

STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

*Twentieth Report — “Administering the Oath or Affirmation to Witnesses in Committee Proceedings” —
Tabling and Adoption — Motion*

Resumed from 17 November 2009 on the following motion moved by Hon Matt Benson-Lidholm —

That the report do lie upon the table and be printed and adopted and agreed to.

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [12.51 pm]: I had hoped to deal with a couple of issues on the notice paper as we move forward; a couple of them have been sitting there for a while and needed the attention of the house. The twentieth report of the Standing Committee on Procedure and Privileges relates to oaths and affirmations of witnesses, and the following order of the day is to do with prayers for relief. I do not think there is any need for great debate on the first one. As members will be aware, there has been a change in practice over time about whether oaths need to be sworn when giving evidence to committees of the Parliament. Following a very significant report from a couple of years ago into a number of issues that I will not go into here, the house took the view that oaths should be sworn on every occasion. I personally did not realise that until I appeared before the Standing Committee on Estimates and Financial Operations and was required to swear an oath. I thought that that was a bit odd, because I always tell the truth before parliamentary committees—that is just a fact of life—as I do in the house! That may well have provoked some further thought to this issue, and I notice that that has been mentioned in the committee’s report.

The committee had a good look at this matter and came to the conclusion that there was no need to continue with the decision taken by the house, and its recommendation was that the house revoke its order of 4 December 2007, which instructed the Clerk of the Legislative Council and all committee chairs to administer an oath or affirmation to all witnesses at any Legislative Council committee hearings. Having read this report and being aware that giving false evidence has consequences, whether an oath is sworn or not, it is appropriate that the house agree to the committee’s report, so I agree with the motion as has been moved—that the report do lie upon the table and be printed and adopted and agreed to.

HON MATT BENSON-LIDHOLM (Agricultural) [12.53 pm]: I will make just a few comments in respect of what the Leader of the House has just said. It is a very short, sharp sort of report and the Leader of the House mentioned the committee’s views in sections 3.3 and 3.7, and the recommendation. For the purposes of understanding the history behind this decision I will quickly go over them. In section 3.3 the committee stated that it was satisfied that both the witness information sheet and the oath or affirmation administered to members upon taking their seat in the house were sufficient to put all witnesses on notice as to the importance of providing truthful evidence to committees. In section 3.7, the committee stated that it was of the view that there is no need for an oath or affirmation to be administered to any witness before a committee. I certainly remember discussing with the Leader of the House at the time the necessity for him to make that particular statement. I share his sentiments completely, and I again commend recommendation 1 of the committee to members.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [12.55 pm]: I had not intended to speak, but I thought perhaps one of the members who have spoken might have canvassed this matter. I do not have the report in front of me, and I have no issue with the recommendation that the formal requirement for witnesses to take an oath or affirmation be revoked, but I thought it was still the case that if a committee decided it was appropriate to apply an oath or affirmation, it would still have the choice to do so. I would just like to have that clarified for the record, if I may. I may be able to clarify it myself if somebody could pass me a copy of the report.

Hon Norman Moore: My understanding is that they can if they need to. This just removes the blanket requirement that every witness be required to swear.

Hon SUE ELLERY: I thank the Leader of the House for that. The opposition is certainly happy to support the committee’s recommendation. It is our understanding that it remains a discretion available to committees.

HON GIZ WATSON (North Metropolitan) [12.56 pm]: The Greens (WA) will support this motion. It is good to tidy up matters dealt with by the Standing Committee on Procedure and Privileges that often take a long time to be concluded by way of a motion in the house. This matter deals with an overly restrictive requirement for committees to administer oaths or affirmations to all witnesses. It arose in the Standing Committee on Estimates and Financial Operations when Hon Norman Moore, in his capacity as Minister for Mines and Petroleum, appeared before the committee and was surprised to be asked to take an oath. The committee shared the minister’s concern that, as members of Parliament, we all give a commitment upon taking office to answer questions and to act truthfully in all our undertakings. It seems, in fact, somewhat insulting to ask members to again take an oath or affirmation in such circumstances. This motion will lift that requirement from all witnesses. In committee work, sometimes it is useful to specifically remind witnesses that they are under oath; a committee

will still be able to do so, if it so chooses, in certain hearings. In other circumstances, it is actually very intimidating for witnesses to be asked to take an oath. As members know, in committee work a range of people appear as witnesses, some of whom might benefit from a reminder of the consequences. Of course we also have a form, which they all sign. The committee asks them to confirm that they have read and understood the form, which sets out their obligation to speak truthfully. At the same time, we should be mindful in our committee work to not intimidate people who are unfamiliar with committee processes and find the whole experience very intimidating. They are, nevertheless, valuable members of the community who have information that the committee may find useful. By doing this, we will reinstate that flexibility although recognising that, in some cases, a reminder to members—either formally or by way of comment, that they are under oath—will still be available to committee members and chairs. That should suffice, and the judgment should be made about when it is necessary. We cover ourselves by making sure witnesses have read the forms and understand what they mean, but we had tied ourselves into something that was unnecessarily inflexible. This motion will remove that.

Question put and passed.

Sitting suspended from 1.00 to 2.00 pm