

Hon Dr Steve Thomas; Hon Sue Ellery; Hon Martin Aldridge; Hon Tjorn Sibma; Hon Wilson Tucker; Hon Dr Brian Walker; Hon Peter Collier; Hon Sophia Moermond; Hon Nick Goiran

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## STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

*Sixty-fourth Report — Review of the standing orders — Standing Orders Suspension — Motion*

**HON DR STEVE THOMAS (South West — Leader of the Opposition)** [2.15 pm] — without notice: I move —

That so much of the standing orders be suspended so that order of the day 19, Standing Committee on Procedure and Privileges — Report 64 — Review of the Standing Orders, is considered in the Committee of the Whole House.

**The PRESIDENT:** Members, the Leader of the Opposition has moved that motion. I just wanted to check whether that motion has been circulated. Can we please allow a minute or two for that to be circulated.

**Hon Dr STEVE THOMAS:** The moving of a suspension of standing orders motion in the Legislative Council is, quite appropriately, a very rare event, and it should be used only in extraordinary circumstances. I think most members on this side of the chamber at least would accept that today is an extraordinary set of circumstances. We find ourselves in the amazing situation that the contempt of the government for the normal operations of this Parliament is firmly on display. The government, having had an election that gave it control of both houses of Parliament, is now determined to wring every advantage out of that that it can. The government is prepared to walk all over precedent and the good standing of the Legislative Council and to treat this house, in my view, with contempt. It is for those reasons that I have moved for the suspension of standing orders today.

It amazes me that the house is being asked to deal with the sixty-fourth report of the Standing Committee on Procedure and Privileges, dated September 2021. That report was, in my view, very rushed, as we have debated in this house previously. It is interesting that that report was tabled on Thursday of last week, and one sitting day later we find ourselves confronted with a new report from the Standing Committee on Procedure and Privileges, the sixty-fifth report, *Corrections to report 64: Review of the standing orders*. If honourable members need a demonstration that the sixty-fourth report is designed to achieve a certain outcome—that is, to treat the conventions of this Parliament with contempt, and to deliver as rapid an outcome as possible, despite the fact the house will not have time to do its job properly—we simply have to look at the evidence before the house today. This committee was unable, with all the best intent of the world, to deliver an unflawed report in the time set for it by this chamber, as presented by the government.

We have a report that needs correction one sitting day after its delivery. I think that should raise alarms for every member of this house. Every member of this house should be concerned that this is a rushed job. But, further to that, a greater issue is the fact that we are now going to debate the 38 recommendations—as amended, I might add—in the next sitting day as a job lot. That is not the way that this Parliament has traditionally operated. In the normal course of events, when the Standing Committee on Procedure and Privileges hands down a report on the operations of this house, as determined by the standing orders, historically, a few things happen. The first is that it is done by agreement across the chamber, with the government taking all the parties with it. Obviously, with such an overwhelming election, the government feels that it does not have to treat anybody else in the chamber with any respect, but I would have thought it might have liked to treat the chamber itself with respect.

The second thing that traditionally happens is that significant numbers of recommendations are dealt with one at a time, so that we can debate each of them and work out which recommendations the house agrees with and which are likely to be contentious. I would have thought that that would have been the action of a government that is happy to engage with the opposition to get the best outcomes for the Parliament and the people of Western Australia. I would have thought that it might have been useful to show some respect to the house itself by making this a collaborative effort, but that is obviously not what has occurred today. We will debate all of these recommendations and proposed amendments to the standing orders in one hit. What is the process if individual members want to agree with some of the committee's recommendations and disagree with others? How is the debate to proceed if we can find agreement on a number of recommendations that are positive? As tempting as it is to come out and say that the report presented by the Standing Committee on Procedure and Privileges was terrible and nonsense and is just the will of the government, a reader of the report would understand that that is not the case. There are some positive recommendations in this report. The report suggests some things with which the opposition agrees, and I think probably every member of this house will agree. This report is not simply the agenda of the government. There are some positive things that will assist the house in its procedures. How does the house have the capacity to say to everybody, "We agree on this number of recommendations"? If, as was open to the government, we debated this one clause at a time, as per the motion that I have moved today, we could find those with which we agree.

Which recommendations do we agree with? There are obviously some recommendations in there with which we agree. It was the request of the opposition that the Leader of the House reinstate the temporary standing orders for motions that existed under the previous Parliament. Those are good temporary standing orders. There is a recommendation in this sixty-fourth report, adjusted slightly, but effectively acknowledging that this recommendation was supported across the board by members of all parties and should be continued. How do we suggest that when we do not have the opportunity as a party to deal with it separately? How can we find any agreement when it is the position of the

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government that it is an all-or-nothing boat, it is a job lot to be set forward, and that the opposition and the people of Western Australia simply have to take the recommendations in one hit?

I think that the government has done a disservice to this house by requiring it all to be debated and agreed to, and it will be, because the government has the numbers, and we understand that. Members of the government should think about the alternative potential headlines that could have come out of this. What is the debate that we could have had versus the debate that we are going to have? We could have had a debate that said that there was significant agreement across the Legislative Council on a number of recommendations, and that we all agreed that these things are good outcomes. Then we could have focused the debate in on those things with which we disagree. During the substantive debate this afternoon, I am sure we will get to having a discussion around recommendations 5, 6, 7 and 8 and what they might represent, because they are good recommendations for the government but they are not good for the opposition or for democracy. We could have had that debate, and that would have been a really interesting debate, as would some others. I do not necessarily think that a debate on afternoon tea would be the most productive debate that we might have. I would like to think that a debate on afternoon tea would have been pretty short, and there might have been a reasonable amount of agreement on how we go forward with some of those. We might have got through the debate on temporary standing orders reasonably quickly. In my view, a lot of recommendations in this report would see a great degree of uniform support, but we will not know that unless this suspension of standing orders and motion is supported and we go through this process individually to find which recommendations we agree or disagree with.

There was an opportunity here to demonstrate to the people a degree of commonality that suggested that change might be required, and we could have then had a substantive argument about the bits on which we differed. I would have thought that that would be a pretty healthy debate. I would have thought that that would be a debate worth reflecting to the people of Western Australia, but we will not have that debate today. We will again have a debate that says that it is the government's way or the highway. For a lot of things, that is okay. When the government presents bills and it has the numbers, it gets to do that. There is a process of proper scrutiny of legislation. Obviously, it is important for the government to get its legislation through, and it likes to minimise the scrutiny; I get that. I know that members of government like to get bills through in the shortest possible time. We get rhetoric from across the chamber all the time about why we are questioning things and why do we just not agree, admittedly more from some ministers and parliamentary secretaries than others. Some try their very level best to give adequate answers to questions; that is absolutely the case. There are times when we actually succeed in a cooperative manner, and there are times when we make legislation better through the cooperative nature of the Legislative Council, even when the government has the numbers.

If members can remember as far back as the last sitting week, they will remember that we debated the Veterinary Practice Bill 2021 and amendments were put in place by a government that was prepared to listen to positive suggestions from the opposition.

**Hon Alannah MacTiernan:** But, member, part of the problem is that involved you and some of your colleagues, who are reasonable people. That is not a uniform composition, is it?

**Hon Dr STEVE THOMAS:** The minister makes a good point, and, I have to say, it is not a uniform proposition that ministers across the chamber do their very best to assist the process. Some ministers are known for interjecting with vehemence and engaging in slanging matches on occasions that absolutely extend the debate.

Several members interjected.

**Hon Dr STEVE THOMAS:** President, it behoves me to point out that we have just had the proof of the pudding, without necessarily having to refer to anything else. It is absolutely the case that, in the same way that some of the members of the opposition and the crossbench might seek to take up a point in minute detail, there are ministers and parliamentary secretaries who seek very hard to make their points and sometimes give very long answers to questions in an attempt to get a political point across. It is absolutely the case that there is some of that on both sides. But that does not defeat the purpose of the argument before us today—that is, that there is a better way to do this.

Several members interjected.

**The PRESIDENT:** Order! This is not a cross-chamber chat; it is debate on a motion.

**Hon Dr STEVE THOMAS:** Thank you, President. Once again, you wisely advise that interjections can delay things not infrequently. I thank you for your wisdom and guidance on that, and for pointing that out, President, because it happens on both sides of the chamber.

We have moved the motion before the house today because we see no other way of doing this, apart from a motion to suspend standing orders to ask the house to examine this report and its recommendations one by one. Otherwise, we would simply have to go through and find some recommendations that we like and be ignored and snubbed on those that we do not like, because there is no capacity for members to make changes. I presume that the government will give some sort of response to this motion and I suspect that it will not support it, which in my view will be a shame.

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I am interested to see whether the government will propose how the amendments to these recommendations will be dealt with and how that process might occur. I note that it is interesting that there are amended recommendations before the house. The sixty-fifth report of the Standing Committee on Procedure and Privileges effectively amended the recommendations that are before the house. It is extremely interesting that that committee has been able to amend a set of recommendations without debate. Maybe one day the procedure and privileges committee can look at that—that is, how things can be amended without debate in the house. I would have thought that it would be unusual for a committee to effectively amend its own recommendations. How can everyone else receive the equivalent treatment? I will be extremely interested to see how the government responds to that. How can members of the chamber receive the same sort of largesse as the Standing Committee on Procedure and Privileges to amend recommendations before the house, even before they have been debated? Surely every member should be given an opportunity to come up with a better way of doing things. An argument might be run at some point that the Standing Committee on Procedure and Privileges has given a perfect report in the very limited time frame that was allowed by the government. We might have been able to run the argument that it is without fault, except that the committee has already come back, after an extension of time, with the sixty-fifth report, which contains a set of corrections—seven corrections, if memory serves me correctly—to the sixty-fourth report that was delivered a few days ago.

