STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

Recommendations 1 to 38 — Adoption — Motion

Resumed from 2 September on the following motion moved by Hon Dan Caddy —

> 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.

HON DAN CADDY (North Metropolitan) [5.40 pm]: I wish to make some remarks on the motion standing in my name. I will start by restating a couple of the points made in the executive summary, for the benefit of all members. I will say that my contribution will be short and urbane. We all know that the sixty-fourth report resulted from June 2021 when the Standing Committee on Procedure and Privileges was asked by the house to look at the standing orders with a view to modernisation and best practice. The executive summary states, in part —

> The Committee is satisfied that the Council's Standing Orders are largely fit for purpose.

However, notwithstanding that, the committee identified a number of enhancements to the standing orders that will both help modernise them and increase the time available for the core business of government.

Before I go further, I want to pick up on a couple of things that Hon Dr Steve Thomas said. I was going to pick up on the issue of respect, but Hon Sue Ellery has spoken about that. Hon Dr Steve Thomas used the phrase "the degree of commonality". I would argue that to a large extent, that has occurred. I understand that although a minority report is attached to the sixty-fourth report, evidently there was consensus on 90 per cent of the recommendations.

Hon Neil Thomson interjected.

Hon DAN CADDY: I do not think I will be taking interjections, especially not from the honourable member.

Fifty per cent of the recommendations are about minor or technical alterations. A couple of the recommendations seek to modernise the way in which the chamber operates. I listened last week when Hon Ayor Makur Chuot spoke about the importance of being able to bring her infant into the chamber. Having that codified, for want of a better word, in our standing orders is a huge step forward. The second one, which has been kicking around for about 15 years now, is e-petitions. This will be a great enhancement to the way in which we do business. Although that is proposed to be on a trial basis, it will certainly be a very good advancement. That is an overview of where the first recommendations sit. I will speak more specifically about recommendations 2 to 8.

It is evident from the report that compared with other jurisdictions, this house has less time in overall terms to deal with the core business of government. I acknowledge that some jurisdictions have provisions in their standing orders for late night sittings and to sit for extra days. It is clear from the report that this is a key issue that the committee had to consider. This is outlined in chapter 2 of the report. I will not read from chapter 2 because everyone has a copy of the report in front of them.

As members will notice, the committee has recommended doing away with the afternoon tea and dinner breaks.

Hon Dr Steve Thomas: Shortening the dinner break, not doing away with it.

Hon DAN CADDY: We are not doing away with it; we are shortening the dinner break. Thank you for the correction, Hon Dr Steve Thomas. I do not want to make further amendments. Members will know, especially those who have been here for a while, that the afternoon tea break has often been used for short meetings of committees. It is good that the standing committee, in looking at the standing orders, has acknowledged that in recommendation 4.

Recommendations 5 to 8 of the report deal with urgent bills. As has been pointed out many times today, most recently by Hon Nick Goiran, the existence of the minority report is evidence, or perhaps an indication, that these recommendations will be the contentious ones. I am just finding my spot in the report. I make the point, as outlined at paragraph 3.43 of the report, that an urgent bills process forms part of the standing orders in other jurisdictions. It exists in both New South Wales and Victoria. Paragraph 3.44 states that as far back as 1926, the Australian Senate adopted new standing orders that put speaking limits on bills.

Hon Kyle McGinn interjected.

Hon DAN CADDY: Yes, 1926, Hon Kyle McGinn. It is not without precedent. It is not as though this committee has chosen to do something that is completely out of the realms of possibility.

These are important changes, or, dare I say it, improvements to the standing orders. I will not touch any more on the minority report. That has been covered and will no doubt be covered again. I would make one point. Hon James Hayward said that it is unfortunate that he could not make a point about which of the 38 recommendations he likes and which ones he maybe does not agree with. Hon James Hayward will have, as will all members, 45 minutes in which to talk to this. I am pretty sure that in 45 minutes, he and all other honourable members in this place will be able

to get on the record in *Hansard* exactly which recommendations they agree with and which ones they do not. I believe the committee has done a great job in putting this report together. I thank the members of the committee for this report.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [5.46 pm]: Thank you, Deputy President, for giving me the capacity to make a few comments on the substantive motion before the house today; namely whether to accept the recommendations of the Standing Committee on Procedure and Privileges en masse, that is both those in the sixty-fourth report and those in the sixty-fifth report, as now identified in the business program. It is a shame that we could not deal with the recommendations one at a time. That is a loss, but anyway let us move on to the substance of the debate.

I was a little panicked when Hon Dan Caddy suggested that dinner was going, particularly when it is now quarter to six in the evening. I noticed a trembling among some of his own members —

Hon Dan Caddy: You would have had dinner tonight.

Hon Dr STEVE THOMAS: There was a trembling and a quivering lip or two when he suggested that there would be no dinner break at all. We do not necessarily need that much time for dinner, but I was pleased to offer the suggestion that the dinner break will be cut back to 60 minutes rather than getting rid of it all together. Luckily, the Legislative Council has not completely degenerated, I suppose, and that is good.

If we look at some of the recommendations, because obviously we have limited time in which to get through the 38 recommendations, can I say that in the first instance, recommendation 1 is simply about when certain recommendations will come into effect. Recommendation 2 is the one that we have just addressed with Hon Dan Caddy—namely, to change the dinner break from between 6.00 and 7.30 pm to between 6.00 and 7.00 pm. I do not have a problem with that. There is the odd occasion, particularly when we are hosting people, that that extra time is of value, although not so much for sitting around the table and eating. I know that most members can get in and out of the dining room relatively quickly, and the dining room staff are pretty keen to get members in early, get them fed and get them out. New members in this place may have noticed that they are fairly keen to process us through so that they can get on with the job. I do not think that that is a particularly onerous recommendation. Having seen all the members who stood on that side during the division, that was one of the amendments that I suspect will receive general support. I think that is a reasonable outcome.

Recommendation 3, of course, is the one that refers to lunch on Thursdays and the afternoon tea break between 4.15 and 4.30 pm on Wednesdays and Thursdays. Again, I have no intention of standing up here as a member and fighting for the retention of an afternoon tea break. I think that that is a step too far. I note the recommendation that afternoon tea might still be provided without a break of the chamber. I note the comments that oftentimes that 15-minute gap is used by ministers and parliamentary secretaries to shift from particularly being at the Committee of the Whole table to being prepared for question time. Given that, at this stage, it is the Labor government that will have to deal with that lack of time, it would seem a bit silly for a member of the opposition to suggest that it is not appropriate. I am sure that there will be past members of this place who will lament the change to procedure and the loss of tradition. There will be people who think that those traditions are very important, and although I am not going to belittle them, I think, from a personal perspective, I can adequately manage without afternoon tea breaks. The truth is I think my wife would advise me that I could probably manage quite adequately without afternoon tea. That is a debate to be had with a higher authority, not for the Legislative Council!

I move on to recommendation 4, which refers to the scheduling of meetings. I think that there are a couple of questions to be asked here. On the scheduling of meetings, recommendation 4 states —

> (1) A Committee may meet during a suspension or adjournment of the Council.
>
> (2) A Committee may seek permission in writing from the President to meet to deliberate in private session between 4.15pm and 4.30pm on a sitting day.

Fifteen minutes for a committee meeting is a fairly brief period of time. I guess that is to replace the fact that members might have had a brief meeting during afternoon tea potentially on a Wednesday or a Thursday, just to confirm or adopt a report or to adopt a response or a piece of correspondence et cetera, so I would have thought it would be fairly limited. I know that a couple of my committees have taken advantage of that 15-minute afternoon tea break on occasions to have a short discussion, generally on non-contentious issues, I have to say. I presume that is something that can probably be accommodated, but it will be a bit tight on occasions.

My question really comes down to the fact that the President needs to grant permission for that request, and that the Council has to be advised. I wonder whether the fact that only one committee meeting can be authorised on any sitting day means that the members would be meeting in the corridor out here, because I do not know that they would be able to meet in the actual lounge, so perhaps it would be a meeting in the corridor. It just seems like a bit of a process that needs to be gone through. The Council apparently needs to be notified and effectively give

permission that a meeting can occur. I am interested to know what that would look like. Presumably it would be a message of some sort to the Council. The recommendation states that "the President must advise the Council at the earliest opportunity." If an urgent meeting was called at a quarter past, I am not precisely sure what that would look like, whether the President would come in at four o'clock or at the end of question time—no; it is before question time—or at the end of some sort of business and give a notice of some sort. I am not sure precisely how that is going to work and, to be honest, I wonder whether it is necessary.

It is a significant shift to have committees meeting when the business of the house is occurring, and I think that is probably the most significant thing. It has always been the practice of the Legislative Council that committees meet when the chamber is not sitting, and there is an obvious reason for that; that is, if there is a division called and a member is in a committee meeting in some way, shape or form, that can be problematic, particularly if they are in a room downstairs or somewhere a bit further away from the chamber, let alone being in the committee rooms across the road. On the assumption that that is effectively going to occur—out in the corridor for a five or 10-minute meeting—I presume that is how it will operate, but I would have thought that the notification might be a bit of an onerous task.

We come to what I consider to be by far the most contentious components of this report, particularly recommendation 5. There are concurrent recommendations that follow on in 6, 7 and 8, and I will come back to those in a more substantive way a little bit later, because it is my intent to try to run through as many of these proposals as possible before coming to what I think are the most dangerous and problematic of those recommendations.

