

## Background

### **The events of 10 October 2006<sup>1</sup>**

- 1.1 Following question time on 10 October, the member for Perth, Mr S Smith MP, moved a motion to suspend standing and sessional orders to enable him to outline specific differences between an Australian Workplace Agreement and a collective agreement at a worksite. Following closure of Mr Smith and the seconder, the motion was ruled out of order as the written motion provided was substantially different from the terms read out by the Member in seeking to move the motion.
- 1.2 The Minister for Employment and Workplace Relations then moved the following motion:

That so much of the standing and sessional orders be suspended as would prevent the House from condemning forthwith the Member for Perth.
- 1.3 The Opposition raised points of order with the Speaker on whether the motion was in order and whether the comments being made by the Minister were also in order.
- 1.4 Speaking to the suspension motion, Mr Smith moved an amendment to the suspension motion, which was subsequently seconded. However, as the question on the amendment was not stated by the

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<sup>1</sup> See House of Representatives *Hansard*, 10 October 2006, pp. 12-20.

Chair due to the expiry of time for the debate and was therefore not technically in possession of the House (so 117), the original question was put. The question was carried on division by an absolute majority.

- 1.5 The Manager of Opposition Business then asked the Speaker whether another motion would be moved by the Minister, due to the House's agreement to the suspension of standing and sessional orders. The Speaker indicated that the motion, as worded, was in order and covered both points (ie the suspension of standing orders and its purpose were contained in the same motion).

## **Subsequent action**

- 1.6 Following Question Time on 11 October the Manager of Opposition Business in a question to the Speaker, raised this matter again. She sought clarification of the events of the preceding day, particularly that despite the suspension motion having been carried, there was no subsequent motion to condemn the member for Perth. The Speaker responded by indicating that the motion moved the previous day by the Minister was in order. The Speaker noted that it had become practice in recent times for a suspension motion to contain the purpose within such a motion.<sup>2</sup>
- 1.7 The Leader of the Opposition then moved a motion of dissent from Speaker's ruling, which was subsequently defeated.
- 1.8 In response to questions following the vote, the Speaker indicated that while the original motion was in order, 'clearly it would be preferable in such a situation for that to be dealt with by two motions'.<sup>3</sup> The Speaker indicated the matter could be referred to the Procedure Committee for clarification and there was general support for this from both the Government and Opposition.
- 1.9 The Committee does not normally revisit matters where the Speaker has made a ruling and that ruling has been confirmed following a vote of the House. However, given the general support expressed in the chamber for Procedure Committee review, on 19 October 2006 the committee resolved to conduct an inquiry into this matter. Submissions were sought from the Leader of the House, Manager of

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2 See House of Representatives *Hansard*, 11 October 2006, pp. 55-61.

3 House of Representatives *Hansard*, 11 October 2006, p. 61.

Opposition Business, party Whips, the Deputy Speaker, Second Deputy Speaker and other members of the Speaker's panel and the Clerk. A list of submissions received is at Appendix A to this report.

## Concerns about the motion

- 1.10 Both in debate on 10 and 11 October and in submissions a number of arguments have been advanced, not only in support of the precedent set on 10 October but also in opposition to it.
- 1.11 The primary arguments in favour of this combined motion were that:
- The 10 October motion was not unusual or unprecedented. Suspension motions containing the purpose within them are common, and it is not usual to require a separate motion to give effect to the intention of the House;
  - Reflections on a Member should only be made by way of substantive motion (rather than in the course of debate), and this has been maintained as the House was able to reflect on Mr Smith's behaviour through a vote;
  - Passage of a motion to suspend standing and sessional orders is permissive rather than compulsory, and while it will permit a certain course of action, it does not necessarily compel that action to be taken. It was not necessary for a second motion to be moved; by agreeing to the suspension motion, the House has supported the proposition contained within it.
- 1.12 Counter arguments against the precedent included:
- While there has been a practice of motions combining suspension of standing orders and the primary purpose, they have been largely for matters relating to the routine and conduct of House business, not for matters as serious as condemnation of an individual Member;
  - Debate on a suspension motion should focus on the urgency aspect rather than the subject matter which is the object of the suspension. Combined motions make this impossible;
  - Combined motions of this kind restrict the opportunity for the Member to respond in a full debate, which would be allowed should a formal censure motion be moved;

- Combined motions restrict Members in how they might choose to vote. Agreement to a suspension motion should not be taken to mean agreement with the purpose of the motion; and
- The combined motion was devoid of any detail regarding the actions of the Member being condemned and therefore made it unclear about the basis of the condemnation.

1.13 The committee examines each of these arguments in detail in the following chapter.