I do not blame the Standing Committee on Procedure and Privileges in the slightest. I think the committee was given an almost impossible task to run through and review the entirety of the standing orders. To give the standing orders due purpose and due consideration in the time frame that was allowed by a motion agreed to by the government was a herculean task. To be honest, I do not think anybody expected the committee to be able to achieve the level of review that members had in mind. We gave the committee an impossible task. We should be careful of criticising the committee for delivering an imperfect report given the time frame imposed upon it. I am sure that members of the committee did their absolute best in the time that they were provided.

It is also, of course, pertinent to the debate that there was a minority report to the sixty-fourth committee report. That minority report, I think, is critical in that it lays bare some of the issues that we would like addressed if we had the capacity to address individual issues. I turn to the minority report of the sixty-fourth report of the Standing Committee on Procedure and Privileges, *Review of the standing orders*. Obviously, it is not the most recent committee report, but it is the report that was tabled last week. The minority report starts with these words —

#### **Minority Report**

##### *Permitting legislative scrutiny*

A minority report of the Hon. Tjorn Sibma MLC and the Hon. Martin Aldridge MLC

- 1.1 This minority report provides an alternate perspective to the majority view presented in paragraphs 3.52—3.58 (inclusive) in Chapter 3, ‘Balancing legislative scrutiny and legislative progress’ of the majority report.
- 1.2 Furthermore, this minority review dissents from Recommendations 5, 6, 7 and 8 as they appear in the majority report and provides alternate recommendations.

It is interesting that as we go through the process, the minority report recommends an alternative. How do we debate that alternative? How do we debate an alternative when the motion before the house is that the entire report be adopted as a job lot? How do we consider the alternative recommendations as put forward in the minority report of the standing committee?

I will not read the entire minority report, but recommendation A, the final part of the report, states —

A minority of the Committee recommends that the Council directs the Committee to:

- i) Seek submissions from Members of the Council and other stakeholders on their views concerning the risks and benefits inherent in adopting further time management practices, such as the Urgent Bill provision via proposed Standing Order 125A, before any change is adopted by the House.
- ii) In parallel, seek submissions from Members of the Council and other stakeholders as to their preferences in expanding avenues for greater legislative scrutiny for report to and potential adoption by the Council.

It is obvious to anybody who reads the report that two of the five members of the committee have grave concerns about recommendations 5, 6, 7 and 8. I have no doubt that we will get to those exact concerns when we debate the substantive motion. I would like to think that we will get to that debate one recommendation at a time, because that is the obvious way to do it—one recommendation at a time. If that is not to be the case, I am interested to know how we will debate the recommendations of the minority report, which proposes alternatives to recommendations 5, 6, 7 and 8. We cannot focus on them. We effectively will have the equivalent of second reading speeches on this and members will be able to stand up and make their points, but we will not have capacity, in the time-honoured way,

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to look at it recommendation by recommendation. Frankly, I think that is an offensively arrogant view. I must admit that I, for one, am getting a little bit tired of the way in which this chamber and this Parliament are being treated. It is absolutely true that the state of Western Australia overwhelmingly elected a Labor government in both houses, but I missed the bit where that means that it can automatically just treat the opposition with contempt, because that is kind of par for the course. I get that. We argue back and forth across the chamber and that is pretty reasonable. It might surprise members to know that I am not shy or retiring and I do not mind a bit of argy-bargy. I know that that is not within the standing orders necessarily and that all interjections are unparliamentary, but I have been known to accept interjections on occasion on the basis that I do not mind the debate being a little rough and tumble, but perhaps not to the extent of the place that shall not be named, in which I spent four years. Absolutely, I do not mind a bit of rough and tumble. It concerns me greatly the extent to which this government treats this house in these circumstances—it is with absolute contempt. I do not think it reflects well upon the house or the government. I do not mind a bunfight—that is not a problem—but let us have a bunfight between the government and the opposition; that is easy. You guys won the election; you ultimately get to win the bunfight! I remind members of the old expression: the opposition has its say and the government has its way. That is one of the grim facts of life that we all have to adjust to; that is fine. But it is the treatment of this Parliament with absolute contempt that drives me mad, and should drive mad every person who does not sit on the government benches right now. It should raise concerns for those members of the government who at some point will have a long enough career to find themselves in opposition again. Because it will happen, members: there will come a time when government members sit on this side of the chamber and members on the other side will reflect and think, “There once used to be parliamentary scrutiny. We used to look at legislation and the opposition would go through it in fine detail.”

Before government members think that it is only the Liberal and National Parties that do this, they should have a chat to some former Labor members of this place. Have a chat to Hon Tom Stephens and Hon Ken Travers and ask them how long they spent in committee stages or on second reading speeches. Ask them how long they debated bills. I note that some members opposite have a smile on their face right now, because they remember the contribution of some of those members! I do know, as is appropriate, that staff were stony-faced during that contribution, but some members opposite remember the work of Hon Tom Stephens and Hon Ken Travers. There are still members in the chamber today who have not been above making particularly long speeches or using the committee stage of a bill to their benefit. I accept that there are a lot of newbies in this chamber, but there are members opposite who have used these mechanisms in the past. I say to new Labor government members: remember that at some point when you sit over here, your capacity to scrutinise bills will be deservedly heavily curtailed because it suits the members who are currently your ministers and parliamentary secretaries to minimise the debate. Guess what, people? What goes around comes around. There is a price to pay for this. The piper will be paid at some time in the future when the Labor Party sits in opposition and Labor members want to hold the government to account. I hope that at some point a minister, in a future opposition alliance government, says, “Guess what, people—you gave us the trigger.”

**Hon Dan Caddy:** Will it still be called an alliance?

**Hon Dr STEVE THOMAS:** It may well be—the alliance of the willing. It worked in Afghanistan—maybe not!

When we get to that point, let us see what happens. I would expect screams of outrage from members who are still here, who sit opposite but are happy to say, “We are happy to curtail the appropriate scrutiny of Parliament because it is in our political interest. Sometimes sitting through and having a fulsome debate on a topic is just too hard to sit through; we can’t be bothered.” There will come a time. What goes around comes around. There will be a time when members of the alliance are sitting on that side saying, “There was a time when scrutiny was important to this house.” That is not to say that the rules have always been constant. We will get to that debate in more detail when we get to the substantive motion.

Obviously, for me, the contentious part of the recommendations before the house are recommendations 5, 6, 7 and 8, which would effectively gag debate. It is referred to under those circumstances. It is effectively a gag—to prevent debate. I will start at the background section of the report, “Principles adopted for the review”, on page 1 of the sixty-fourth report of the Standing Committee on Procedure and Privileges. Efficiency was adopted as part of the review. The report states —

- Efficiency: this includes increasing the productivity of the Council to maximise time and effort for its core functions and aims to reduce non-productive time.

Core functions for whom? Non-productive time for whom? If the only measurement is the amount of throughput of legislation, obviously the government says, “We don’t want scrutiny; scrutiny is non-productive time for us.” I say the same thing about this dot point —

- rationalise the priority of business considered by the House;

Is that for the benefit of the house or is that for the benefit of the government?

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Some of the submissions have been intriguing to me. I will reference this particular part because I think it is important: chapter 2 on page 4 of the sixty-fourth report refers to the submission by the Leader of the House. Paragraph 2.4 states —

The Leader of the House commented that there was not enough time in the Order of Business for Government business. The Leader of the House suggested the following three ways that more sitting time could be achieved:

- an urgency mechanism to bring debate to a close;
- a mechanism for the Council to sit beyond the usual adjournment time that would not be open to an extended debate; or
- through the reinstatement of Wednesday evening sittings.

I note that paragraph 2.7 of the report refers to the submission of Hon Colin de Grussa, who also recommended an increase in sitting time as opposed to gagging the debate. In my view, there is no doubt that the first dot point at paragraph 2.4 refers to the gagging of debate. It indicates an intent of the government.

Jumping to chapter 3, “Balancing legislative scrutiny and legislative progress”, paragraph 3.22 states —

A search of the parliamentary records indicates that closure motions have been used exceptionally sparingly since the Council’s inception. Since 1977 only 17 examples can be located of a closure motion being moved that was in order. There are no examples of an in-order closure motion being moved in the last 21 years.

What does that tell us? Closure motions have been used—there were 17 in-order motions moved between 1977 and presumably 2000. I presume in that period they were used by both sides of Parliament. They have not been used, by tradition, in the last 21 years. What it does say is that there is already a procedure in place to gag debate. The procedure that is in place reflects to some degree what happens in the house that shall not be named—the Legislative Assembly of Western Australia.