I will jump to recommendation 9, which is the recommendation to put in place a schedule for motions on notice. In effect, this was sought by the opposition and agreed to by the government a couple of months ago. There is a very obvious reason for this; the alternative is the reading in of a large number of motions. For those new members who have not been here a long time, we can get absolutely ridiculous circumstances whereby the government and the opposition are effectively competing to read in as many motions as they possibly can in order to dominate the motions on notice component. As the motions are read in, they get ordered on the notice paper, and historically we have found that dozens of motions have been read in on the notice paper. It tends to go a bit like this: the government will read in motions that congratulate the government for everything the government does, one at a time; the opposition will read in motions condemning the government for everything the government does, one at a time; and then it is just a competition to see who can get the most motions read in in the least possible time. Members can move very bland motions; it is not hard to do. I suspect that there are members in the chamber who have been around a little longer who have been part of that process. It is not hard to have a situation whereby a government member moves to congratulate the government for its handling of housing and, on the same day, an opposition member stands up and gives notice of a motion to condemn the government for its handling of housing, or any other portfolio that exists, and we end up in a ridiculous situation in which debates are happening that were moved two years earlier and the circumstances often no longer exist. I must admit, I am very pleased to see that the committee has looked at making these a permanent part of the standing orders, rather than the opposition having to go effectively cap in hand to the government each time. I think that is a positive move and one that the committee is to be commended for. I think that is very positive. That will make sure that debates are timely, which I think is important. There is no point in debating a motion that was read in two years ago because members wanted to get something on the notice paper to attack the other side if the circumstances have dramatically changed and we are now in a new set of circumstances that would merit a far better motion. The opposition is probably not going to exchange a motion condemning the government for one applauding it, but, at the very least, it would get a motion in which the condemnation is current. I think that will be of value, at the very least, to have up-to-date debate happening in the Council. I think that amendment is a good amendment. I am pleased to see that it is in place and I commend the committee for looking at that.

Obviously, from an opposition perspective, we would love to have equal time for motions. That is one of the questions that the Council needs to consider. It is actually more obvious in the other place. In the Legislative Assembly, what is defined as "government business" and "opposition business" is more distinct. I suspect that may be partly because there is less of a range of opposition or crossbench members. I guess it is both more appropriate and more likely that we will get a range of membership in the Legislative Council, which is absolutely more diverse. We are all into diversity these days, so it is the case that we get more variation as a part of that process. Members of the other place have private members' business and matters of public interest. That is always opposition time, because there is only the government and the opposition, effectively, or at least it has been like that for most of history—there has been the occasional variance—but it is far more obvious that way. In the upper house, the question probably needs to be asked whether motions on notice are more often considered to be opposition or crossbench time than they are government time. I think that is important for this reason. Obviously, one of the government's agendas in this process is to increase the amount of time available to the government. I would have said that would have been very obvious, particularly if we go to chapter 2 of the sixty-fourth report of the Standing Committee on Procedure and Privileges, in which the Leader of the House's submission is referenced. The Leader of the House commented that

there was not enough time in the order of business for government business. Basically, the government is seeking more time for the government's agenda. Okay—by all means. If that is the agenda, at least we know what it is.

Sitting suspended from 6.00 to 7.30 pm

Hon Dr STEVE THOMAS: Just before we were rudely interrupted by the extended suspension of the sitting for dinner, which I hope members enjoyed because it might be their last one ever, we were discussing the motions on notice proposal. We got to recommendation 9, which includes a couple of recommendations that I will come to in a minute. Basically, we have been through the option of attributing motions according to the population of the house, which I agree is reasonable. The question before the house is: how necessary is it? We have to go back to the statement made by the Leader of the House in her submission to the committee; that is, in effect, there is not enough time for government business. That was the parameter that the Leader of the House put forward. She put forward a couple of different options that could address that. Specifically, the Leader of the House commented that there was not enough time in the order of business for government business.

Before we suspended for dinner, members may remember that we were saying that the Legislative Assembly had a slightly different system in place—that is, non-government business and motions were opposition time. I wonder whether the government considered whether it needs motions on notice for government members. If the proposition before the house is that the biggest issue we face—this appears to be the case based on the emphasis placed on it—is that the government does not have sufficient time under the current standing orders to get the job done that it wants to get done, surely the first and most obvious question is: why would the government not give up all its motions on notice time? A portion of that time is based on the representation of the house. The government has 22 members out of a total of 36 members or nearly two-thirds of the representation of the house—certainly more than half. Each of those motions on notice is two hours of sitting time. Let us say that we sit an average of 24 weeks a year; that equates to 48 hours of motions on notice time, of which 62 per cent or 63 per cent is government business. Somebody who is wide awake might be able to calculate 62 per cent of 48 hours. It is about 28 hours of government business. That is 28 hours of additional business that the government could engage in, and the Leader of the House's itinerary could be entertained.

Hon Martin Aldridge: It is nearly 30.

Hon Dr STEVE THOMAS: Twenty-eight hours was not a bad guess off the top of my head. We would pick up nearly 30 hours a year just like that. Surely motions on notice are an opportunity for members to raise issues of concern with the government, much in the way that a matter of public importance might be dealt with in the house that shall not be named or in motions that it deals with every week. A lazy 30 hours a year could be added to government business. In my view, that would pick up a significantly greater period of time for the government than getting rid of afternoon tea, for example, which would pick up 30 minutes a week. Over 24 weeks, that is 12 hours. Here is a simple thing we could do: the government could forgo motions on notice.

It has to be acknowledged that towards the end of the year, it is quite common for the government to forgo motions on notice to deal with government business. Not only is this not an unusual suggestion, but there is actually a precedent for it. Thirty hours of debating time can go back into considering bills if the government simply recognises that its backbench members can simply walk up to ministers and ask about their issues rather than come to Parliament to raise them and debate issues across the floor. There is a lazy 30 hours that we could pick up. Obviously, the opposition is here to help. We can clock up that 30 hours. The question before the house therefore is: is this genuinely about maximising the amount of time that the government needs for government business? If it is, surely in the first instance the government will remove any extraneous government time. I would have said that removing motions on notice is the most obvious answer. It has been known that members of the government move motions extolling the virtues of the Labor government. Although that might be very nice across the chamber, I am not sure that it is an efficient use of government time. I suspect that most members of the government already believe that. Whether it is erroneous or not is a matter of debate for another day. The reality is that a lot of hours of potential government business are sitting there under motions on notice. I am a little intrigued that if the agenda is so vehemently to find time for government business, the government might show some leadership in the process in some way, shape or form and give up some of its own time. However, that does not appear to be the case. We are left with recommendation 9, which, next year, will apportion 30 hours of motions on notice to the government and another 18 hours to the rest of the house combined, including the crossbench. I would have thought that that might have been something that the committee looked at and made a slightly deeper assessment of, but that does not appear to have happened. It raises concern that although there is an attempt to get more government business, it is not necessarily an even-handed attempt—there you go! There is an opportunity for the government, perhaps in its next review of the standing orders, if it is desperate for more time. It might like to pick up 30 hours by completely removing government motions on notice.

Hon Kyle McGinn: It is paragraph 7.10.

Hon Dr STEVE THOMAS: I did not notice it in a recommendation. If there is a recommendation to remove government motions, that would be interesting. Paragraph 7.14 states that the committee currently makes no recommendations about the consolidation of non-government business and private members' business. I appreciate Hon Kyle McGinn's interjection but there is no recommendation that government motions on notice should give way to government business. If that is in the report and I have missed it, I am happy for the member to point that out.

Hon Kyle McGinn: I was just saying that it's being looked at; there is something in the report about it.

Hon Dr STEVE THOMAS: Yes, but it does not suggest it. I appreciate the input, but it does not say that this is something the government should give up. I think that is an oversight, to be honest, if, as we say, the focus of the committee report is to find more time for the government.

In relation to, funnily enough, the consideration of committee reports, I note that the recommendation is to delete the words "All Members one period of 10 minutes per report" and "At the discretion of the Chair of Committees" for second allocations and insert "All Members unlimited periods of 10 minutes per report". I suspect that that reflects what is actually happening now. Had we examined these recommendations one at a time, this is one of the recommendations that would have been supported across the chamber. That is quite a reasonable recommendation.

Recommendation 15 provides for a significant increase in the time allocated in standing order 23(1)(b). Standing order 23 is headed "Maximum Time Limits for Certain Business Items" and paragraph (1)(b) refers to the consideration of committee reports being 60 minutes. Recommendation 15 is that standing order 23(1)(b) be amended by deleting "60 minutes" and inserting "240 minutes". The maximum time for the consideration of committee reports will go from one hour to four hours. Again, this is highly interesting activity because the driving force for the Leader of the House is to find more time for government business; the government requires more time to get the business of the house done. It is not prepared to give up its motions so I am intrigued why, under recommendation 15, the committee has suggested a significant increase in the time available for committee reports from one hour to four hours. I am hoping that at some point someone either from the committee or the government will give us some advice on the impact of a fourfold increase in the time available for the consideration of committee reports for a particular item—this is a per item maximum—from one hour to four hours. Under chapter 4, "Consideration of Committee Reports", I note this under paragraph 4.11 —

> In 2015 the PPC recommended that the Temporary Order be extended and that Members have unlimited periods of 10 minutes per report, consistent with the previous practice of the Council …

That is basically an agreement about what is going on. But it says this in paragraph 4.14 —

> The consideration of matters by parliamentary committees is one of the most important scrutiny mechanisms available. Committee inquiries demand substantial resources …
>
> The Committee is of the view that debate on such important work of the Council should not be used for overtly political purposes …

Here we are discussing a committee report, and let me suggest that we find ourselves in an overtly political place. We are debating an absolutely political purpose. Paragraph 4.14 continues —

> The Committee is focused on recommending procedures that allow an opportunity for diversity of debate while employing mechanisms that will focus such debate on the matters contained in each report.

Paragraph 4.15 states —

> For this reason, the Committee is of the view that the Council would benefit from setting a generous maximum debate time for each committee report of four hours. Such a limit is intended to have salutary effects on the quality and focus of the debate.

I am not so sure, just quietly. It might work while there are not too many committee reports in front of us. The standing orders restrict committee reports in total and how much occurs on a Wednesday afternoon. It is not the case that we will suddenly have a great plethora of increased committee reports. I find it really interesting that debate on bills to change legislation is to be curtailed by this government but debate on committee reports is to be expanded. There is an enormous double standard going on here. I find it an incredibly interesting part of the process that we are looking to curtail and cut-off debate and apply a gag order on legislation but we are looking to increase the amount of time available for committee reports. It is astounding.

I acknowledge that I will run out of time before I get to all 38 recommendations. I do not think there is any way in the world that we can do proper analysis of each of these recommendations in the time allotted; however, I will continue on until I need to go back at the end to recommendations 5, 6, 7 and 8. I will make some comments on recommendation 18 before I move forward. Recommendation 18 refers to e-petitions, which is one of those great

recycled issues; it comes around every now and then. The questions we face are: Should we allow e-petitions? What is the advantage of e-petitions? Obviously, they are remarkably easy. My position, personally, having spent the last four years on the Standing Committee on Environment and Public Affairs, is that that committee is inundated with petitions, many of which have very limited value. Some of them are valuable, many are not. Some petitions attempt to get a political outcome on an issue that simply needs to be dealt with through administration.

