



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

BUSINESS

SPEECH

Monday, 26 August 2002

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date Monday, 26 August 2002
Page 5636
Questioner
Speaker Abbott, Tony, MP

Source House
Proof No
Responder
Question No.

Mr ABBOTT (Warringah—Leader of the House) (6.01 pm)—I move:

That so much of the standing orders be suspended as would prevent the following arrangements applying in relation to the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 unless the House otherwise orders:

(1) the Bill stand referred to the Main Committee for the remainder of the second reading stage up to but not including the summing up by the mover of the motion for the second reading of the bill, or his nominee, and the putting of any questions at the conclusion of the second reading debate;

(2) in speaking to the motion for the second reading of the Bill in the Main Committee each Member speaking for a period not exceeding 20 minutes;

(3) during consideration of the Bill in the Main Committee the quorum of the Committee being three Members comprising the occupant of the Chair and two other Members; and

(4) the Main Committee continuing debate on the Bill regardless of any unresolved questions.

I do not wish to long detain the House on this matter but I do want to say that we have had a very good and intelligent debate thus far on this issue and we will continue to have a very good and intelligent debate on this issue. So far 56 members of the House have had an opportunity to speak in this chamber, but I understand that there are some 48 members, thus far, who still wish to speak on this very important matter. It is necessary that the debate continue in the Main Committee—not because the Main Committee is a sideshow; the Main Committee is every bit as much a part of this parliament as this chamber, but it is necessary that the rest of the debate take place in that chamber if the government's legislative program is to continue. Some of the bills which the government needs to continue with this week are the Veterans' Affairs Legislation Amendment (2002 Budget Measures) Bill 2002, which will benefit thousands of income support recipients; the Criminal Code Amendment (Espionage and Related Offences) Bill 2002, to modernise our legislation; the Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002 and the States Grants (Primary and Secondary Education Assistance) Amendment Bill (No. 2) 2002—

Mr Melham—Why can't my constituents get to listen to me?

Mr ABBOTT—I think the member for Banks's constituents hear far too much of the member bellowing and carrying on in question time. The states grants bill is to enable capital works development to proceed next year in government and non-government schools. The Australian people expect the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 to be taken seriously, and the government is taking the bill extremely seriously, but they also expect the government to get on with the business of governing. That is why it is very important that further debate on this bill is considered in the Main Committee. The bill will, of course, come back to this chamber for summing up, for vote and for any subsequent debate. For that reason I commend the motion I have moved to the House.

Mr Stephen Smith—Madam Deputy Speaker, I rise on a point of order. The motion moved by the Leader of the House is out of order. It is out of order because of the combined effect of paragraphs (3) and (4) of the motion that he has moved. Paragraph (3) says:

During consideration of the Bill in the Main Committee the quorum of the Committee being three Members comprising the occupant of the Chair and two other Members ...

That does not specify, as the standing orders do, one member of the opposition. Secondly, paragraph (4) says:

The Main Committee continuing debate on the Bill regardless of any unresolved questions.

The combined effect takes away the fundamental basis on which this House established the Main Committee, which was that one dissenting voice in the Main Committee could send a matter back here. That cannot be done

by way of motion as the Leader of the House has moved; it can only be done by the House substantively deciding to change the standing orders to therefore change the basis on which the Main Committee is constituted. The whole basis of the Main Committee is that it is to deal with non-contentious matters—that is why one voice can send it back. So the motion moved by the Leader of the House is out of order.

Mr Abbott—On the point of order, Madam Deputy Speaker: the motion that I have put to the House is in exactly the same terms as the motion that was put to the House to move the euthanasia debate from this chamber into the Main Committee, so there is a perfectly good precedent for this. The point of order should be ruled out of order.

The DEPUTY SPEAKER (Ms Corcoran)—Order! I have been advised that the motion as it stands is in order.

Mr Stephen Smith—Madam Deputy Speaker, I rise on another point of order. The Leader of the House has indicated that this motion is in precisely the same terms as the motion which referred the euthanasia legislation to the Main Committee some time ago. On that basis, I have another point of order which is predicated on the basis of standing order 79, which says that the House will not permit quarrels. Standing order 79 says:

The House will interfere to prevent the prosecution of any quarrel between Members arising out of debates or proceedings of the House or of any committee thereof.

House of Representatives Practice at page 513 indicates that that particular standing order has been invoked only on one occasion by the House, and that was by a deputy speaker in 1982. That arose as a consequence of a debate which started with the then Prime Minister, Mr Malcolm Fraser, being described as 'a cornered rat'. In the course of that debate, on 20 October 1982, Deputy Speaker Mr Miller, at page 2318 of the House of Representatives' *Hansard*, interceded under standing order 79 to prevent the prosecution of a quarrel.

By his own admission, the Leader of the House has said that this is in precisely the same terms as the euthanasia legislation. When the euthanasia legislation was referred in precisely the same manner under such a motion and on the basis of the House proceeding that this was a clear issue of conscience for members of the House, there was a quarrel between members. *House of Representatives Practice*, at page 298, in respect of the Main Committee, said:

Standing orders have been suspended to permit debate on a bill to continue regardless of any unresolved questions.

That was a clear reference to the euthanasia legislation. Footnote 119, in respect of that, gives the votes and proceedings in 1996, and says this:

The context was the referral to the Main Committee of a bill which many Members wished to debate in the House. Subsequent proceedings in the Committee (suspended because of disorder ...) emphasised the extent to which Main Committee operations depended on general co-operation.

Even if I accept—which I do not necessarily—your previous ruling that it is open to the House to refer this motion, on the basis of the experience that we had with the euthanasia legislation, you must intervene, as a deputy speaker has on a previous occasion in a different context, pursuant to standing order 79, which says:

The House will interfere to prevent the prosecution of any quarrel between Members arising out of debates or proceedings of the House or of any committee thereof.

The reference by the House of this bill in this manner to the Main Committee will, of necessity, only lead to and permit a quarrel, and you must intercede now to prevent it from occurring.

Mr Abbott—I admire the erudition of the member for Perth, and I have to say that I am impressed by the energy that he is putting into this. But the fact is that there is perfectly good precedent for what I propose the House should now do. I am happy to listen to anything that the Manager of Opposition Business would like to put, but I do think that it is time to have such debate as there should be on this matter.

Mr Stephen Smith—Further to my point of order, the Leader of the House says that there is perfectly good precedent. There is only one precedent; standing order 79 has been used by the House on only one occasion to prevent a quarrel between members. That predated the establishment of the Main Committee. The only experience that the House has of such a motion sending a bill to the Main Committee in this manner is the euthanasia legislation, by the Leader of the House's own admission. As *House of Representatives Practice* attests, the sending of a bill in respect of which a conscience vote applied in this manner led to one thing only: disorder

and a quarrel amongst members on a bill that was the subject of a conscience vote. On that basis, the only precedent which applies is the euthanasia legislation, which saw a quarrel occurring as a necessary consequence of the House referring the euthanasia bill to the Main Committee in a way which took away the fundamental basis on which the Main Committee was established. You must intercede. That is the only precedent we have.

The DEPUTY SPEAKER (Ms Corcoran)—I hear what you say. I have ruled that the motion is in order.