Looking at the recommendations, I want to say this briefly because it is pertinent to the debate on the suspension of standing orders: it will absolutely be the case, if this house is forced to accept all of these recommendations as a job lot, that we will have less scrutiny of legislation than the Legislative Assembly of Western Australia. That should appal every member who considers themselves part of the house of review. Surely our role is to review, to oversee and to correct. I often get into trouble in my party room. I note we should not speak about matters from the party room, but I will let this out: I do not uncommonly make reference to the fact that the upper house spends a lot of time correcting the errors of the lower house. I think that is absolutely our role. Numerous amendments have come forward into this chamber. Funnily enough, in recent years, amendments have come forward from the government as frequently as they have from the opposition for legislation that started in the Legislative Assembly, where I presume someone in a ministerial office, or a minister or parliamentary secretary, dedicated to their job, has decided that the Legislative Council might take the trouble of reviewing the legislation in a proper and fulsome manner. The assumption is probably that the debate that occurs in the Legislative Assembly is not equal to the sort of scrutiny that is applied in the Legislative Council.

We are—or we used to be—the house of review, but are we the house of review anymore? This is why this motion is important. In the Legislative Assembly of Western Australia, a bill can be declared urgent under Legislative Assembly standing order 168(2), which states, in part —

If the Assembly agrees to a motion without notice by or on behalf of the member with carriage of the bill “That the bill be considered an urgent bill”, the second reading can proceed forthwith.

What will the Legislative Assembly’s rule of thumb be? At least the question of having a bill declared urgent goes to the floor of that chamber, whereby there is an opportunity for debate. Okay, the government—whichever government it is—will have the numbers, but there will be a debate on the floor of the house. What we are going to put in place in the Legislative Council is that a bill can be declared urgent purely at the whim of a minister or a parliamentary secretary. They will stand up and say, “I’ve decided this is an urgent bill”, and there will be no debate. There might be debate about how long the minister is prepared to accept the bill being examined by the opposition, but it will be absolutely at the whim of the government.

I wonder how that reflects scrutiny. The Legislative Council will have less rigour and less accountability than the Legislative Assembly. I have actually been in both, and I think that is an appalling position to find ourselves in. I have sat through question time in both houses, and it is absolutely chalk and cheese. We will find ourselves in the appalling situation of having less accountability than the Legislative Assembly, and one of the main reasons for that is that we will have to accept the recommendations of this report as a job lot, to the point at which it will be pretty much impossible to even debate, recommendation by recommendation, how we might proceed.

What an appalling situation we find ourselves in today. It is no wonder that I felt compelled to move a suspension of standing orders motion—something that would not be considered if we had proper scrutiny in the Parliament

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of Western Australia and if the Legislative Council of this state were able to do its job properly. It is appalling, and the contempt in which the government holds this chamber and its role is equally appalling. The arrogance with which the government is proceeding, obviously based on its enormous election win, is breathtaking.

I hope there will come a day when members of the current government will realise exactly what they have done here. I suspect that day will not occur until they are sitting on the opposition benches, trying their very best to hold the government to account. They will say, “The arrogance of the Liberal–National alliance is astounding. They’ve said that this is an urgent bill and basically told us that we can debate it for an hour, and then we have no choice but to pass it.” At that point, honourable members of the government will have come full circle. The alternative today is to treat the Legislative Council with a little respect, to treat history with a little respect and to treat precedence with a little respect. I suspect that that might be beyond the government today, but at the very least, this is worthy of a debate in which the government can try to justify the level of arrogance it is determined to demonstrate.

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [2.54 pm]: I rise to indicate that the government will not be supporting the motion before us.

The honourable member began and finished by talking about respect. Here is the thing: don’t you dare talk to me about respect. I have read the WhatsApp message that refers to me; I get a hashtag, and it is not pleasant, and it is certainly not respectful, so don’t you dare —

**Hon Colin de Grussa** interjected.

**Hon SUE ELLERY:** I am responding to him!

Several members interjected.

**The PRESIDENT:** Order!

**Hon SUE ELLERY:** I am responding to the comments made by Hon Dr Steve Thomas. I would never assume that the man sitting next to him would use any of the language that was so disrespectfully used about me and other women; I know he would not.

**Hon Colin de Grussa:** Thank you.

**Hon SUE ELLERY:** But there are members of his party who did, so Hon Dr Steve Thomas should not lecture me about respect, because I was treated disrespectfully in that WhatsApp message. Big deal, who cares—but he should not come in here talking about respect when he cannot demonstrate it and he does not do anything about disrespect when it happens. He does not call it out; he did not even stand up and say, “I distance myself from those comments. I find them offensive.” He did not do any of that, so do not talk to me about respect.

The actual question is: is it possible, in the course ahead of us of being asked to consider, adopt and agree to recommendations 1 through 38, to move amendments? The proposition put by Hon Dr Steve Thomas is that it is not. That is disingenuous, and he knows it, because he intends to move an amendment. The notion that it is not possible to determine that certain recommendations should not be adopted and that others should be, or that certain recommendations should be amended, is wrong; it is possible. Hon Dr Steve Thomas intends to do so, but he is going to stand here and tell us that this is about disrespect, because how are members to know? He knows how to do it; he has one already drafted. His proposition is disingenuous.

He also made the point—we will see his exact wording when *Hansard* comes out—that we might think that matters before us, like the reference to adopting the temporary standing orders or the reference to how we deal with afternoon tea, could be debated pretty quickly. He is right; we might think that, if we were to assume that questions before the Legislative Council could be dealt with in a rational way, but, of course, that would require Hon Dr Steve Thomas to exercise some discipline over members of his party, and he cannot and does not. Time after time, he demonstrates that he cannot.

We could go down the path of dealing with this report, recommendation by recommendation, and Hon Dr Steve Thomas might say—and I might reasonably believe him—that we could deal with the question of afternoon tea pretty quickly, but I can pretty much guarantee him that we would not, because he cannot exercise discipline. I have been in this Parliament for 20 years, and one of the things that strikes me is that every time there is a new group of members, they all, including members on both sides, make the observation, in various different ways: “I just don’t understand how they can talk so much.” Sometimes it is in the context of how to structure and deliver a speech and how much time is given to speak, but they all make that observation: “I don’t understand how that person can talk so much and say only one thing” or “I don’t understand how that person can talk so much and say nothing.” I have heard that from generation after generation of parliamentarians in this place. Although members opposite might argue that they are able to conduct a debate within a reasonable time, the reality is that they cannot deliver that.

The proposition was put that people would be confused by the sixty-fourth and sixty-fifth reports. I recommend members take the advice that the President gave a little while ago when she commented on the relationship between

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the sixty-fourth and sixty-fifth reports. That is, if members are in doubt, they should follow her advice and seek advice about how they might move an amendment to achieve the end they want to achieve. But members opposite are saying that they do not need to seek that advice because they have decided already that they are going to do it.

The chamber is able to manage this debate before us in one motion. I have indicated to the Leader of the Opposition that I would like to complete the consideration of this motion this week—this week. That is, I would like to deal with this during orders of the day over the next three days. How is that disrespectful? If necessary, we could sit late. I have indicated that we could sit late tomorrow and Thursday. I have also indicated that if it is necessary for people to deal with this in a considered fashion over the next three days, that is what we can do. How is that ramming this through today? It is not. I am hopeful that we can get through this before Thursday, but if it takes us to the end of Thursday to get this through, so be it.

The honourable member used a good example about question time towards the end of his comments. He made the point that we need only look at question time in the other place versus question time here to see how we could end up. He used the example of question time to reinforce his point that we could end up in this place with less scrutiny than the Legislative Assembly. It was a really good example, because he is right. The practice and conventions of question time in this place and the other place are different. That is not because the standing orders are fundamentally different; it is because the practice and conventions of question time in the two places are fundamentally different. For the information of new members, on any given day in the other place there are an equal number of Dorothy Dixers—questions from government members about things that show the government in a good light—as questions from the opposition. That happens every single day in every single question time. It occasionally happens in this place, but it is not the norm. It happens occasionally. That is not a function of the difference in the standing orders; it is a function of the practice and conventions of the two houses. We can continue to apply those conventions and practices and still have a tool that allows us to deal with how an urgent bill, or a bill that becomes urgent at some point during the bill's progress, gives us the capacity to do that. Does that mean in and of itself that every single bill and every part of every single bill will be considered urgent? No, it does not guarantee that. It will come down to the practice and conventions. In the same way that the practices and conventions for question time are different between us in the example used by the honourable member, the practices and conventions that apply to the matters before us on bills to be declared urgent, for example, will evolve as well, and they will be different because the practice and conventions and the culture of the two places are different.

We are grown-ups. We can try to deal with this issue in a considered, sensible and polite way—although probably not in a respectful way by some people—and we can try to achieve this over the next three days. I am confident we can get there.

**HON MARTIN ALDRIDGE (Agricultural) [3.04 pm]:** I rise to support the suspension of standing orders motion moved without notice by the Leader of the Opposition. I might start with where the Leader of the House left off. The Leader of the House reflected on the practices and conventions of the Legislative Council compared with the Legislative Assembly. I must put on the record for those members who are here for their first term in particular, as well as others, that the approach taken to the standing orders review, the matters contained within this report and the way in which we are now responding to the report of the Standing Committee on Procedure and Privileges has not been consistent with practice or convention. That will be the essence of my contribution to the standing orders suspension motion, which will be confined to the approach that the Leader of the Opposition and I prefer to that of the government, which is to put the recommendations as one question and to give members one opportunity to resolve the issue.