My concern is that if we allow e-petitions, we will simply open the door and make them so easy that they will become meaningless. I suspect we will find that activist groups will put up a website, as they do now, that people can go onto and fill in their name and say that they have written to every member of Parliament or the upper house, and a rote email will be sent to everybody with their name on the bottom of it. That is supposed to be seen to be an expression of freewill and, to be honest, I struggle with it. If we make it too easy, people will not have to put their own thoughts into the process. They will simply line up because they have decided that they are part of a group and then along comes this email. I suspect that we will reach a similar situation when it comes to e-petitions. It will be so simple for someone to set up a website. Suddenly, e-petitions will be on there for every upset and disenfranchised person in Western Australia. It will be so easy.

I think the risks of e-petitions are significant; I know that other members have agreed with that, and so previous committees have looked at e-petitions. I know previous Standing Committees on Environment and Public Affairs have looked at it. Hon Samantha Rowe, Hon Matthew Swinbourn and I were members of the former committee. I know that we discussed it and I expressed exactly the same view then as I do tonight; that is, I think it is immensely dangerous. We might make it too easy and too simplified, and then bog down the committee. I am happy for other members to express their own views on this matter. There are those who think parliamentarians should be inundated repeatedly with letters expressing opinion. I am often reminded of that great Bible of politics *Yes, Minister*, when Sir Humphrey said, "Well, if I had to accept and take on the position of everybody whom I had to deal with, I'd be immensely left wing and at the same time horrendously right wing. I'd be a unionist and a capitalist. I'd be everything, and in the end I'd go stark raving mad."

Some risk is involved in e-petitions. Noting the committee has recommended that e-petitions be put into place, I urge some caution. We want a functioning committee. I do not think it helps the committee to be bogged down all the time. Otherwise, the six-monthly reporting process of the—I do not know whether we will end up calling it the petitions committee, but that might be something for debate; it was part of a recommendation of a past committee—Standing Committee on Environment and Public Affairs would get bogged down. Its annual report would require four-hour stints to have a conversation on all the petitions that were rolled in there. At least at the moment the petitioner has to make something of an effort. They print off a petition and go around get people to sign it. They find a member of Parliament to lodge it, and a bit of actual work is involved in the process. I think a bit of work involved in the process is not a bad thing. Let us face it, honourable members, petitions with two, three, five signatures are lodged here sometimes. It is not as though we have to go overboard. The principal petitioner and, I think, the member's signature might just be enough to get a petition in front of the petitions committee. I am not convinced that that is the most efficient use of the committee's time. I urge a bit of caution on that one. I know I am not necessarily of the same mind of the committee on this matter. I note that it was not mentioned in the minority report, from memory. It might be that it is just me, but in this case, I think it is worth considering that the functionality of the committee might be at stake.

That gets me, in theory, to the end of recommendation 18, which is nearly halfway through the 38 recommendations, bearing in mind that I bypassed recommendations 5, 6, 7 and 8, which I will have to come to. Unfortunately, I suspect that I am not going to get back to recommendations 19 to 38. Some of those recommendations are fairly simple and a lot can be supported. They are the more functional components of the recommendations. It would be worth a little debate on that. Perhaps a member who does not feel the need to start from recommendation 1 and work their way through might start halfway and pick up those threads for me.

Let me go to the recommendations that I find the most offensive. They are based around recommendation 5, which is, in effect, a gag to be placed on debate in this place by a minister or parliamentary secretary. Let us run through this recommendation. We better ensure we have the sixty-fifth report of the standing committee, which contains the amended recommendations and not the original pre-amendment ones. Let us go to recommendation 5, which should concern every member of the house. It states —

> That the following words be inserted after Standing Order 125 —

We will just jump to standing order 125, which deals with second readings. The recommendation states —

> **125A. Urgent Bills**
>
> (1) At any time after the moving of the Second Reading of a Bill a Minister may declare that a Bill is an urgent Bill.

That is not second reading debate; that is second reading. The minister comes in and says, "I move that the bill be read a first time." The Clerk reads the bill a first time. The minister says, "I now move that the bill be read a second

time" and gives a second reading speech. At that point, the minister or the parliamentary secretary moves the second reading. Effectively, because they have moved that it be read a second time, they have been given the call to give the speech. I presume that at the end of their second reading speech, before any other member gets a say, they may well include the line, "I declare this is an urgent bill. I have decided this is an urgent bill. Bad luck." At that point, we could not even debate it. There will be no mechanism for debate. The minister could make an arbitrary decision to have it declared an urgent bill. Could the minister start without intending it to be an urgent bill, but be offended by something Hon Colin de Grussa says in the heat of debate and suddenly decide to declare it an urgent bill because he did not like the cut of his jib or his comment? I do not know. It continues —

> (2) After a Bill has been declared an urgent Bill, a Minister may move a motion specifying the maximum debate time to apply to each stage of the Bill. At the conclusion of the maximum debate time prescribed in Standing Order 23(1)(e), the Presiding Officer must interrupt debate and put to the vote all questions as are necessary to dispose of the motion.

We are not debating whether it is an urgent bill here. If we look at what happens in the other house—the house that shall not be named—we see that even it has a more open system than the one proposed for us. Under standing order 168(2) of the Legislative Assembly —

> 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.

At least in the lower house the government or the parliamentary secretary has to at least ask permission of the house. The odds are that they will get the answer that the government wants, but even that is more than what is being proposed for the Council. The minister and the parliamentary secretary in this place will simply arbitrarily make a decision. No parameters have been put forward about what should drive that decision. There is no metric to say what an urgent bill means. The proposed standing order simply says that at any time a minister may declare the bill urgent after the moving of the second reading, which, as members know, goes "I move that the bill be read a second time"—et cetera. The recommendation continues —

> (3) If the motion is agreed, when the maximum debate time for a stage of the Bill has expired, the Presiding Officer must interrupt the debate … Except by leave, the question on each clause, schedule, preamble, title … must be put as a separate question.

But they will simply be run through one question at a time. If the minister moves the motion, we have one hour for the committee stages of the bill and that one hour has been used on clause 1, "I put clause 1. I put clause 2. I put clause 3." We will only have 178 clauses, say. It will be interesting to see how that pans out. It will be interesting to see whether the opposition agrees to lumping clauses together or whether out of sheer bloody-mindedness—I do not know whether bloody-mindedness is a parliamentary term; I might seek your guidance on that, Acting President (Hon Dr Sally Talbot)—it simply demands that every clause be put, just because it can. I think that this is immensely risky. That was recommendation 5. Recommendations 6, 7 and 8 work on after that, and there is no real significant change between those recommendations in the sixty-fourth report and the sixty-fifth report. In my view, these are terrible motions. These recommendations deserve to be kicked out. It is a shame we are not examining them one at a time, so let me say this: I think we have no option but to attempt to remove these recommendations from the motion.

Amendment to Motion

Hon Dr STEVE THOMAS: I move —

> To delete all words after "That" and insert —
>
> > recommendations 2 to 4 and 9 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 and that recommendation 1 be adopted and agreed to in the following form:
> >
> > > That recommendations 2 to 4, 13 to 17 and 19 to 38 come into effect on the first sitting day of the week following their adoption.

HON SUE ELLERY (South Metropolitan — Leader of the House) [8.01 pm]: The government will not support the amendment before us. Members will recall my commentary in the last debate when I indicated that Hon Dr Steve Thomas claimed that there was no way for there to be consideration in any kind of narrower sense; well, here it is. The effect of the amendment Hon Dr Steve Thomas has moved, as he indicated, is to delete from the motion all the recommendations in chapter 3 that we are seeking to adopt and agree to. That would be the effect of his amendment. As I said, the government will not agree to that.

I will now go through why we will not support the amendment and why we support the recommendations in chapter 3 being adopted and agreed to. I appreciate that there will be a little bit of overlap, so I will repeat some of the things I said in the previous debate. I suspect that if the house deals with this amendment and we get into the substantive debate again, I might have to repeat some of what I have said then. My comments now are on why these

recommendations in particular should not be deleted. At paragraph 3.2, the Standing Committee on Procedure and Privileges noted —

> The Committee is concerned that the rate of passage of legislation in the Council has slowed in recent years.

Paragraph 3.5 states —

> The Committee has identified a number of factors that it views to have contributed to the slow passage of legislation in the Council.

Paragraph 3.6 refers to what was covered in the sixty-second report. To assist members, if they go to the minority report, they will see that the final recommendation is to take out the recommendations in chapter 3 and do further consultation or work on them. The amendment before us now would give effect to the recommendation in the minority report, and the government will not support it.

Paragraph 3.9 states —

> The Committee has observed over recent years that clause 1 debates have become particularly extended.

Members might recall that in my submission to the committee I noted that I welcomed the decision to remove unlimited speaking times in second and third readings. I commented in the earlier debate that this house scrutinises bills in a couple of ways. One way is in the clause 1 debate, when we can canvass the whole bill, and the other way is by reference to a committee, which can call experts and collect evidence. I made the point in my submission to this part of the committee inquiry that those comments should not be read as me saying that there is therefore no reason to ensure that clause 1 debates do not become shorter grabs of a repeat of the second reading speech—that is, rather than asking a series of questions about the impact or implementation of a clause, they just become 10-minute bites that revisit the policy that the house has already set when it votes on the second reading. I want to avoid that. The committee report goes on to make a couple of suggestions about how members in presiding positions might watch what is happening in the clause 1 debate.

The report then sets out the history and the difference, if you like, between a guillotine and a gag. The guillotine is not unlike what we have used in the COVID debate; members will have observed that we set a time limit to deal with the various sections of a debate. A gag is when a closed motion is put on the debate. The committee report canvasses the history, which is kind of at odds with the notion that, shock-horror, the sky is about to fall down. In fact, this chamber has used a guillotine in the past, not just as part of the COVID debates but also much earlier, when a sessional order gave effect to that.

At paragraph 3.39, the committee also notes —

> The experience with the COVID-19 Temporary Order has demonstrated that legislation can be considered with due regard to scrutiny while at the same time encouraging a focused line of inquiry from Members due to the limitation of time.

