and, I think, even some of the crossbench members raised concerns that there may not be enough time for the Standing Committee on Procedure and Privileges to go into the detail required for a proper look at the standing orders? Does everybody remember that? That was not too long ago and we were howled down: “No, there’s plenty of time; we just have to push the privileges committee a little harder.” It is amazing to me that we now find ourselves debating a motion to extend the reporting date by three or four weeks. We come back to whether that three-to-four-week period will allow the privileges committee to do a fulsome review of the standing orders.

As part of this process, I wrote to the President as chair of the privileges committee to seek an opportunity for opposition members, and in fact all members of Parliament, to contribute to the debate on speaking times, because I thought all members, particularly current members, would have a view on the matter. It might have been extended to former members and other important personages. However, in this case, representing the alliance and to some degree the interests of the crossbench, I wrote as the Leader of the Opposition to the President seeking an opportunity to contribute. I said, in fact, that many members of the opposition might wish to make their opinions known to the committee in the form of written submissions or oral evidence. That was on 15 June. On 17 June, I received a reply, for which I thank the President. The President, effectively, confirmed the standing orders, and then said —

Given the short reporting period for the Committee to provide an Interim Report on speaking times, the Committee resolved not to seek submissions at this time, However, the Committee intend, in due course, to call for submissions and consult on the broader review.

In the short, sharp review of speaking times, there was no consultation process; there was no consultation with members of Parliament, sitting or former, or personages who might have some knowledge of the functioning of the Legislative Council of Western Australia. To be honest, I thought that was astounding, but that is obviously a direct result of putting in place a time frame that in no way, shape or form allows for considered detail over a long period. I am sure the members of the Standing Committee on Procedure and Privileges put in long hours, particularly around that process, and have put in long hours since. We commend them for their work, but it is astounding, given the debate and that members on this side of the house have said the time frames are too tight.

In relation to the more fulsome review, I received from the Chair of the Standing Committee on Procedure and Privileges, the President, the following letter inviting leaders of parties to provide written submissions in relation to the attached terms of reference, which were exactly the same. The closing date was 4.00 pm on 13 July 2021. I received that letter on 30 June, so it was a two-week period, which was at least better than the interim report. She also wrote —

Submissions are confidential until the Committee releases them.

I think that is true. The terms of reference have not changed; the committee was to report no later than 10 August. On behalf of the opposition and the alliance, and in the interests of other members, I made a more significant contribution, which I quote —

I write as the Leader of the Opposition in the Legislative Council to you in your role as Chair of the Standing Committee on Procedure and Privileges ... in response to your letter to MPs dated June 30th 2021 in which you advise that the Committee will take submissions on the wider review of the Legislative Council Standing Orders until the 13th of July 2021, a period of fourteen days.

The Opposition is aware that the Committee is currently examining the standing orders of the Legislative Council of Western Australia, a proposition that was supported by the Opposition. I thank you for providing the opportunity to make a submission.

The Opposition notes that the last full review of the LC Standing Orders commenced on the 15th of September 2009 and was tabled on the 20th of October 2011. It therefore lasted a full two years and delivered a detailed and comprehensive report. This was followed by two further though shorter supplementary reviews in September 2012 and August 2013 that added to the original work.

I note that in Appendix A of the 2011 report the then Committee called for submissions from Members “in September and October 2009”, which would seem to indicate a much greater period than the one proposed for the current enquiry.

The Opposition remains greatly concerned that the consultation period for the current enquiry is far too short, especially given that it commences at the start of the Parliamentary winter recess when many MPs are likely to be away from their offices either on a break or on Parliamentary business.

I therefore urge you to extend the time available for Members to make a submission.

Should the Committee continue with the current tight timeframe I would also seek your guidance as to which areas of the Standing Orders the Committee will be focusing on? It would appear obvious to me that the Committee will not have time to do the sort of extensive review that the 2011 report was able to achieve over two years, so could you please identify key areas that will be the focus of the current enquiry?

In relation to the current enquiry, I also believe that it would be of great benefit to review the effectiveness of the changes implemented as a result of the 2011, 2012 and 2013 reports. The Opposition therefore recommends that this review be undertaken as a matter of priority in your current enquiry.

It is also our position that Temporary Standing Order changes utilised by Parliaments since the 2011 report should also be reviewed and assessed for their effectiveness. It may be that some could be made permanent to improve the functioning of the House.

The short timeframe applied to this enquiry remains an issue of grave concern for the Opposition, as we consider that this greatly diminishes the potential effectiveness of the review. I reiterate that in my opinion this reflects poorly on the Council and undermines the appearance of independence and thus the public's confidence in the enquiry.

I urge the Committee to extend the timeframe and deliver a complete and fulsome response to the terms of reference of the enquiry. I am sure you will be cognisant of the urgency of this request, so I look forward to your response.

The date on the letter was 2 July. I received a response from the committee, signed by the President as the chair. I quote —

Dear Dr Thomas,

...

Thank you for your submission... to the PPC's inquiry.

In your submission you ask that the Committee:

- a) extend the time available for members to make a submission to the inquiry; and
- b) identify key areas that will be the focus of the current inquiry.

The Committee remains committed to reporting within the timeframe set by the House, and is therefore unable to extend the time available for members to make a submission to the inquiry.

That letter is dated 30 July 2021. I received it in my inbox on Monday, 2 August, which was two days ago. Yesterday, we received a document, tabled by the President, that reads —

On Monday 2 August 2021, the Committee resolved to seek an extension of time in which the Committee is to report.