The issue in question is considerably diverse; it is not a discrete matter. This is not a single recommendation of a committee amending one standing order of the Legislative Council. This is a diverse matter with 38 recommendations ranging from how we define strangers of the house to how we conduct motions on notice. Ordinary members like myself get 45 minutes speaking time for motions. If last week is anything to go by, leave probably will not be granted for a member's time to be extended. Assuming leave is not granted, I will get 45 minutes to contribute to the 38 recommendations. If we factor in that members might want to remark on the way the inquiry was conducted that led to the report or refer to the very good minority report at the end of the sixty-fourth report, which I draw to members' attention, they will be left with about one minute, on average, to speak on each recommendation. Members have had very limited opportunity to go through this report because it was tabled only last Thursday and the amending report—the sixty-fifth report—was distributed to members after business hours only yesterday afternoon. There is nothing conventional about the approach that has been taken today, and that is why I prefer the approach suggested by the Leader of the Opposition. It is absolutely consistent with the previous practice of this place, particularly when in the past we have considered comprehensive reviews of standing orders, to go into Committee of the Whole. In my experience, the President, unusually, chairs the Committee of the Whole whilst the chamber considers a report of this nature recommendation by recommendation.

I think the word “haste” characterises this entire process. The house has demanded that this report be published with great haste, and we now see the government demanding that the report be considered, adopted and agreed to

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with great haste. Usually, it would be subject to some considerable negotiations and communication behind the chair and a secret meeting of leaders would occur in the members' lounge to consider the party positions on each of the recommendations. In my experience, that is how consensus has been formed about which recommendations of a report will be proceeded with and which will be dispensed with. As far as I am aware, none of that convention and practice has occurred since last Thursday.

One thing that members will be limited by under the government's preferred approach is standing order 37, which is a member's right of speech. It states —

- (1) A Member may speak once —
  - (a) on any question before the Council;
  - (b) on any amendment thereon; or
  - (c) in reply (if entitled under Standing Order 39).

I think the Leader of the House has made it quite clear that it is the government's clear intention to allow members to speak only once because her concern is that this debate may well continue beyond the next three sitting days if an alternative approach is preferred. I have some significant concerns with proceeding as the government wishes and limiting a member to be able to speak only once. They include the ability to canvass 38 recommendations in 45 minutes and also the diverse nature of those recommendations, not to mention that some of them are highly controversial. It will give members no right of reply thereafter, although a limited right of reply exists under standing order 38, but that is very narrowly focused on a member being misquoted or misunderstood. Some of these matters before the house are highly technical. I know that there are members who have some concerns or questions about what I would deem relatively minor aspects of the report that may be deemed technical matters.

My other concern is that one should not assume that the five hardworking members of this committee, and more importantly their hardworking staff, have been able to produce a report without fault within the very strict time frame that has been applied to this committee. That is no more evident than with the sixty-fifth report of the Standing Committee on Procedure and Privileges that was distributed to members after business hours last evening. The Committee of the Whole approach would allow those and others matters that arise during the course of the debate to be ventilated by concerned members. I have a number of questions, particularly about chapter 3 and the application of a so-called urgent bills process. A member's ability to respond to those questions will obviously be limited by the standing orders and the preference of the government, which is that a member shall only speak once.

As the Leader of the Opposition pointed out, at this point in time I have no understanding of how members, individually or collectively in their party groupings, sit on the 38 recommendations in this report. Clearly, Hon Dan Caddy supports all 38 recommendations because he has moved a motion to adopt and agree to those 38 recommendations. I am not sure whether that is the position of the Labor Party. We will find out in due course. I am not sure whether that is the position of the Greens, the Legalise Cannabis WA Party, the Daylight Saving Party or the Liberal Party. I make this point because the ordinary convention and practice of consensus building and the preferred approach that is taken to amending standing orders, which I will make a greater contribution on when we debate the recommendations, has allowed for those things to be navigated ahead of the debate. We entered this debate today not knowing anyone's position. I do not know anyone's position, apart from Hon Dan Caddy, who is supporting all 38 recommendations. He obviously supported them before the sixty-fifth report that has amended them, which is a rather interesting arrangement I will make further remarks on later.

The point that the Leader of the Opposition made is a credible one: it is very difficult to contemplate let alone deliver upon the deferral, amendment or opposition of particular recommendations individually. The method supported by the government is one that favours supporting all the recommendations. It is possible to oppose recommendations and it is possible to amend recommendations. But when we consider the number of non-government parties and non-government members, combined with the approach taken to date that has led us to this point, I do not think it is clear to anyone in this chamber where everybody stands with regard to 38 diverse recommendations. That is before I get to the alternative perspective that is put to members in the minority report of the sixty-fourth report. Recommendation A in the minority report of Hon Tjorn Sibma and myself suggests a different course. I suspect those matters will be canvassed when we consider recommendations 5, 6, 7 and 8, although a PPC report proposing amendments to standing orders would in the ordinary course be dealt with in the Committee of the Whole. That is not what has been proposed by the government today.

It is interesting to draw a parallel between the haste of this review, the haste in which we are being asked to adopt and agree to 38 recommendations in this report, and the haste that is sought through chapter 3 of the sixty-fourth report. There is a particular alignment of the need for speed by this government. Members may be contemplating particular recommendations. I think there are probably none more controversial than recommendations 5 through 8, but there are other aspects of this report worthy of consideration. Members who are considering or who have concerns or questions about aspects of this report will not be advantaged by the government's approach to speak once and



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put it to a vote. That suits haste and speed; it does not suit the outcome of achieving amendments to our standing orders in a sensible and measured fashion.

In the sixty-second report some of these issues were discussed, and I want to draw members' attention to this quote. It states —

*This house has a history of how we change the standing orders and it has been done on the basis of consensus. It has been done for the most part by referral to the Standing Committee on Procedure and Privileges or an expanded version or subcommittee of the Standing Committee on Procedure and Privileges, so that everybody in the house has the opportunity to have a say.*

...

*If we do not get the rules right about how we do our business, it follows that we cannot guarantee that we will get the right policy outcome or the right budget outcome. If we do not have the right settings to make our decisions, we will be setting ourselves up to make poorly considered policy and budget decisions if we do not properly consider the ramifications of every change to the rules on how we do our business. That is why we have the process that has been in place in this place for a long time, irrespective of who has had the numbers, and I will talk about the man who put that most eloquently on the record—Hon Norman Moore—in a minute. That is why we have had a position irrespective of who had the numbers in this place that we would have a very deliberate and considered process for making changes to the standing orders.*

...

*Although the Standing Committee on Procedure and Privileges may provide a consensus report, which everyone on the committee will have agreed to, the approach of this house has been and is now as we speak that that Standing Committee on Procedure and Privileges report will not be proceeded with if it does not have the consensus of the whole house. I will give an example. The Standing Committee on Procedure and Privileges has considered e-petitions and has made certain recommendations.*

I pause there. Groundhog day has come around once again and we have another report recommending e-petitions. It continues —

*Despite that report suggesting that the house go down a particular path, there is not consensus across the house, so we will not be proceeding with that. That is the time-tested method that we use to make changes to the way we do our business. We bring everybody with us. People will criticise us for that, and I am critical of doing that sometimes because I think we do not move fast enough; however, it ensures that everybody buys into the process and it ensures that we have the time and the opportunity to consider all ramifications and possible consequences, unintended or otherwise.*

It may surprise members to know that that was a direct quote from Hon Sue Ellery, Leader of the House, on 29 November 2017. I could not have put it better myself. That is why Hon Tjorn Sibma and I put that in our minority report. I think the Leader of the House captured the convention and practice of the Legislative Council—the “time-tested”, in her words, approach to the way in which we amend the standing orders. If the approach that we take to amending the standing orders is simply a product of whoever has the numbers in this place, then we might as well tear up the standing orders and put them in the bin, because whichever government or combination of parties has power on any given date will be able to literally rewrite the standing orders every time there is a change of government. That will do nothing to deliver good government in Western Australia, and nor will it do anything to support the important role of the Legislative Council as a house of review. Some of the matters contained in the report that we are considering today will significantly diminish the role of the Legislative Council. I will have more to say on that beyond this motion for the suspension of standing orders.

I now want to quote from what I think is one of the better submissions that was received by the Standing Committee on Procedure and Privileges in its inquiry. We did not receive many submissions, and some were better than others. I want to quote a couple of paragraph from the written submission of Hon Dr Brian Walker, which members can find in appendix 6 at page 90 of the report —

*The Legislative Council of Western Australia should be a chamber which respects, and indeed welcomes and invites a broad variety of viewpoints and positions. It should not become a mouthpiece of any one group or party, and alteration of our Standing Orders—as opposed to mere modernisation of them—with the aims of aiding a short-term incumbent, which I fear may be the intent of some on this occasion, threatens serve us badly, not only in the coming months and years, but across future parliaments as well.*

That is a point that the Leader of the Opposition made earlier in his contribution when he moved this motion. It continues —

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I would therefore urge the Committee to tread lightly, and with due sense of caution and reserve. Our Standing Orders were not created overnight, but rather through decades of careful consideration and collaborative debate. They should be varied in a similar fashion, if at all, and in that light, it is my very sincere hope that the Committee will be conservative in its leanings, collegiate in its outcomes, and will always err on the side of caution, if and when it finds itself in any doubt.