Far it be from me to suggest that some members occasionally gamed the COVID-19 provisions to ensure that they could not ask all the questions they claimed they wanted to ask by not managing their time in a proper way; however, it seemed to me that on at least one occasion, one person did.

Regarding the urgent bill process, it is important to note that we are not inventing the wheel here; we are not inventing something new. There are versions of an urgent bill process in place in the New South Wales Legislative Council and in Victoria.

Hon Martin Aldridge interjected.

Hon SUE ELLERY: Honourable member, we are on limited time. I will not interrupt anyone else, so I ask him not to interrupt me. There are urgent bill processes in place in Victoria, in New South Wales and, of course, in the Senate itself. That is all set out in chapter 3.

Paragraph 3.52 states —

> A majority of the Committee is of the view that the Council would benefit from the adoption of a mechanism to expedite the passage of urgent Bills.

It then sets out the provisions. I think it is important to note that how members use that time is critical. It is also important to note—I made this point in my earlier contribution to the suspension of standing orders motion—that practice and conventions play an important part. If the house is looking for some kind of signal of intent, the proposition before us is that the government will come in here every day and unilaterally declare every bill to be urgent or every part of every bill to be urgent. That is not the intention of the government at all. My practice will be to consult if it is considered that we need to use the provisions. The point needs to be made that we would not need to do this if debate had been conducted in such a way that points were made, legitimate arguments were had

and we moved on in a timely fashion. That has not been the demonstrable practice of this place. We need to deal with urgent legislation in a way that gives the opportunity for scrutiny but manages the time sensibly. If the proposition is, "Folks, you need to be scared, the sky is going to fall down because Ellery is going to come in and declare every single bill urgent", that is not going to happen. But if members want me to go further and write that into the provisions of the bill, that is not going to happen either, because I have seen too many times a certain element on the other side of the chamber game the system right up to the end point and show a complete inability to apply any discipline or time management to how we deal with bills. That is why this legislation is before us now. The proposition that every bill will be declared urgent is nonsense. The proposition that somehow this is the new norm is nonsense as well. Since we started in the forty-first Parliament, I have observed that some behaviour has started to change, but every single time it has taken the government pushing to make that change. Do I back away from pushing on this particular issue? No, I do not.

I commend the committee for what it has done. I will make this comment again when we get to the substantive issue before the house. I commend the staff and members of the committee who I know worked extraordinarily long hours over a period; it put them under considerable pressure. I understand that the committee was meeting through the July break when many of the rest of us were having some time off. I appreciate the work of the committee. I appreciate the work of the staff who supported members on the committee and I appreciate the effort put into getting this report before us today. We want to bring this chamber to a point at which we can deal with legislation in a timely fashion, but that does not mean we will use the urgency provisions set out in the report every single time. It does not even mean that we will use it on a regular basis. It means that if we get stuck and it is clear that it is just an exercise in filibustering, albeit through clause 1 debate day after day after day after day—we have been in that position—I might consider consulting with members of the house about declaring a bill urgent.

The other circumstances in which I think an urgent bill might be declared is if there were some circumstance, not dissimilar to the COVID arrangement, in which there was some external reason why a particular piece of legislation needed to be treated as urgent. I cannot think of any example off the top of my head —

Hon Kyle McGinn: Clive Palmer.

Hon SUE ELLERY: It could be a threat from someone like Clive Palmer, but it could be some other circumstance. From time to time there have been particular matters related to terrorism, for example, about which we might need to consider particular provisions. It could be anything. Those are the two examples that I could see occurring.

I do appreciate the significance of what is happening here, but this is about ensuring that we can do the job that taxpayers pay us to do. Taxpayers are horrified when reports get out about how long it has taken this chamber to deal with something that ordinary people might think should be dealt with much more efficiently. They are horrified by that. Passing bills in a reasonable period does not mean that we do not get to scrutinise the bill or that the government will automatically abuse the process; it means that we have a mechanism to bring things to a timely consideration and that we act in the same way as every business across Western Australia does when they have to make business decisions—they have to make them in a timely fashion. We can do that, too. We are not so special that it ought to take us day after day after day to consider clause 1 of a bill on which the policy was set after the second reading speech. That is an abuse and that is gaming the system. This is a mechanism to stop that, and for that, I do not resile from it and we will not be supporting the honourable member's proposition.

HON TJORN SIBMA (North Metropolitan) [8.14 pm]: I rise to speak in support of the amendment of the Leader of the Opposition, Hon Dr Steve Thomas, largely for the reasons outlined by the Leader of the House. The amendment is in effect an endorsement of the sixty-fourth report with the exception of what I and Hon Martin Aldridge consider to be the offending recommendations and would—not automatically—lead one to conclude that consideration should be given to the minority report. The minority report is effectively agnostic on the concept of urgent bills, but in a manner is consistent with the commitment the Leader of the House gave that effectively if there were an urgent bill, she would seek to consult on that. Why not bring forward that consultation? Why not establish some rules of engagement for the invocation of this emergency measure? The urgency measure may find some parallels with options that present in other upper house chambers in Australian jurisdictions, but it is by far the most unfettered. I think, then, it behoves this place to proceed cautiously.

I might address some of the arguments proffered by the Leader of the House in rebuttal of this amendment, which I think defend the views, findings and recommendations made in the minority report. The Leader of the House cited paragraph 3.2 of the sixty-fourth report, which made some reflections on the committee's views on the progress of legislation. Views on the progress of legislation are effectively subjective judgements. It is ordinarily the case that from a government's perspective its legislation does not proceed nearly quickly enough and from a non-government position things are always moving a bit fast. Finding that balance is an art form. We should reflect on why legislation may be slowed down in conceptual terms. It has often been the practice of the government, particularly in the last Parliament, to blame the then opposition for a perceived lack of progress of legislation. In layperson's terms that

is a cop-out, because there is a supply chain, or a logistics chain, in the development of any legislation. The commencement is obviously with policy. There is a process with cabinet. There are decisions to draft and to print a bill. There is stakeholder engagement and the like. Ordinarily this chamber deals with the end of the production line. If we apply an operations management sort of mentality, any number of constraints are possible in that production line. It is completely disingenuous to blame "a lack of progress" solely on what transpires in this house. I have had ministers, whom I will not name, in the previous Parliament and, to some degree, this Parliament concede to me the degree of frustration in the capacity to get their legislation drafted by Parliamentary Counsel's Office. That reflects on the resourcing of that institution.

Another reason why debate on legislation may be prolonged is that, frankly, that legislation is deficient and requires substantial amendment. I do not need to go through the hit parade of bills in the previous Parliament that were absolutely deficient and required significant amendment, and after the gnashing of teeth and scraping of nails, were finally endorsed and conceded to in the other place. We have also seen examples, some for very good reasons and others for reasons that defy description, of ministers or the representatives acting in this place putting motions on the notice paper amending the government's own legislation. Frankly, how could any reasonable person who takes their roles and responsibilities seriously automatically just accede to the proposition that the government tables perfect legislation in this place? This is certainly not my experience, and, I think, broadly speaking, it is not the experience of any dedicated member in this house. I might say that it is a bit rich to be accused of somehow thwarting the government's agenda when the government itself with responsible ministers, staff and departments cannot get its own legislation drafted correctly. I forget the bill, but I recall an incident last year when we had to move an amendment to the long title because it was absolutely inconsistent with the purpose of the bill. I hope that will come to me at some stage. These are fundamental errors.

I will reflect on clause 1 debates. The minority report has a reflection on this issue. There is a reasonable explanation why sometimes clause 1 debates might be perceived as being unduly prolonged or elongated, and that is a function of the fact that representative ministers or parliamentary secretaries in this place are not the prime minister—as in the primary minister—moving the legislation. They are representing or have responsibility for carrying it, but they are by no means subject matter experts on the policy of the bill. They do not understand the clauses' interactions with other policy settings, legislation and stakeholder concerns. That should be an uncontroversial statement. That is frankly the case. I must concede that I reflect sometimes on the invidious position of representative ministers or parliamentary secretaries—I am a compassionate person and sometimes I feel for the government, as difficult as that is to believe! I reflect on two bills that Hon Matthew Swinbourn has had to take carriage of only in the last two months. I forget the official titles of the bills, but one was to fix loopholes in the SafeWA app and the other was the bill focused on the re-insertion of Commissioner McKechnie to the role of heading the Corruption and Crime Commission. With respect to the legislation for the SafeWA app, that poor parliamentary secretary later had to give a personal explanation to this house because he was put in a position of misleading it about the availability, or lack of availability apparently, of senior police officers to answer questions. And we wonder why a clause 1 debate might be lengthened.

There was another issue with the reappointment of Commissioner McKechnie to head the CCC. If I recall correctly, and I will stand corrected if I am wrong, during the clause 1 debate I asked the simple question of the parliamentary secretary of whether Mr McKechnie had applied for his position. I went over the time line recently, and there was a three or four-minute silence. This is no reflection on Hon Matthew Swinbourn, but he took about three, four or five minutes conferring with his advisers at the table about whether there was an answer to that question, which to my mind was very simple. The question was answered, but the answer was to refer me to an online article by Peter Law in *The West Australian*, which intimated that Mr McKechnie had reapplied for that position, so there was not an answer. Should we walk away from passing a bill like that after that kind of experience feeling satisfied that the government is across its brief—that it is acting in a transparent and accountable manner? Absolutely not. So, going on the government's track record, why would we then entrust it with an urgent bills provision? I will not reflect on the management of legislation in the last Parliament, but it absolutely defies description.

The Leader of the House made a very good point about the taxpayers of this state being horrified about the goings-on in this chamber. I think they have every right to be horrified about the performance of the government and to feel fearful of a government that is untrammelled and cannot be scrutinised. If the government takes from us our capacity to scrutinise it, how will we focus on issues of crisis in the state affecting the health system or the mental health system? How will we reflect on dysfunction in the police service and its inability to come to callouts in a timely way? I think that is what the taxpayers of Western Australia are and should be horrified about.