Guys! How many times did we have to say, "You cannot do a fulsome report in the time you set for yourselves"? They said, "Oh yes, we can! Oh yes, we can!" Then, "By the way, can we have more time?" This is "The dog ate my homework" excuse. I do not know how many times we have to say this. It is not the case, in my view, that this means we will receive a fulsome report on the rest of the standing orders because I do not think there is any way anybody can deliver that in the period requested. It amazes me that I received a letter on Monday, 2 August, saying that the committee remains committed to the reporting time frame, which, according to the report tabled yesterday, was the same day that the committee resolved to seek an extension. Maybe I received this just before the committee resolved to seek an extension.

Hon Sue Ellery interjected.

Hon Dr STEVE THOMAS: The one thing I can say about this process, honourable members, is that we can assume, I think with great thankfulness, that the committee is not simply rubberstamping something that was already written by the government to suit its agenda because otherwise it would not need an extension; it could simply be rubberstamped. I am pleased that members of the Standing Committee on Procedure and Privileges have demonstrated that at least they are prepared to take something of a look at this process. It stands to the credit of the honourable members present, particularly the President, that it seems obvious to us all that this was not something preordained or pre-stamped to the level that the report was already written. We know that it is a trend of government not to ask for an inquiry it does not know the answers to and not to look for a set of recommendations that are not already pencilled in somewhere down the track.

It is absolutely the case that I received a letter on 2 August, the same day that the committee was meeting, to say it did not need an extension. How urgent was it, on Monday, 2 August? Did it suddenly occur to members that they needed an extension? I think that is an incredible part of the debate to date.

As we said during the debate, it has always been the case in this house that changes to the standing orders are conducted with the support of both sides of politics; they are bipartisan. Changes to the standing orders have always been made by consensus. That is the tradition of the Legislative Council of Western Australia. We have seen tradition thrown out the window. We have seen contempt for the processes of this Parliament. In particular, we have seen contempt for the processes and systems of the Legislative Council. There has to be a point at which there is some recognition that running this particular agenda cannot continue. It might be good for the government in the short term but it is not good for democracy; it is not good for government in the long-term, however long the Labor Party is in power and however long it takes the Liberal Party to form a new government. It is not good for democracy.

I do not understand why there cannot be some acknowledgement that the time frames presented to this house were, if I was to be generous, overly ambitious. They were, in my view, utterly unachievable if the government's intent was to do a fulsome review. Do not forget that in my submission to the review, I suggested that the previous significant review took two years. It was followed up by a couple of subsequent reviews just to pick up the pieces that had been missed in the two-year review. It took a significant amount of time.

I would also like to take members to the correspondence, and I think it would be appropriate, at the end of my short contribution, President, to seek to have the correspondence tabled so that members, particular members of the crossbench, can view it. I was particularly interested in the section that said submissions are confidential until the committee releases them. I think that is very true and always the case. No matter what committee members are on, it has always been the tradition that submissions are confidential and basically everything in the committee should be confidential until the committee agrees to release it, and I agree with that. Right now, we are looking at a situation in which submissions have closed, we have an incredibly rushed time frame, although admittedly, the motion before the house today is a motion to extend that time frame slightly, but we have no idea how many submissions were received. Who has submitted to this review for whom the time frame is so tight? I would be interested to hear how many members of Parliament in this house, who obviously received an invitation to submit, put forward submissions. Ultimately, I will be looking forward to that in the report. That sort of information would be useful. I would like to know who is providing the guidance, because we need to make sure that this is not something the government has simply cobbled together. I will seek an opinion from you, President, on whether the correspondence between you and I can be tabled. I know there are issues of privilege and I am fully aware that you might need to assess that. I would have thought, given we are in the chamber to which the privilege applies, that those documents could be tabled. I am happy to do it at a later date; it does not have to be done now. I am happy to seek a ruling. If you think it is reasonable, President, the ruling can occur at a later sitting or some future day.

The PRESIDENT: Thank you, honourable member. I have already asked for advice on the content of the letters and the matter of privilege. I will provide you with a response at a later date.

Hon Dr STEVE THOMAS: I am perfectly happy with that, President.

Here we sit, members. I would like a bit of a mea culpa from the government to be honest, and today has not been a good day for mea culpas; I accept that. This is something that this house debated in some depth. The unified position of the opposition was that the time frames were too tight. We were told, "No, no, no, there's nothing wrong with them; the time frames are fine." President, the time frames are too tight. The committee, in my view, cannot look at this in enough detail. I was very tempted to attempt to move a motion to extend the time frames a second time, but I leave it to your guidance, President. It is simply that the opposition says the job cannot be done, in our view, with the time frame that is in place. It gives me no great pleasure to say that we told this house so; we told government members so and we kept telling them all the way through the process. We wished they would listen and respect that opinion.

HON SUE ELLERY (South Metropolitan — Leader of the House) [6.18 pm]: The government will be supporting the motion from the committee. A lot of things were raised in the contribution by the Leader of the Opposition. I am not sure a debate of the kind that we are having is the place to raise those issues. I am not entirely sure about the exchange of correspondence but it sounded to me that the honourable member perhaps has a disagreement with the committee. I do not know what that is about; I am not party to any of the exchange of correspondence that he is talking about. Nevertheless, the government will support an extension of time.

Question put and passed.