In closing, from a purely practical perspective, I wonder if the Committee might be inclined to follow the lead of NSW, and to consider the introduction of, at most, a series of sessional orders, which would allow us to trial any new procedures before adopting them as permanent rules. I understand from several colleagues in the NSW Legislative Council that their sessional orders, while not always welcomed individually across the chamber, have proved a useful transitional device, and might even be considered “best practice” in any gradual reform process.

Hon Dr Brian Walker finished that point by making reference to trialling orders before making them permanent. I draw that to members’ attention, because this is relevant to how we should consider the sixty-fourth report of the standing committee. Probably the most controversial matter in this report, and the matter that will most likely have the longest lasting and most detrimental impact on the role of this chamber, is not the proposed temporary orders but the permanent orders. Again, the convention and practice of this house, when significant changes have been proposed to the standing orders, is that they will operate initially on a trial or temporary basis. As we can see from the report, there is a recommendation to make a temporary order a permanent order, but with amendments. That is, we have learnt from our experience in trialling a temporary order and we now seek to make it even better, but as a permanent order.

There is no doubt in my mind that the government will get its way at the end of the day. That is indicated by the approach that the government has taken right from the beginning. I ask members to give due consideration to the motion moved by the Leader of the Opposition. It will not stop debate; rather, it will enable a better debate to occur, in which members will be able, hopefully respectfully, to argue the merits or otherwise of each of the recommendations. It is not sufficient to allow 60 seconds of debate per recommendation for an ordinary member. That is particularly the case when it comes to some of the drastic measures and permanent changes that the house will consider, in one way or another, when we debate the motion moved by Hon Dan Caddy.

**HON TJORN SIBMA (North Metropolitan)** [3.16 pm]: I rise to speak in support of the motion moved without notice by the Leader of the Opposition, Hon Dr Steve Thomas, to suspend standing orders so that we might consider the sixty-fourth report of the Standing Committee on Procedure and Privileges in a more orderly and comprehensive manner.

I will make some of my remarks in this contribution and will save some for the debate on the substantive motion. At that time, I will speak to the substance of the minority report, of which I was the co-author with Hon Martin Aldridge. I make note of the obvious fact that a minority report is attached to this report. That should, in and of itself, be a sufficient basis upon which to examine the content and the recommendations in this report in a more comprehensive manner. I listened intently to the contribution of the Leader of the House. I have a little more faith in the capacity of this chamber to deal with those recommendations in a way that will not derail the process. The recommendations are obviously very broad. The adoption of recommendations that may seem trivial or technical can never be without consequences. We need to have the opportunity to give those consequences due examination and ventilation. That, to me, is a sensible proposition.

It is obvious when we look at the composition of this chamber that the substantive motion moved by Hon Dan Caddy will succeed. The report will be adopted and the recommendations will be accepted and enabled, albeit in different ways. Some of these recommendations will be easy to adopt; others are less expedient and will take some contemplation and construction to get right. We need to give that the appropriate time to occur. Just to indicate, the obvious point is that the recommendations in the sixty-fourth report, at least the majority report, are going to be accepted, so there is absolutely no doubt that presumably the government’s preferred view will win the day. That being the case, why would we not take the time to actually go through the report? It need not be on a recommendation-by-recommendation basis, but we should at least deal with the recommendations as per each chapter and consider like recommendations against like recommendations. I think that would be a sensible way to proceed. It would be even more sensible to give the report to respective party groups that are represented in this chamber, give them sufficient time to digest the recommendations and then try to come to some sort of consensus or unanimity about which recommendations we as a house are comfortable to adopt at this time and which we would like to hold over and perhaps give more consideration to. To me, that is just stating the absolute obvious.

I think that a more considered, orderly examination of the recommendations and the issues fleshed out in the report is desirable, if only for chapter 7 of the report. I will find the appropriate reference. Chapter 7 deals with a range of issues. This is on page 39, if people are following. The chapter is titled “Other matters”, and there is a subheading, “Matters of interest to the Committee”. These were matters of interest to the committee, and I think they are actually

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matters of interest to every member of this house, as well. These have not given rise to a set of recommendations, but I think they would give rise to a better informed debate, or at least provide an opportunity for an even better refinement of the standing orders, if that were considered desirable. There are issues such as the regularity of standing orders reviews; some clarification over the role of participating members; a review of committee functions; the adoption of standing orders for COVID-19; and one that is actually of personal interest to me, which is “Improvements to the Order of Business” and the way that business is timed through the house. There is also a question of whether it would be desirable to consolidate non-government business with private members’ business. I do not necessarily have a strong view on that, but it is a debate worth having, and worth having in the appropriate spirit.

There is a minority report, and issues have been identified by the committee for which there are no recommendations. I think that these individually are justification for a closer examination, either through a recommendation or analogue to a clause-by-clause consideration, as we do with the bill, or for pulling back and perhaps the government taking a different approach to try to reach a greater degree of consensus across the house, so that it works to the advantage of the function and role of this house as the house of review.

I will reflect not so much on the substance—I will quote from these selectively—but I think the motion moved by Hon Dr Steve Thomas is worthy of support because it would provide a better avenue for some of the matters that have been raised by those members and ex-members who chose to make a submission to the review. I think, from memory, there were eight or nine individual submissions. I will clarify that point. I make a correction: there are 11. I will go through the list. These are submissions from people who have substance and experience. There is a submission from Hon Barry House, who is obviously an ex-President of this chamber. There is a very brief submission from Hon Nick Griffiths, who was before my time, but I understand that he was a President of the Legislative Council at one stage, as well. There is a very worthy submission from the immediate past President of this chamber, Hon Kate Doust, and from the ex-Deputy President and Chair of Committees in this house and in the previous Parliament, my friend Hon Simon O’Brien. There are also worthy contributions from the leaders of the crossbench parties represented in this chamber, I think with the exception of the Greens. There is a plurality of perspectives here that I think is worthy of some examination. These people either presently or previously have perspectives borne of experience and have or have had some skin invested in the game. I will quote very briefly from just a few of these examples, because I think they support the motion that is being moved without notice by Hon Dr Steve Thomas. I quote here from a submission from Hon Barry House. I think it is worthwhile that we reflect on these points.

Hon Barry House made the following observations —

- While our Bicameral system can sometimes appear to be cumbersome it has a tried and proven track record of stability and accountability which is something to be thankful for compared to most other jurisdictions around the world.
- There will be serious challenges to this line of thinking over the next 4 years with one Party having a majority in the Legislative Council. This has happened previously during my time but we learnt to live with it, not over react and overtly “exploit it”, and the Legislative Council has been much the better for it. This will almost certainly become an aberration in history as it is likely to happen very rarely in future.

I think we are actually on the verge of this point of aberration; in fact, I think we have probably gone beyond it now. He refers to the standing orders —

- The SO’s and procedures have adjusted to this situation by properly recognising each member’s right to speak and participate in affairs of the House—whether it be during Legislation, Roles on the floor and Committee proceedings and debate, CPA representation, etc. Projected Constitutional changes may change this to some extent but it is a reality around the Commonwealth at least that minor parties do gain some representation in Upper Houses in particular and, by and large, make a good contribution.

I will add in parentheses that the capacity for those parties to make a contribution is obviously going to be limited by recommendations 5 to 8, which are addressed by way of the substantive motion. This is why we should support the motion that Hon Dr Steve Thomas has moved.

The submission continues —

- It’s important to have all 36 members of the Legislative Council; Government, Opposition, Minor Parties & Independents, involved and playing a role in the Scrutiny and Accountability so critical to the effectiveness and ethics of our system.

I think we will come to this point again during the debate on the substantive motion, but that is exactly why we should proceed very, very cautiously. The submission continues —

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- While there has to be an opportunity for any member, especially non-government members, to have ample time to debate and register their point of view, I accept that speaking times could be curtailed to some extent. But you never want to introduce draconian curtailments to speaking times or accept the common use of the guillotine or gag—either by Standing Order or precedent.

I can forecast that I will no doubt be returning back to that point during the debate on the substantive motion. If I need to do it, I will underline the fact that Hon Barry House is a former President of this chamber. His was not a flippant contribution. It was not one given without any experience. It was given after a long history of service in this chamber, but it is not the only one.

I think the motion moved by Hon Dr Steve Thomas is also worth examining, except by virtue of the fact that some of the changes embedded in the sixty-fourth report may not affect each member equally.

I refer now to regional members of this chamber. I think that they should be given an opportunity individually to reflect upon these obligations and to determine whether the recommendations will assist them or enfeeble them in their duty to represent their regional electorates. I do not know the answers to those questions. We would have to ask a regional member. From memory, two regional members provided submissions to this review. One of them was Hon Darren West. He made a submission that is at least worth arguing about. We might not agree with the points that he raises but I think that that member—I say this all too rarely—has a contribution to make in this debate and should be given that opportunity as well. Frankly, I do so for this reason. The second paragraph of his contribution states —

Regional Members often travel greatly distances to attend Parliament, and spend Parliamentary sitting weeks away from home and family and out of our electorates. This travel and time in Perth is costly for taxpayers.