The Leader of the House also made an analogy concerning, I suppose, modern practices in business and the like. I will state the obvious point: this is not a business. We do not make decisions in a way that business makes decisions, primarily because there is no profit motive. I also think that someone of the leader's experience deliberately conflates the separation of powers. This is not an executive decision-making body; this is the legislature. We have

a separation of powers in this parliamentary democracy for a reason. This is a deliberative chamber—underscore "deliberative". We deliberate. We consider, we debate and we scrutinise. That is the whole purpose of it—absolutely it is the whole purpose of it. Frankly, to endorse recommendations 5 to 8 of the majority report, the sixty-fourth report, risks stripping that out. It will transform the character of this place. It will completely undermine its role and its function. That is not to say that there would not be reasonable justification for the consideration of an urgent bills–like measure. We can be reasonable, pragmatic people. We could imagine any kind of contingency or scenario in which people in this place would have to make a pretty fast, expedient determination on a piece of legislation because, effectively, the lives, safety and welfare of the majority of Western Australians depended on it; however, they would be exceptionally rare circumstances. That is why, in the minority report, myself and my colleague Hon Martin Aldridge recommended two parts of recommendation A. They are —

(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.

Personally, I stand by those recommendations and I consider them to be superior recommendations when compared with the comparative recommendations made in the majority report. I am not discounting the need or the potential requirement for an urgent bills provision. However, I think it would need to be significantly remodelled to the one presented here. Without being flippant, I think there needs to be some discipline. That is a word the Leader of the House has evoked on a number of occasions today and I pay attention to what the Leader of the House says because she is an experienced person in this chamber and I have always found her worth listening to, even when I disagree with her. She might want to adopt this discipline. The comparison might sound rather trivial but, for example, in cricket, there is a decision review system or DRS. This is something that can be gamed but limits can be applied on the amount of time in a single match that a captain can utilise it. If the government were to go down this avenue, I would probably implement a pretty low ceiling, but I would concede the potential for the government to need it. We can only take the Leader of the House at her word that this will not be applied regularly or be the default position.

I will seek clarity during the course of substantive debate on what kind of scenario and what kind of legislation the government would seek to apply this urgent measure to. How would it be facilitated? What specific bills in the legislative pipeline does the government think will demand the invocation of proposed standing order 125A? For example, would it apply to electoral reform? I think that would be a mistaken strategy, frankly, on the government's behalf. Would it potentially be applied to what might be the aboriginal cultural materials act amendment? From what I understand, it is a reasonably contentious piece of legislation. Would it potentially be applied to contentious issues or matters of conscience—for example, whatever potential future reform is made to the surrogacy bill? We can contemplate this measure being applied to a range of issues.

Before I conclude my remarks in support of the motion moved by Hon Dr Steve Thomas, I will make two points. Perceptions about filibustering and the apparent problematic nature of that have already been fixed to the degree that there is now no such thing in this chamber as an unlimited second reading speech. If I am to do charity to the argument moved by the Leader of the House in her first iteration back in June, that was effectively the sin we were trying to fix here. That has been dealt with through acclamation of this house. It was an amended motion, but there are now, effectively, limits. We have a ceiling placed on second reading speeches. That provides the government with far more predictability than I think it enjoyed in the previous term and previous governments ever have. The point of principle is that we need to seek the right balance between scrutiny and expedience. Considering the additional time that has been given to the government by virtue of the majority report, the implementation of speaking limits and the fact that Labor Party members have a crushing majority in this house means they already have absolutely everything they need to legislate effectively. They do not need any more. To preference speed over scrutiny I think is something that this house will come to regret, and regret reasonably quickly.

HON MARTIN ALDRIDGE (Agricultural) [8.35 pm]: I rise to support the amendment moved by the Leader of the Opposition and, in doing so, indicate that I will contain my comments to effectively chapter 3 of report 64 and the minority report, which are relevant to the recommendations that Hon Dr Steve Thomas made to remove from this motion. That is not to say that they may not be considered on another occasion. I will outline the reasons that I am doing that shortly. The premise through which I am going to deliver these remarks is this view that one person's scrutiny is another person's time wasting. It is difficult. Hon Tjorn Sibma said before in a debate earlier today that one's view often changes depending on which side of the chamber one sits. I draw members' attention to paragraph 3.4 of the report, which reads —

> The critical question for any parliamentary chamber is to balance the need for adequate scrutiny against the need for the timely passage of legislation.

If recommendations 5 through 8 pass in the form that they are recommended by the majority of the committee, that will give sole discretion to one person in this chamber; that is, the minister or parliamentary secretary in charge of a bill. They will be the sole judge and sole determiner of whether a bill ought to be considered an urgent bill. Members might find it interesting that, in chapter 3 at paragraph 3.8, the committee found this —

> The Committee is not of the view that any further changes are required to speaking times generally at this time and will continue to monitor the debates on the second and third readings of Bills.

At paragraph 3.14, the committee found —

> The Committee is of the view that no change is required to the Standing Orders relating to the consideration of clause 1 however it encourages those Members who preside over Committee of the Whole to reinforce the longstanding practice of the House during clause 1 debates. The Committee will continue to monitor Clause 1 debates into the future.

That is interesting. There are two comments saying that no changes are needed to speaking times on the second and third reading of bills at this time, and no changes are required to clause 1 debates at this time. However, if members read chapter 3 as it flows, there is a need for an urgent bills process. It seems rather odd. It will be interesting to hear in the contributions of those members who have advocated for this through this report, and support the recommendations, about how they reconcile the facts at paragraphs 3.8 and 3.14 of the report with the conclusion that an urgent bills process is required after it has been found that no change is required. It is strange.

Those members who have had the opportunity to read this report would be aware that the COVID-19 temporary orders are canvassed at paragraph 3.38. Interestingly, this paragraph says that the temporary orders that still apply today are activated only following consultation with party leaders. The temporary order is much more than that. It says —

> If, following agreement with the party leaders or Members deputed, the Leader of the House or the Member deputed by the Leader advises the House that it is necessary to introduce a Government Bill or undertake any other immediate business arising from or in connection to COVID-19, the following Temporary Order shall apply in respect of those matters:

Just moments ago we heard from the Leader of the House that she will consult on the activation of this urgent bills process. It will not always be the Leader of the House who will get to make that decision; it will be the minister or the parliamentary secretary in charge of a bill. It will be interesting to know what the approach of the rest of the front bench will be because they will unilaterally have that power, not the Leader of the House.

I would be more reassured if a similar approach was taken to the COVID-19 temporary orders that require the government, a minister or a parliamentary secretary in charge of a bill to seek the agreement of Hon Dr Steve Thomas, Hon Colin de Grussa, a representative of the Legalise Cannabis Western Australia Party, Hon Dr Brad Pettitt and Hon Wilson Tucker. If those leaders agreed that there was a matter of such urgency that required the house to act in this way, I would feel much more assured as a member that that was the case. The leadership of the chamber would then exercise a view rather than a single member of the government in charge of the bill.

Again, I draw members' attention to paragraph 3.4, which states —

> The critical question for any parliamentary chamber is to balance the need for adequate scrutiny against the need for the timely passage of legislation.

One person's scrutiny is another person's time wasting.

It is interesting that I am following some other speakers. We heard today from Hon Dan Caddy. I wrote down one of his exact comments. He said, "It exists in New South Wales and it exists in Victoria." We heard something similar from Hon Sue Ellery.

Hon Dan Caddy: It's in the report.

Hon MARTIN ALDRIDGE: Hon Sue Ellery said, "We are not reinventing history here." She made a reference to New South Wales, Victoria and the Senate. Perhaps we should not hasten members. As Hon Dan Caddy just said, "It's in the report." Members only received the report on Thursday. They only received the correction to the report after business hours last night on the matter that is before us. It corrects recommendation 5, if I am not mistaken. When Hon Dan Caddy interjected and said, "It's in the report", he was referring to paragraph 3.43, which states —

> An urgent Bills process forms part of the Standing Orders in the New South Wales and Victorian Legislative Councils. The effect of these provisions is not to truncate debate —

I am not sure whether the member read the second sentence —

> but rather to permit urgent Bills to pass through all stages immediately or at any stage during any sitting.

I have before me the Victorian and New South Wales Legislative Council standing orders. They include footnotes, very helpfully, especially footnote 16. Under "Urgent Bills" in the standing orders of the New South Wales Legislative Council, it says —

> (1) A Minister may declare a bill to be an urgent bill, provided that copies have been circulated to members.
>
> (2) The question—That the bill be considered an urgent bill—will be put immediately, without amendment.
>
> (3) When a bill has been declared urgent, the second reading debate and subsequent stages may proceed immediately or at any time during any sitting.

That is not what we are considering in this place.

The Victorian Legislative Council's standing orders state, under "Urgent Bills" —

> (1) At any time following the introduction of a Bill, a Minister may without notice declare a Bill to be an urgent Bill and move "That the Bill be treated as an urgent Bill".
>
> (2) No amendment will be permitted to the question.
>
> (3) When a Bill has been declared urgent, the second reading debate and all subsequent stages may proceed immediately or at any time during any sitting.

Yes, the Victorian Parliament has an urgent bills process. That is not what we are considering here. In fact, the urgent bills process, as crafted by the majority of the committee at recommendation 5, has no provision for the introduction of an urgent bill, the consideration of it forthwith or dealing with other sections of our standing orders that may prevent its immediate passage. It is not an urgent bill as defined by the Victorian Legislative Council or the New South Wales Legislative Council.

Reference has also been made to the Senate. I am not sure why the member is supporting this or why they even raised the Senate. Paragraphs 3.47 to 3.51 of report 64 say that the Senate does not use it; it prefers a suspension of standing orders. I also draw members' attention to paragraphs 3.50 and 3.51 of the Standing Committee on Procedure and Privileges report, which talks about different practices that exist in the Senate. It states —

> There are some features of the Australian Senate's practice that ensure that a whole Bill can be scrutinised when under time management, rather than the clause by clause consideration of a Bill being interrupted through the guillotine. The Senate now considers nearly all Bills as a whole in Committee which means that questions can be asked about and amendments moved to any clause of a Bill with a separate question put on any clause or amendment that is opposed.

I will come back to this later. Paragraph 3.51 states —

> While the Senate uses time management on Bills it ensures a level of scrutiny through the automatic consideration of Bills by the Scrutiny of Bills Committee. That Committee examines Bills against its terms of reference, which are concerned with the protection of personal rights and liberties, appropriate delegation of power and ensuring that laws subject the exercise of legislative power to parliamentary scrutiny.