That is obviously the point. The point is that a different set of circumstances apply to him. I expect that other regional members in chamber, irrespective of their party affiliation, deal with different sorts of challenges. Will the recommendations embedded in the sixty-fourth report meet their satisfaction? We will not know because the government has determined that we will not embark upon a refinement to our standing orders through a process of consensus. I would hate to see the acceptance of these recommendations—as much as the obvious four recommendations that I personally do not agree with—imperil or limit regional members in any sense, but I will not know whether they will or will not until after the fact. I think that that is highly undesirable and obviously completely avoidable.

I will not refer to the excellent submission by Hon Dr Brian Walker. It is an eminently sensible submission that talks to practical measures and matters of principle, which I hope we can return to during the substantive debate. But I want also to read in an aspect of the submission the committee received from Hon Kate Doust—again, a person of absolute substance, who I think we would all benefit from listening to, frankly, when it comes to reviewing our standing orders. I will quote from her contribution —

One issue that I believe needs to be considered when looking to create change that would enable more government business time on the schedule is the impact on the chamber staff and their workplace arrangements. Whilst it might be desirable to add hours, an extra day or delete a tea break on a day or multiple days for members, each of these decisions has a flow on impact of the running of operations of both the chamber and the Parliament as regards staff rosters, award/agreement arrangements and provision of services. Consideration will need to be given as to the cost implications of any additional hours added to the weekly schedule and whether the Legislative Council and PSD might need to seek additional funds to cover any changes that are not managed in current or forward budgets. I am not opposed to additional hours.

I think that is a very reasonable contribution. Obviously, we are creating rules that will apply to us, but the implication of the acceptance of these standing orders will obviously impact on all staff members who support us. Frankly, the observation I make from the last four years and, sadly, probably over the last eight months or however long of this term—time is moving apace—is that those considerations are never prioritised and they absolutely should be. I cannot reflect on how each of the recommendations in the sixty-fourth report might impact on resourcing, staff welfare and overall operational costs, but we need to consider these kinds of things if we are actually to be diligent about reviewing our standing orders in a meaningful and comprehensive way. I would rather do that, but that opportunity is going to be missed. It will absolutely be missed if the motion moved by Hon Dr Steve Thomas does not get up because the Leader of the House has said that the government will oppose it.

I will also mention one practical measure. Embedded in the report is a recommendation—obviously, one I agree with—for the acceptance of e-petitions. This matter has been debated and discussed at length in this chamber and by my predecessors in this chamber. I would, however, like to hear the questions and perspectives of previous members of the Standing Committee on Environment and Public Affairs, a committee of which I am a member now, which dealt with this issue in the previous Parliament. I would like to hear questions from Hon Matthew Swinbourn and what his view is on that—whether it is practical or implementable. Another person for whom I wish every

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professional success, aside from Hon Matthew Swinbourn, is Hon Samantha Rowe. They are both sensible people and have a vision of their future. I think it is absolutely essential that these kinds of issues should be fleshed out, if not through the manner Hon Dr Steve Thomas is suggesting that we take—unfortunately, I think it is the only measure that we can take, because the government is determined not to deal with these recommendations by consensus—that would be to be the benefit of this chamber and to the effectiveness of our own operations.

I will speak to the issues canvassed in the minority report, of which I am a co-author, at another juncture, but I will ask a rhetorical question now that I would dearly love an answer to. The question is: Why the haste? Why does the government want to move so quickly? Why has it turned on the ignition of the bulldozer? Why does it want to steamroll through? It has the numbers. It has total control. This house previously agreed to the removal of unlimited speaking times. The committee report found an extra hour in the sitting week for the government to use, so why does the government need to move so quickly? Why does it want to avoid consensus? Because this motion, unfortunately, is not going to get up, we are probably not going to be any the wiser. I suspect I know why. There is some interesting legislation coming on—if not electoral reform, some others—that the government might want to expedite, but I will save those reflections for my contribution to the substantive debate. For now, I think it would absolutely be to this chamber's credit to support the motion moved by Hon Dr Steve Thomas. I absolutely wholeheartedly endorse it.

**HON WILSON TUCKER (Mining and Pastoral)** [3.48 pm]: I rise today to support the motion raised by Hon Dr Steve Thomas to suspend the standing orders. Despite the circumstances raised by Hon Sue Ellery surrounding the reasons why the government will not support this motion, I think it is unfortunate that it is unlikely that we will get a chance to debate and scrutinise these recommendations on a case-by-case basis. As Hon Dr Steve Thomas pointed out, there are a number of non-controversial recommendations that I would have thought and hoped we could have dealt with quickly, like a 15-minute tea break. I would like to put on the record that I think a 15-minute tea break is a good thing. It separates us from the other place and distinguishes us as parliamentarians, not politicians. I acknowledge that this is a small change and there are other more controversial recommendations in the committee report. A number of these appear to reduce the ability of the upper house to properly scrutinise and perform its primary function, which is reviewing legislation. Although I have not been here a long time, I understand that the standing orders are extremely important; they are the rules that we live by. These will affect us and we will have to live by them for the next four years. I do not believe that changes to the standing orders should be taken lightly.

I would also like to make the point that the government's intention to debate the entire report and the committee's recommendations en bloc is contrary to the values and principles expressed by the Standing Committee on Procedure and Privileges. Recommendation 27 reaffirms the Legislative Council's views on omnibus bills, which is dealt with as a single bloc. Paragraph 6.31 states —

Omnibus bills, while a somewhat efficient way of dealing with many small amendments to Bills, make scrutiny very difficult as Members often have to research matters in a Bill that do not necessarily bear any relationship to each other.

That is the exact scenario we are seeing here with these 38 recommendations in the report before us.

Recommendations 13, 14, 15, 16, 17 and 32 reflect the importance of committee reports and ensure committee reports are given adequate time for consideration.

With this report, we are expected to deal with a number of complex rules that we live by in a very small amount of time in a single bloc. We are the house of review, yet we are not being given enough time to review the rules. In my opinion, treating this report as an omnibus bill violates, in spirit, the seven recommendations in question. For those reasons, I support this motion today.

**HON DR BRIAN WALKER (East Metropolitan)** [3.51 pm]: I rise with some trepidation to put across my point of view. I say "trepidation" because I can agree with a lot of the debate but there is also a lot that I am unsure or uncertain about. The Legislative Council is a house of review. I call to mind that in my profession I was called upon to review the work of other doctors. I will give an example. A doctor has to sit down and listen to their patient. All the papers that are brought forward are reviewed. It was not unheard of—in fact, it was quite common—that even when I dealt with reports from specialists about patients who had said, "I am simply not being well served; my health is deteriorating," I reviewed what was going on and I asked questions. After taking the time to listen, I found that substantial things had been missed.

Taking the time is an essential part of doing our job. By extension, that implies when our time is curtailed, we need to be very careful because the time needed for sensible, sane, logical and open-minded review is also limited and we may come to a false conclusion. I bring again to members' attention the concept of the law of unintended consequences. I will give another medical example. Some decades ago, well-meaning people decided that the profession of nursing needed to be upskilled. It used to be the case that junior nurses on the wards were taught how to wash bottoms and clean floors. Bit by bit, their exposure to patients and their care was increased, until by

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the end of that, they were able to instruct junior doctors, like myself, how to look after a patient. Bright people, brighter than me, decided we ought to change that and nurses needed to be upskilled; they needed to go to university. They spent three, maybe four, years in a learning environment where they had part-time exposure on the wards. When they came out, we discovered a number of things, to our horror. Firstly, nurses were unable to manage patients. They were dangerous. Secondly, we had the concept of increasing the documentation because we needed to make sure that everything was being done that needed to be done. For this, we would have a named nurse for every three patients. In the old days—I am an older doctor—I used to walk onto the ward and ask the nurses which patients needed my attention now. I asked them who they were worried about. That is a subjective thing. Nurses feel the pulse of what is going on in the ward, so they would tell me, “Mrs Smith, in bed 3, is not looking too good today. I’m a bit worried about her”—very vague—“but something is not quite right. Mr James, on the other side, is looking a bit down. We’re missing something there.” On my ward round, I would pay special attention to these named patients. I would have a closer look, a closer listen, and I would find things. With the named-nurse approach, looking after three patients, we found at the bottom of the bed a stack of papers that no-one actually read, but they were done to satisfy the needs. When I walked onto the ward, I would say, “How is the ward this morning?” No-one could tell me who to be concerned about because the named nurse was not present and the care of the patients substantially went down—the law of unintended consequences.

In that case, it meant that lives were put at risk. I would caution—this is what I mentioned in my submission to the committee—that we need to be careful about proceeding. We need to take the time to very carefully consider whether there is a need to modernise. I can understand the potential. In the old days, parliamentarians wore wigs and had to powder them in a certain way and put them in a special place so they would not go mouldy. I could understand certain standing orders being required to manage how the wigs were looked after. Modernising that was probably a very good thing. There is always a place for reviewing: should we modernise? But the question has to be asked: do we really need to modernise?

I mirror the words used by Hon Sue Ellery, the Leader of the House, when she said, “When we listen to what is actually going on, how on earth can you speak for so long and say so little?” In my view, that is intolerable, apart from being boring! There have been times when interesting questions have arisen and information has come out that was previously unknown. I can see why that would be important at times. Is there a limit to that? I certainly hope so. My bottom demands it because my chair is unpleasant after so many hours sitting! On the other hand, we need to find a balance. That is why I said I rise with “trepidation” to speak both for and against the motion. I know it will not go forward—which, again, is an issue I have—but I would hope that reasonable minds would say, “Let’s reconsider this approach”. But I recognise that that is not going to happen. I want it documented that my position is that although I support the motion, I also support what the government has put forward. I would like more time to examine this. I would like to look at this with cold, clear eyes. I think rushing it through is an issue. I echo the words of Hon Tjorn Sibma: Why the haste? Why the rush? Why dash into this? I can see why it would be useful when we are all reasonable people, but there will come a time, honourable members, when someone in charge of government has less benign interests. It happens! It has happened in many countries of the world. I would hate to put them in possession of standing orders that allow them to ride roughshod over the goodwill of the population. With my concerns documented, I will take my leave.

**HON PETER COLLIER (North Metropolitan)** [3.58 pm]: I do not intend to take up too much of the house’s time on this motion. I will leave my substantive comments to the actual motion. I say at the outset that I enthusiastically embrace this motion and I thank Hon Dr Steve Thomas for bringing it to the house. The decision to suspend standing orders is, in itself, almost unconventional in this place; it is a rarity. I cannot remember it having been done in a situation like this during my time here. It is very, very rare, but in this instance it is very necessary.

The Legislative Council operates a lot differently from the other place. We are portrayed as the House of Lords or the old fogies; we do not know what we are doing and we are wasting time et cetera. We get a lot of adverse criticism that is more often than not unjustified. Quite frankly, the raw tribalism that exists in the other place is unedifying and un conducive to providing good legislation. Almost always, the legislation that comes out of this place is vastly superior to that which was presented to us by the other place. That is a direct result of the fact that we will not blink when we are eyeball to eyeball and are being told that we just have to get legislation through. We review legislation with the forensic scrutiny of a vast theatre of different views from throughout the state; we therefore refine legislation to make it better.

Over generations and decades we have established a combination of conventions—such as pairs, speaking behind the chair and consensus on debate—that are adhered to in good spirit. There are also our standing orders, which tell us how we must operate. Again, that was more often than not carried out through consensus—that is, until today. That is a shame. Today we are yet again creating a precedent, and everyone who supports the substantive motion, rather than the amendment—unless there is a change of heart on the part of the government over the next few hours—will have to wear it, and remember what has happened.

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All this motion is saying is, “For goodness sake, give us a bit of time to look at the recommendations.” As far as the Leader of the House is concerned, this is a “trust me” situation. It is, “Trust me; we’re just going to do it.” Members who are new to this place might assume that that is the way it has always been done, but it has not always been done this way; in fact, quite the contrary. This is completely different from anything that has been done in the past. In the past we worked on consensus, collaboration, unity of purpose and respect for the Legislative Council. That is now all being cast by the wayside because of the “trust me” attitude of the Leader of the House. It does not have to be this way.

One does not need a PhD to work out that there are elements of this report that the Liberal and National Party alliance will not agree to; I do not know what the crossbench thinks. But there are elements that we will agree to. There are some very innocuous recommendations that are eminently sensible and that we will agree to. There are 38 recommendations, and we are being asked to pile them all into one and say that we agree with all of them. That is completely unreasonable.

I remind members that back in 2016, when I sat over there as Leader of the House, we carried out a review of the standing orders. It took two years of consensus. The Standing Committee on Procedure and Privileges came back with a series of recommendations on modifications and improvements to the standing orders. We then had a week to discuss the recommendations in this chamber. Then President Hon Barry House sat as Chair of Committee of the Whole and members were provided with an opportunity to debate and discuss individual recommendations. Surely that is not unreasonable. I cannot fathom why there is this haste. The ink is hardly dry on the new government’s contract from the Governor; it still has four more years. This conjures up images of some sort of sinister motive; somehow the government has to get this through so that it can bulldoze through all these emergency pieces of legislation, but it does not have to, because it has four more years. Just give us a week to have a look at all the individual recommendations.

I would imagine that most of these recommendations will get the unanimous support of the house, but there are some that are very controversial, and they deserve respect, just as was done in 2016. Up until lunchtime today, I assumed that that would be what would happen. I nearly choked on my latte while I had lunch with Hon Dr Steve Thomas when I was told, “No, that’s not what’s going to happen. It’s going to be moved as a motion in total.” We are not going to be given the opportunity, as members of the Legislative Council, to deal with each individual recommendation. What is the haste? What does the government have to get through next week, before the three-week break, that requires such a hurry? It must be something for next week, because these new standing orders will take effect next week. There will be no more afternoon tea for Hon Wilson Tucker next week, I can tell him right now. That goes for all members.

As of next week, any minister will be able to come into this place and declare any bill urgent. I will get on to that in debate on the substantive motion. That is why the motion moved by Hon Dr Steve Thomas is not unreasonable; it is eminently sensible. I say to all members across the chamber: this is not how it is done. There is no precedent for this. What we are doing is unprecedented. We are creating a new precedent. Government members need to remember that what goes around comes around.

When I sat on that side and we had 22 members of the 36 in this chamber, I could easily have done this, but I did not. We carried out the last review in the same way it has always been done. We had a two-year consultation period with all the parties, we reached consensus and then we had a thorough, forensic debate with the President of the Legislative Council sitting as the Chair of the Committee of the Whole. I challenge anyone opposite to explain how things have changed so much that the government needs to bulldoze this thing through within a few hours. It does not need to. This does conjure up images of some sort of sinister motive—that somehow there is, in the bottom drawers of some ministers, legislation that the government wants to rush through. That can be the only reason. Everything else could wait; we could have afternoon tea until Christmas and it would not bother anyone. It would give us an extra hour of government time; that is it. We can agree to the issue with motions; we have already been doing that as a temporary order for the last few years, and it works. But the urgency motion needs debate.

I will finish on this, and I will have a lot more to say on the substantive motion. The motion before us is eminently sensible. I know I am wasting my breath, but I tell members opposite that the “trust me” mentality they have been fed is not right. I ask them to have some respect for the Legislative Council and the fact that they can make a difference. We are creating a precedent right here, right now, that this chamber will have to live with for decades, and I certainly want to put it on the public record that I will not be party to that. That is why I enthusiastically support the motion moved by Hon Dr Steve Thomas.

**HON SOPHIA MOERMOND (South West) [4.09 pm]:** I have no issue with procedures being modernised and made more efficient by putting time limits in place and 24-hour speeches not being an option. However, I have an issue with the reduction in diversity of opinions and voices. I also do not want a reduction in opportunities to scrutinise new legislation that may have wideranging consequences for the people we represent here. It is a fine balance, in

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my mind, between not wasting time and allowing sufficient time and opportunity to ensure the best outcome for the people of Western Australia. I rise to support the motion put forward by Hon Dr Steve Thomas not because I am against modernisation and speeding up the processes, but purely because this is being rushed.

**HON NICK GOIRAN (South Metropolitan)** [4.10 pm]: I rise to support the motion moved by the Leader of the Opposition, Hon Dr Steve Thomas, earlier this afternoon. I join with others in recognising that moving a motion without notice to suspend standing orders in circumstances when there is not general consensus in the chamber is without precedent, certainly in my memory as a member of this chamber over the last 13 years. The fact that Hon Dr Steve Thomas has felt the need to move the motion without notice to suspend standing orders in those circumstances should immediately alert members to the fact that something peculiar is happening in the chamber today.

There will, of course, be two different views, and they will be expressed in due course when members decide which side of the chamber they want to be on when voting on Hon Dr Steve Thomas's motion. In the usual way, as is our ordinary custom and practice, there is nothing wrong with members having a contrary view on the motion before the house. I hasten to add at this point—I will get into this more in due course later today when we speak to the report proper in accordance with order of the day 19—that a large portion of the work that has been done by the Standing Committee on Procedure and Privileges is very good. I would like the opportunity to say a few more things about that later today. What we are debating now is not whether we agree or disagree with the report in its entirety or particular portions of it; we are debating the process by which this house—which in this particular context, ironically, is referred to from time to time as the house of review—will review the changes to the standing orders that have been put before us. We are here now to discuss and debate the process by which that will take place.

By way of background, I will refer members to six key dates that have brought us to this point on 7 September. The first of those six key dates is 3 June 2021 when this chamber agreed to a motion that had been put forward that referred this matter to the attention of the Standing Committee on Procedure and Privileges. My recollection of 3 June this year is that the Leader of the House moved the motion, that it was a contentious motion and that we took quite some time to debate it. All which is to say that on 3 June, the Legislative Council agreed to refer this inquiry to the Standing Committee on Procedure and Privileges.