There are two things that the government could do here. First, it could make it a condition of this permanent order—not a temporary order—that agreement is required by all party leaders before activating the proposed urgent bills standing order. Second, the government could make it an urgent bills process to allow it to introduce an urgent bill. This does not allow the government to introduce an urgent bill, it does not allow it to proceed forthwith to the second reading, and it does not allow it to adopt the report or proceed forthwith to the third reading.

The other thing that the government could do is refer every bill to our Standing Committee on Legislation. The hardworking members of the Standing Committee on Legislation, who get paid to be members of that committee, are waiting for work. They stand ready to scrutinise the government's legislation.

Before members start comparing jurisdictions, I encourage them to read the report fully and do their own research. Maybe they would have had the opportunity to do that if we had not been proceeding with such haste on this matter.

I also draw members' attention to the standing orders of the Legislative Assembly. Standing order 168(2) states —

> 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. Debate on that motion will not exceed 20 minutes and no member may speak on it for more than five minutes.

That is the extent of the urgent bills process in the Legislative Assembly. Make no mistake, if recommendations 5 to 8 pass, the Legislative Council of Western Australia will no longer be the house of review. That responsibility will transfer to the members of the Legislative Assembly. If that is the view of the majority of members who oppose the amendment moved by the Leader of the Opposition, their best course of action is to resign and run for a seat in the Legislative Assembly.

There is no example in Australia of a Parliament that has and uses an urgent bills process like the one that is suggested in this report or anything remotely close to the one suggested in this report. Please, members, do not be misinformed by some of the contributions that you have heard today.

I have a number of questions about this majority recommendation. It is fortunate that Hon Kyle McGinn and Hon Dan Caddy have not spoken on the amendment yet, so they can answer some of my questions. It is interesting that recommendation 5, as corrected in report 65, applies only to government bills. It says —

> At any time after the moving of the Second Reading of a Bill a Minister may declare that a Bill is an urgent Bill.

Why is it only government bills that might be urgent? A number of members on this side of the chamber have private members' bills that they would like to have considered. Some of those may well be urgent in the future, or at least in their mind they may be urgent. Guess what tactic is often deployed by government when considering a private member's bill. It is to talk it out and not let it come to a vote. Would one of those members on the crossbench who has a private member's bill awaiting consideration like an urgent bills process? No, not according to the majority of the committee; it is just an instrument of the government.

The other question I have is: could the declaration of an urgent bill and the time allocated to a stage of the bill be retrospective? I think it could be. Imagine a minister or a parliamentary secretary sitting at the table. They might become frustrated, and they might lose their temper, which we have seen time and again, and they could stand up and say, without any consultation, because they do not have to, "I declare this an urgent bill, and I allocate 10 minutes to the Committee of the Whole." We might be two hours in. I think the guillotine would then drop and there would be retrospective application. Is it possible, Hon Dan Caddy and Hon Kyle McGinn, that a minister or parliamentary secretary could apply very limited time or indeed no time at all? Is it possible that in a motion moved after declaring a bill urgent, they could allocate no minutes to a second reading debate, no minutes to a third reading debate and no minutes to the Committee of the Whole stage? I think that would be possible. There is no provision in recommendation 5 to allow a minister or parliamentary secretary in these circumstances to dispense with standing order 121, which relates to the introduction of a bill, or standing order 125, which requires that a Council bill stand adjourned for two calendar weeks. There is that provision in the COVID-19 temporary order, and in New South Wales and Victoria and the Legislative Assembly of Western Australia. Members, this is not about urgent bills. That is a complete farce.

How will bills be treated when they are debated cognately? How will they be treated under an urgent bills declaration? Will these provisions displace an ability to refer a bill to a committee? If a bill is declared urgent and the question on the second reading has to be put in two hours, what will happen if it is discharged or referred to a committee? Interestingly, members, the recommendation for standing order 125A, as crafted by the majority of the committee, preserves the right of speech for a minister or parliamentary secretary at suborder (4), which states —

> A Minister or Parliamentary Secretary may commence or complete a second reading reply speech notwithstanding the operation of (3).

It is interesting that, once again, these individuals are more important than the rest of the members in the chamber. There is no ability to guarantee that I will have a right of speech on behalf of my constituents on any bills that are declared urgent by the ministers or parliamentary secretaries in charge of these bills. I look forward to an informed response from those members who have crafted these provisions.

Standing order 137(2) states —

> Consideration and adoption of a report on an amended Bill shall be made an order of the day for the next sitting day, unless leave is granted to consider the report on presentation.

Once again, members, the COVID-19 temporary order deals with this urgent bills process, but recommendation 5 does not. We then get to the third reading stage. Standing order 140(b) states —

> if the Bill has been amended, the third reading of the Bill shall be made an order of the day for the next sitting day.

Once again, there is no contemplation in recommendation 5. Members, this is not about dealing with urgent bills. If it was, it would have captured the operation of what an urgent bills standing order actually looks like in Victoria and New South Wales and the Legislative Assembly of Western Australia, and it would allow a bill to proceed through each stage of its passage forthwith. This is not what recommendation 5 anticipates. This is purely a guillotine by a different name. This is not about urgent bills. It does not balance members' right of speech across the chamber. A handy table on page 14 of the report, table 1, details a number of bills that I think have been disadvantaged by the exercise of a guillotine motion in this Parliament and the last Parliament.

The amendment moved by the Leader of the Opposition seeks to simply defer recommendations 5 to 8. I draw members' attention to the minority report. I think that would be a responsible alternative approach to address some

of those issues, unless, of course, Hon Dan Caddy and Hon Kyle McGinn are in a position to answer my questions forthwith. This is about silencing voices on this side of the house ahead of abolishing them.

HON NICK GOIRAN (South Metropolitan) [8.54 pm]: I rise to support the amendment moved by Hon Dr Steve Thomas. I interpreted the amendment moved by the honourable Leader of the Opposition to really be seeking to carve out four recommendations from the report before us. In earlier comments today, I referred to this report as the equivalent of a five-part bill with 38 clauses. What the honourable Leader of the Opposition is looking to do is carve out part 3 of the report that is before us. I need to clarify at this point that when I refer to the report, I am referring to the sixty-fourth report of the Standing Committee on Procedure and Privileges. As I understand it, that is the only report that is before us. I note that reference has been made to a sixty-fifth report, but I am unaware of the sixty-fifth report presently being before us for consideration. My understanding is that we are solely looking at the sixty-fourth report, which has been enthusiastically moved for adoption.

Members will see that chapter 3 of the sixty-fourth report ends with recommendations 5 to 8. Two questions need to be considered by members. The first is: What disadvantage is there to the Legislative Council of Western Australia if the Leader of the Opposition's amendment is agreed to; is there any? That is the first question we should ask. The second question to ask is: if we were to carve out this part, why would we do that? There are some very good reasons. I must say that I really commend the Deputy President for his contribution. Once again, he has demonstrated precisely why members elected him to that office. I really commend him for the remarks that he just delivered. It needs to be noted that it is highly unusual for a minority report to be appended to a Standing Committee on Procedure and Privileges report. I cannot say that it is completely without precedent, but it is highly unusual. That might be one reason why members might agree that this should be carved out for supplementary consideration, particularly when considering the history of the Legislative Council. These types of changes to the laws of Western Australia and to the standing orders of the Legislative Council in the Parliament of Western Australia have been done on a consensus–bipartisan–tripartisan basis. Appended to the sixty-fourth report of the committee is a minority report. The second reason why members might agree to carve out a part of the report before us is that the portion that the honourable Leader of the Opposition asks us to carve out is a portion that has not been tested by a temporary order. Often, any reforms to our processes and procedures are first tested by a temporary order for a time. But members would be aware that the proposal set out in recommendation 5 has never been the subject of a temporary order in this place and has not been tested.

There is a third reason that members might agree to carve out this portion of the bill before us. Incidentally, members should note that if we did agree to carve it out, it would not mean that the rest of the recommendations could not be passed. They could be passed. They could even be passed today. The carve-out would allow further consideration to be given to this contentious portion. The third reason we might agree to this is that the nearest equivalent to the trial of these provisions is the COVID-19 temporary order, yet at the hand of the majority—indeed, if I am not mistaken, the unanimous view of the Standing Committee on Procedure and Privileges—the temporary order, which is the nearest equivalent to what we are discussing now, has not been evaluated. Firstly, the minority report is delivering a red flag for the attention of members. Secondly, what is proposed before us has not been tested by way of a temporary order. Thirdly, the nearest equivalent, the closest cousin, to what we have before us has not been evaluated, on the word of the five members of the Standing Committee on Procedure and Privileges.

I wonder who has had the opportunity to read and digest the sixty-fourth report. This is an interesting thing. After 13 years in this place, it never ceases to amaze me how many times we deal with things that people have not read. One of the primary motivators for me selling my half share in a law firm in 2007 was complete exasperation at the state of the laws in Western Australia. What I did not know then, and what I have now come to learn, is that lawmakers routinely do not read the things that they are going to pass. I really do wonder how many of the 36 members in the chamber today have read the sixty-fourth report, to say nothing of the sixty-fifth report, which we may get to at some stage—who knows?

If those members who have had an opportunity to read the sixty-fourth report look at recommendations 5, 6 and 7 and the commentary of the majority of the committee that lead to those recommendations, they will see a complete absence of any analysis to set out the difference between those recommendations and the COVID-19 temporary order. The unanimous view of the committee is that that has not been evaluated; there is no analysis between that and what is proposed here at recommendation 5. Why the difference? Why is there a difference between the COVID-19 temporary order, which has been not been evaluated, and the order that we are being asked to agree to on a permanent basis? Why the difference? Why no commentary?

One of the reasons that there might not be any commentary is that the committee was flat out trying to comply with an unreasonable time frame that was put before it by the Council. That could be one reason. Another reason might just be that some individuals were not up to the task and doing a bit of analysis was asking too much. But that is okay, because those same individuals have the opportunity now when we are passing the bill, or the recommendations—part 3, or otherwise—of this report, to provide an explanation. Why the difference? Can they articulate a reason, or is that an intellectual challenge that is too difficult? I wonder. The report stands on its own merits. There is very

clearly no analysis in chapter 3 of the difference between the COVID-19 temporary order, which has not been evaluated, and the permanent order that is about to be inserted into the standing orders as new standing order 125A, either in the form set out in the erroneous sixty-fourth report, or in the form set out in the sixty-fifth report.