A date was given as part of the reference provided to the committee by the house, which takes me to the second key date that brings us to where we are today—that is, 22 June 2021. The significance of that date is that the motion that had been agreed to by the house, as moved by the Leader of the House, indicated that an interim report needed to be provided to the house by that date—22 June 2021. Members will appreciate that there were 19 days from the date of the referral until the tabling of the interim report. The house had asked the committee to table the interim report in that time. There was contention about that at that time. Nevertheless, it was the will of the house that an interim report was to be provided on 22 June, and we have dealt with that particular issue.

The third significant key date is 4 August. On 4 August, we had an interesting situation because despite the fact that the committee had been asked by the house, at the request of the Leader of the House in her motion, to report on the substantive matters by 10 August, the committee, of its own volition, came forth and requested that the house extend the reporting time. Indeed, on 4 August, the Council agreed to that extension. Rather than a final report being provided to the house on 10 August, as originally requested, the date was extended to 2 September.

That brings me to the fourth key date, which is 2 September, and the report that we will consider in due course today in accordance with order of the day 19. On 2 September, the President rose at the commencement of proceedings to table the sixty-fourth report of the Standing Committee on Procedure and Privileges, titled *Review of the standing orders*. Keep in mind, Acting President (Hon Peter Foster), that this was on 2 September. That was the last day that the house was in session. Today is Tuesday, 7 September 2021. The last day we were in session was Thursday, 2 September 2021. At the start of proceedings of the last sitting—the equivalent time to now—the President tabled the report. In accordance with the uncorrected *Hansard*, I quote —

I am directed to present the sixty-fourth report of the Standing Committee on Procedure and Privileges, *Review of the standing orders*.

In June 2021, the Standing Committee on Procedure and Privileges was directed to inquire into the Council's standing orders with a view to modernisation and best practice. The committee tabled an interim report in June 2021 that addressed speaking times in relation to bills. The committee is satisfied that the Council's standing orders are largely fit for purpose. Despite this, the committee has identified a number of enhancements that will increase the time available for core business, modernise certain procedures and simplify areas of confusion amongst members.

This report contains 37 substantive recommendations and one recommendation concerning the commencement of recommendations. The substantive recommendations concern reducing the time taken for breaks, an urgent bills process, the permanent adoption of former temporary orders concerning motions



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on notice and the consideration of committee reports, the trialling of an e-petitions process, and several minor and technical amendments. The committee also highlights some areas for further consideration during the forty-first Parliament.

A minority report authored by Hon Martin Aldridge and Hon Tjorn Sibma does not recommend the adoption of an urgent bills process and recommends seeking submissions on expanding the Legislative Council's scrutiny functions.

That was the statement given by the President on the last occasion that we were sitting as the house, which was 2 September 2021. Today, we are being asked to deal with the matter that was tabled by the President when we were last sitting. However, a very important event has occurred in the intervening time, despite not having been in session. On the same day as the President's statement, on 2 September 2021, Hon Dan Caddy immediately rose and without notice moved that recommendations 1 to 38 contained in the sixty-fourth report of the Standing Committee on Procedure and Privileges, *Review of the standing orders*, be adopted and agreed to. My recollection is that he sought leave to continue his remarks at a later stage and that leave was granted and the debate was adjourned. Despite the fact that that happened in a short space of time when we were last in session, a major event has occurred.

This takes me to the fifth of the six key dates. Yesterday, 6 September 2021, I was informed of the sixty-fifth report of the Standing Committee on Procedure and Privileges. Those members who have had the opportunity to review that sixty-fifth report will note that it contains a number of what I refer to as corrections to the sixty-fourth report. The sequence of events—which I think Hon Dr Steve Thomas as Leader of the Opposition is asking us to reflect on regarding the passage of this matter, and the process that is being undertaken—is that on 3 June 2021, the government insisted on a particular time frame. I recall, very clearly, members of the opposition expressing concern about the time frame that was insisted upon by the government on 3 June 2021. Despite those concerns being articulated by many members of the opposition, the government insisted on that course of action, as it is entitled to do. The outcome was that the committee, which we had said was being unreasonably asked to do a particular task in a certain time frame, unanimously came back to the house and said that it needed more time. The house said, "Okay. We'll give you that greater time." That committee then tabled a report when we were last sitting. Perhaps yet again an indication that the pace and expectation the government was asking of the committee was unreasonable, yesterday it had to table some corrections.

There should be a few red flags here for members. The first red flag is that the Leader of the Opposition is doing something a little unusual for the Legislative Council in that he is moving a motion without notice to suspend standing orders. That should be the first red flag. The second red flag for members should be the sequence of events that have occurred here that include the government insisting on a time frame despite the protestations of the opposition, and the committee having to come forward and seek an extension of time. The third red flag that should go up for members is the fact that the committee had to table an additional report out of session—not in session—in the intervening time with corrections to the report. The situation now, Acting President, is that the government has already indicated, through its leader, that it will not agree to the motion moved by the Leader of the Opposition. What is that motion? It is to simply allow a customary process to take place. I count four red flags about this matter.

Earlier this afternoon, I think I heard one or more members indicate—in fact it might have been my good friend Hon Peter Collier, who perhaps referred to choking on a latte—that they had been a little surprised that the government had taken this particular course of action. I am not as charitable as the honourable member; I was not surprised at all when the *Weekly bulletin* came out on Friday afternoon and I saw that the very first item of business for this week was this matter. The first thing I thought was, "You know what? I think that the government is probably just going to move the whole thing en bloc." That is exactly what is happening here today. Acting President, let us be clear, particularly for the newer members, that there is absolutely nothing wrong with moving the entire matter en bloc if there is consensus across the chamber. It would then be an entirely appropriate course of action. But when there is clearly not a consensus view, it is appropriate for these matters to be considered one at a time so that members have the opportunity to vote for or against those particular items and/or move amendments in respect to those particular matters. That is the situation that we have for ourselves today.

Thanks to the motion moved by Hon Dr Steve Thomas, we now have the opportunity to consider which of the two options we would prefer. The first option is to simply proceed to order of the day 19 at some point shortly and consider all the recommendations en bloc. The alternative is that we consider all recommendations put as separate questions and that the time limits that apply to the Committee of the Whole House process apply for this particular matter. They are the two options available to us. In fairness to the Leader of the House, I heard in her response on behalf of the government that as far as the government is concerned—I am paraphrasing here—it would like this matter dealt with this week and it has essentially notionally allocated three days to deal with this particular matter. I thank the Leader of the House for that indication. If anything, I make the observation that three days is probably generous. I do not have a problem with the government indicating that this is its priority for this week. If it were me, it would not be the priority for the week. I would think during National Child Protection Week that we would

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have other priorities; nevertheless, it is the decision of the government and it is entitled to do this. It is also the government's decision to allow a maximum of three days. I have no difficulty with that. The question then becomes: why insist on a process that is less than desirable? If there is goodwill in the house that this matter can be dealt with this week, which is what I understand there is, there should be no good reason why we cannot proceed with the approach proposed by the Leader of the Opposition. Under either scenario, the matter can be dealt with within the required time limit imposed upon us. I should not say "imposed upon us"; I withdraw that. It can be dealt with within the time notionally allocated by the government. The government has said that it would like to deal with this matter within three days. I am not hearing anyone suggesting that it needs anything longer than that. If anything, I think it can be dealt with in a shorter time. Why then, if there is that genuine goodwill in the house, is it necessary not to have the approach taken by the Leader of the Opposition? I have not heard a response to that particular question.

I note, President, that in the report that has been tabled by the committee that you chair, a number of submissions have been provided in the appendixes of the report, and on pages 97 and 98 is a submission from the Leader of the Legislative Council; Minister for Education and Training, Hon Sue Ellery. She provided a submission to the committee dated 13 July 2021. This is what the Leader of the House said, in the third paragraph, for the benefit of Hansard, at page 97 —

Secondly, I noted reference was made during the debate on the Recommendations arising from the Interim Report to the comments I made during the referral debate about how the Legislative Chamber creates better legislation. You will recall I had said better legislation is created through a Committee inquiry into a Bill and/or in the committee stage where extensive examination across the breadth of a bill can occur and a clause by clause examination can occur. I stand by my comments ...

President, I find it quite ironic that that submission is made and that the comments that were referred to earlier have been re-endorsed—in other words, that we have a clause-by-clause consideration—yet today we are not to consider things on effectively a clause-by-clause basis, or, in this instance, a recommendation-by-recommendation basis.

Members have already made note of the fact that there are 38 recommendations in this report. If we proceed in accordance with the approach proposed by the government, in contrast with the options currently before us as proposed by the Leader of the Opposition, it will mean that members will have only 45 minutes in which to give their views on this 100-plus page report. Members who want to talk on one of these 38 recommendations will have basically 71 seconds in which to do that. As has already been indicated, some of these recommendations may not necessarily need even 71 seconds, but some will need substantially more time than that.

The minority report, which is conveniently appended to this report and is in contrast with the majority report, states in recommendation A that the council should direct the committee to —

- i) Seek submissions from Members of the Council and other stakeholders on their views concerning the risks and benefits inherent in adopting further time management practices, such as the Urgent Bill provision via proposed Standing Order 125A, before any change is adopted by the House.

I read that recommendation as effectively a recommendation to consult.

Debate interrupted, pursuant to standing orders.

[Continued on page 3368.]