It needs to be said that there are a number of issues. Even if there are members with a degree of enthusiasm for what is before us who may, at some point in time, be in a position to articulate the reasons for it and the difference between the COVID-19 temporary order and the order that is before us, there remain some issues. One issue is the concept of ministerial edicts. What is before us seeks to enshrine the power of a minister to declare a bill urgent—in other words, to issue an edict to say, "This is an urgent bill." I encourage members to look at proposed standing order 125A(1), which states —

> At any time —

I pause there to reflect on the time aspects and the prospect of retrospectivity, as outlined by the Deputy President in his remarks earlier this evening —

> after the moving of the Second Reading of a Bill a Minister may declare that a Bill is an urgent Bill.

I was away on urgent parliamentary business, but someone relayed to me that the Leader of the House had indicated—I am paraphrasing—that for the time she remained in the position of Leader of the House, it was her intention to consult on such declarations. I think that is entirely appropriate, fair and reasonable, and I thank the Leader of the House for putting those comments on the record.

The issue that remains, though, is twofold. Firstly, that does not mean that future leaders of the house will take the same approach. We are here enshrining something that will remain permanent until such time as a future Legislative Council with an absolute majority agrees to change it. The second issue is that the practice the Leader of the House has indicated she will be inclined to pursue is not set out here. That is, yet again, one of the differences between this recommendation and the COVID-19 temporary order—the concept of consultation—yet there has been no explanation given by members of the majority of the committee as to why that is absent. There could be a good, cogent reason for that, but it is not in the report and nobody has bothered to explain it. As I said, maybe that is too hard.

This proposed standing order will allow for the putting of amendments without debate. I draw to members' attention proposed standing order 125A(3), which states, in part —

> If the motion is agreed, when the maximum debate time for a stage of the Bill has expired, the Presiding Officer must interrupt the debate and put to the vote all questions as are necessary for the Bill to complete that stage, including all amendments standing on the Supplementary Notice Paper.

We will have a situation in which members will be required to vote on amendments that they have not heard arguments for or against. This is no fiction, because as the Deputy President outlined in his speech earlier this evening, if members take the opportunity to read the sixty-fourth report, they will see when they get to table 1 on page 14 that there is a series of examples in which exactly that has taken place.

I am grateful to my colleague Hon Tjorn Sibma for earlier this evening raising the bill that dealt with the SafeWA data breach. If I am not mistaken, that is the Protection of Information Entry (Registration Information Related to COVID-19 and Other Infectious Diseases) Bill 2021. If that is the case, 12 clauses and the title of the bill were put under this type of provision. Members may say that the title of a bill is no big deal and probably 99.9 per cent of the time I would tend to agree. This was no insignificant bill; it was a bill that the government was very keen to get out of here as quickly as possible because a situation was uncovered by the Standing Committee on Estimates and Financial Operations, in which senior health officials were debating with police, but allegedly nobody had told any of the senior ministers, although there is still water to go under that bridge, let me assure members, until we get to the bottom of exactly who knew what and when. We could not get that information here because the hardworking parliamentary secretary, who was doing his absolute best, was being provided wrongful information at the time about the availability of police advisers, only for us to later find out and for him to very charitably apologise to the chamber because, apparently, no-one had contacted Police, certainly not from the Minister for Police's office, who is yet to be held to account, but the day of reckoning will come.

The third issue that arises as a result of all this is that there is what I describe as a denied right to represent. Recommendation 7 indicates that any discussion by this chamber about the times to be applied, if this edict about an urgent bill is established, must be curtailed to 30 minutes. As I read these proposals, a member can speak for up to five minutes. As soon as six people speak for five minutes, the right of some members to represent will be denied. Why should some of the members in this place not be able to represent their region and have a say? I wonder how that will work when members take a moment to read our existing standing orders, in particular schedule 4, which sets out which matters constitute contempt and interference with the Council. It states —

> A person shall not improperly interfere with the free exercise by the Council or a Committee of its authority, or with the free performance by a Member of the Council's duties as a Member.

A member representing a region will no longer have free performance to fulfil their duties as a member because an edict will have been established by a minister.

A number of other issues arise ancillary to this; that is, our experience can tell us that the only outcome that will be achieved here is the dilution of scrutiny. This is a peculiar concept for the forty-first Parliament. I suspect that the beneficiaries of what is happening today and this week, will not be this government. The beneficiaries of what will happen here will be future governments, because whether the government passes this provision or not or carves out part 3, as proposed by the Leader of the Opposition, will make absolutely no difference to it because precisely the number of bills it wants to pass will happen in the forty-first Parliament.

That will not necessarily be the case for every government moving into the forty-second Parliament and future Parliaments. They will be the beneficiaries of this provision all because certain individuals have not done the work. They have not read the document that they so enthusiastically jumped to their feet and asked everyone to adopt. They have been caught short, because there is a sixty-fifth report. They have not had an opportunity to get up and provide an analysis of the differences between the sixty-fourth and the sixty-fifth reports. I support the amendment moved by the Leader of the Opposition and I encourage other members to do likewise.

HON NEIL THOMSON (Mining and Pastoral) [9.15 pm]: I rise to support the Leader of the Opposition's amendment. We find ourselves in an unfortunate situation. We could agree with everything in this report very quickly, except for recommendation 5 and the associated recommendations. The challenge we have here today has been ably put by other honourable members.

I listened to the comments Hon Martin Aldridge made about other jurisdictions. We talk about best practice and what other Parliaments in Australia do. Page 1 of the report talks about the principles adopted for this review and the modernisation and best practice for the operations of this Parliament. The Leader of the House talked about those aspects being laid out in the report. I will go to that section in the report. The section I referred to is only three and a half lines outlining what occurs in the other jurisdictions. We do not have laid out in the report the powers for urgent provisions in the other jurisdictions.

There are a number of states in our Federation. I spent some time cobbling this together because a review has been done that has not outlined those provisions. There is no table in this report outlining what the urgent provisions in the other jurisdictions are. We can look at the standing orders of Tasmania and search for the word "urgent". I am not an expert on this, and I have not spent the time on it that the Standing Committee on Procedure and Privileges has. There are provisions on motions and an urgent motion provision in the Tasmanian standing orders. However, no comparable provision to Tasmania has been proposed.

The Victorian Legislative Council standing orders has a section on urgent bills. Chapter 14.34 states —

> (1) At any time following the introduction of a Bill, a Minister may without notice declare a Bill to be an urgent Bill and move "That the Bill be treated as an urgent Bill".
>
> (2) No amendment will be permitted to the question.
>
> (3) When a Bill has been declared urgent, the second reading debate and all subsequent stages may proceed immediately or at any time during any sitting.

Looking at that, it would appear that a bill can be declared an urgent bill. The debate would go on but no other provisions suggest that there would be any time limits, as far as I can tell. It is just to identify that a bill gets priority within the Parliament. It seems to be drawing a bit of a long bow to compare it with the provision proposed in recommendation 5. We have heard glib comparisons from members saying that this is best practice. It would appear that the standing orders of both Victoria and Tasmania are not best practice if this is best practice. Here we are in Western Australia setting a precedent for Australian jurisdictions, and I will come back to that in a moment.

I could not find any urgent bill provision in the South Australian standing orders. I know that members opposite may say, "I'm not sure what Neil is saying here", but the point is that it should have been laid out in the report. That way members of the opposition could have made an assessment on that, rather than spending our time trying to ascertain whether the government's claims that it is best practice are correct, which does not appear to be the case. New South Wales Legislative Council standing order 138, "Urgent bills", states —

> (1) A Minister may declare a bill to be an urgent bill, provided that copies have been circulated to members.

(2) The question—That the bill be considered an urgent bill—will be put immediately, without amendment.

(3) When a bill has been declared urgent, the second reading debate and subsequent stages may proceed immediately or at any time during any sitting.

Again, it appears that the urgent bill provisions outlined in the New South Wales standing orders are simply to identify the bill as an urgent bill. There does not seem to be an equivalence with this provision. I come to the Leader of the House's comments that the provisions are laid out—those are the words she used—in the report. When I looked at the report, I saw three and a half lines on what was described and saying that the provision was comparable. Are we expected to just believe that it is the same? In fact, on my cursory examination of the standing orders of other jurisdictions, it does not appear to be equivalent. It is incumbent on this committee to present that in more detail in its report. It is all about the scrutiny that is required. It comes back to a question of scrutiny. Even in the report there is a lack of scrutiny and a lack of detail. I suggest that this report is not best practice, because I would have thought it would have all that detail.

I come back to the Senate. The graph in the report refers to standing order 142. It lays out standing order 142 in detail. That has been read into *Hansard* a few times already so I am not going to repeat it. We have the graph. There is a bit of a discussion around its use when there was a balance of power et cetera in the Senate. I make one observation. In fact, I would like to observe a couple of things about the Senate. Firstly, interestingly, we have a Senate that has, if you like, a gerrymander in relation to the states of Australia. That is interesting in relation to the review currently underway in our upper house. One of the models is for statewide one vote, one value. It is the intention to insert that into the review of the upper house. That is certainly not the case with the Senate. Members may ask: why is that relevant? It is relevant because the Senate is a very stable and equitable chamber. It has 12 senators from Tasmania, for example. If there were a double dissolution, there would be 26 000 voters per senator; whereas, in New South Wales, that figure would be 345 000 voters per senator.

This is a situation, not dissimilar to what is occurring in this house at the moment, wherein there has been a complaint about the number of voters who get to vote in my region, which resulted in me being elected, along with my colleagues from the Mining and Pastoral Region. My point is that the Senate has always had a balance of power and has always had, effectively, a minority government situation because of its composition. Today, this chamber has an absolute majority of the government and it seems coincidental, you could say, that the majority government is now putting through provisions that will effectively allow for a guillotine effect. It might be true today that the Senate's composition might compare with that in this place, but in its balance of power it is certainly not the case and I think it is incumbent on this place to ensure that it continues to be place of review that is a place of balance. Therefore, I commend the amendment and support it, because I believe we need to retain balance and ensure that there will be ongoing scrutiny of the government and that it will be held to account when laws are made for the people of Western Australia.

HON JAMES HAYWARD (South West) [9.26 pm]: I want to pick up on a couple of things that Hon Sue Ellery said in her speech earlier. The Leader of the House said that one of the things that might happen is a minister may bring in this provision during the passage of a bill. For instance, if a clause 1 debate goes on too long, the minister could potentially invoke this provision in order to get an outcome and to get the legislation moving more quickly. I do not think I heard that wrong; I am pretty sure that was the intention of what the Leader of the House said. This is exactly the problem and the real difficulty with what is being proposed here. In reality, we are giving a single person, whoever that may be—the Leader of the House, one of the ministers or a parliamentary secretary—that complete and almost absolute power.

One of the things that we need to think about is that the state spends a lot of money to keep the Legislative Council going. It puts significant resources into all of us sitting here tonight in terms of the costs of having people here, staff here and the power on, with all the lights. The state is spending a significant amount of money, because it values the work of the Legislative Council. The other thing we need to keep in mind as well is that all of us went through an election process.

Several members interjected.

The ACTING PRESIDENT: Members! Hon James Hayward has the call.

Hon JAMES HAYWARD: All of us went through an election process and the state spent a significant amount of money electing the individuals who sit in these seats. All those expenses are spent because of how much democracy is valued. The danger of what is being proposed, particularly with the ability for a minister or parliamentary secretary to arbitrarily announce that a bill has become urgent even during the passage of that bill, is that it completely goes against all the values of democracy. It goes against those values because, effectively, one person will have control over what happens. It would be possible for somebody to stand up and say, "We're going to close this debate

down; you've got 30 minutes" or whatever the time is. That will curtail the other member's ability to prosecute their case.

Having said that, I will be a bit cheeky and suggest something to the government. We clearly agree that most of what is being proposed can be supported, so here is a wild and cheeky suggestion that the government might want to consider. Consider supporting the amendment, putting it through and getting all those items except for those in recommendation 5 through now. Get them through tonight and we can start them tomorrow. The government can save some of the time it is looking to save. We can get rid of our afternoon tea breaks and reduce our meal breaks. All these things can come into place immediately. Then, I suggest that the committee could perhaps have another look at how it words those recommendations, with a little bit more work on what the precedents are in other jurisdictions around the country, and then re-present them to be looked at again.

Quite clearly, the government has the numbers. It does not need this recommendation, because it could simply put the matter to a vote. The urgency motion could be put to the house and voted on, and the government would win every time. That would be a very, very simple addition to what is currently being proposed, and, in fact, I would have no problems supporting it, and I suspect others on this side would not either. The problem is simply the idea that a sole individual is responsible. I am not disparaging the quality of the people here, but when laws are written for the future, we have to consider the worst-case scenario. These things need to be made bulletproof so they stand the test of time. What is being proposed here will not stand the test of time and it is dangerous. There is a possible way forward. If the government were to take this on board, it could get most of these things in place for tomorrow. We would not be debating this matter any further, the committee would have the opportunity to rejig the other elements it wants, and perhaps with some negotiations behind the chair, we could get to a point at which they could be supported. Maybe that could happen quite quickly. It might be a way to give the government six hours or whatever back tomorrow or in the future. It might also give an olive branch to the opposition to say that maybe there is a way we can get these things forward, given that we support most of the recommendations.

Division

Amendment put and a division taken, the Acting President (Hon Jackie Jarvis) casting her vote with the noes, with the following result —

Ayes (10)

Hon Martin Aldridge	Hon Sophia Moermond	Hon Neil Thomson	Hon Colin de Grussa *(Teller)*
Hon Peter Collier	Hon Tjorn Sibma	Hon Wilson Tucker	
Hon Nick Goiran	Hon Dr Steve Thomas	Hon Dr Brian Walker	

Noes (19)

Hon Dan Caddy	Hon Peter Foster	Hon Shelley Payne	Hon Matthew Swinbourn
Hon Sandra Carr	Hon Lorna Harper	Hon Stephen Pratt	Hon Dr Sally Talbot
Hon Stephen Dawson	Hon Jackie Jarvis	Hon Martin Pritchard	Hon Darren West
Hon Kate Doust	Hon Alannah MacTiernan	Hon Samantha Rowe	Hon Pierre Yang *(Teller)*
Hon Sue Ellery	Hon Kyle McGinn	Hon Rosie Sahanna	

Pairs

Hon Steve Martin	Hon Klara Andric
Hon James Hayward	Hon Ayor Makur Chuot

Amendment thus negatived.

Motion Resumed

HON SUE ELLERY (South Metropolitan — Leader of the House) [9.36 pm]: I want to go over some comments that I might have made before, so I ask members to please forgive me if they are about to hear me say this for the third time.

I want to thank the Standing Committee on Procedure and Privileges for the report. There is no question that the committee did a substantial amount of work in a relatively short time. I want to thank the committee. I think the committee would have had to do some of its work over the July break when others of us were free of such obligations and could take some time off, so I want to thank the President and the members of the committee, and the staff, for the report.

There is clearly—we have touched on it already—a minority report. Given some of the debate that we have heard, and given the findings and recommendations of the minority report, I can draw the conclusion that at times the

deliberations of the committee might have been difficult. The minority report draws the conclusion, not surprisingly, that the balance has not been appropriately struck between speed and scrutiny. That is not the view of the government. Therefore, the government will be supporting the motion.

The report is useful in a number of ways, not the least in that it reminds the house that a guillotine motion is different from a gag. A guillotine, as proposed in recommendation 5, is not a new term. It has been used recently for the COVID bills. Variations of it are used in other upper houses around Australia, including the Senate and the Parliaments of Victoria and New South Wales. The report notes that the guillotine is about time-limiting debate, which this house has used most recently over the last 18 months on the COVID legislation. The point of difference is that a gag is a closure motion.

The executive summary of the report notes that the committee identified a number of enhancements that will increase the time available for core government business, modernise certain procedures, and simplify areas of confusion among members.

Much will symbolically be made of the question of afternoon tea. There are others who have gone before us. Members in the forty-first Parliament will not understand the holy grail that afternoon tea has become. I think that albeit it will be a saving of only 15 minutes on two days a week, this is an important change to make. It is possible for us to consume a cup of tea and not stop the whole business of the house; it is possible for us to do that. I cannot think of any other workplace in Australia in which the whole business would stop while people had a cup of tea. People do have tea breaks. There is no question about that.

Hon Peter Collier: Yes, schools!

Hon SUE ELLERY: Except the business does not stop! There are teachers on duty. While those students are on the school site, the school has an obligation to meet the duty of care, so business does not stop at all. In fact, when I tell the teachers' union that that is what you, a former Minister for Education, said, it will be horrified!

Hon Peter Collier: Good try!

Hon SUE ELLERY: Yes; I can distract it from anything it might not be happy about with me!

It is a small amount of time, but it is important symbolically. I am delighted that, in my last term in this place, that will, hopefully, change. There are other elements that are small but are not to be sneezed at, such as the proposition that we need to have an hour and a half for a dinner break. In members' ordinary lives at home—maybe it is just me who does not—who stops and takes an hour and a half for dinner?

Several members interjected.

Hon SUE ELLERY: I do not know—who?

Hon Martin Aldridge: Wait for my contribution!

Hon SUE ELLERY: Excellent; I am on tenterhooks! I think that will also be a useful change.

I think some points were made in the earlier iterations of the debate that what we are doing is, I suppose, to paraphrase, so extreme and so fundamentally different from what goes on in other jurisdictions that there needs to be great alarm. That is not the case. Other jurisdictions have a combination of measures in place, such as sessional orders and gags. Members of the Australian Senate have far more severe limitations on their speaking times than we do here.

I noted in my most recent contribution to this debate why the government believes that recommendations 5 through to 8 set out in chapter 3 are an important step forward for us to manage the business of the house in a modern and efficient way. I have said it before and I will say it again: it is my intention that my practice will be to consult with the parties if I believe that I need to rely on those procedures. I have been here for 20 years. I have been on that side. I have seen the way the system can be gamed. I have to say, there is one person in the chamber who is the grand master of gaming the system, who uses time and does not follow requests, polite though they are, and certainly does not follow directions from his own side when he is asked to. That is in no small part why we find ourselves in this position tonight. We want to get on with our legislation. We do not want to have to extend hours and sit here longer. We want to be able to do our business in a sensible fashion in the hours that are allocated to us. We want to allow the appropriate scrutiny and the appropriate degree of questioning that is required, but if that is being abused, we want a mechanism by which we can bring that to a conclusion, and recommendations 5 through to 8 will give that to us. For those reasons, we will be supporting the recommendations.

There are other recommendations in the report that go to a range of other measures, and I look forward to them all together adding to a more productive Legislative Council. These are important changes to be made. Despite our differences of opinion on how we have got to this point, I appreciate the work that went into both the majority and the minority reports. I thank the members of that committee for the work they have done. I look forward to these

changes making a significant difference to how we efficiently carry out our role as a house of review and to our continuing scrutiny of legislation, but in a timely fashion.

HON MARTIN ALDRIDGE (Agricultural) [9.43 pm]: Now that we have returned to the motion moved by Hon Dan Caddy, I rise to contribute to the debate on the tabling of the sixty-fourth report of the Standing Committee on Procedure and Privileges. I will only get the opportunity to make some opening remarks this evening. I wanted to start by making some reference to the extraordinary time frame of this wideranging review. Members will be aware that on 3 June 2021, a motion of this house referred this matter to the standing committee, with an expected reporting date of 4 August 2021. Members will also be aware that an extension was granted to September 2021, which was Thursday of last week, when the sixty-fourth report was tabled. Members will also now be aware that late last evening, the sixty-fifth report was tabled out of session, out of business hours, and circulated to members. I made some remarks earlier today that I find this arrangement of the interaction between the sixty-fourth and the sixty-fifth reports of the standing committee quite interesting. When one looks at order of the day 19, which we are dealing with, we are considering the motion that Hon Dan Caddy moved on Thursday, 2 September 2021 —

> 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.

In effect, the motion that we are debating that was moved by Hon Dan Caddy last Thursday has been amended by the out-of-session tabling of the sixty-fifth report last evening. I find that quite strange. If the circumstances were a little different, I would think that would not be acceptable. I am sure that Hon Dan Caddy, as a loyal member of the Labor government, continues to support the motion he moved last Thursday, notwithstanding that three of the recommendations forming the substance of his motion, recommendations 1 to 38, have changed.

Debate adjourned, pursuant to standing orders.