



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

PRIVATE MEMBERS' BUSINESS

**Research Involving Embryos and
Prohibition of Human Cloning Legislation**

SPEECH

Thursday, 29 August 2002

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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Questioner
Speaker Billson, Bruce, MP

Source House
Proof No
Responder
Question No.

Mr BILLSON (Dunkley) (9.54 am)—I move:

That so much of the standing orders be suspended as would prevent the following arrangements applying for the further consideration of the *Research Involving Embryos and Prohibition of Human Cloning Bill 2002*:

(1) That, immediately before the putting of the question on the motion that the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 be now read a second time, instead of the question on the second reading being put, the following question be put and determined forthwith:

“That the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 be divided into—

(a) a Bill for an Act to prohibit human cloning and other unacceptable practices associated with reproductive technology, and for related purposes, to be known as the Prohibition of Human Cloning Bill 2002, (incorporating, with associated amendments, the title, enacting formula and Parts 1 and 2 and clauses 56, 61 and 62 and the schedule of the bill as introduced, and an activating clause), and

(b) a Bill for an Act to regulate certain activities involving human embryos, and for related purposes, to be known as the Research Involving Embryos Bill 2002 (incorporating, with associated amendments, Parts 3, 4, 5 and 6 of the bill, and also including with amendments the provisions of clauses 56, 61 and 62 of the bill as introduced and a new clause 55A).”

(2) That if the question that the bill be divided as proposed in paragraph (1) is agreed to, the following separate questions be then put:

(a) “That the Prohibition of Human Cloning Bill 2002, as contained in a form to be made available to Members, be read a second time (that question to be decided without further debate)”.

If the motion that the Prohibition of Human Cloning Bill 2002 be read a second time is agreed to, for the consideration in detail stage the House then proceed to consider in detail the bill as contained in the form to be made available to Members; and

(b) “That the Research Involving Embryos Bill 2002, as contained in a form to be made available to Members, be read a second time (that question to be decided without further debate)”.

If the motion that the Research Involving Embryos Bill 2002 be read a second time is agreed to, for the consideration in detail stage the House then proceed to consider in detail the bill as contained in the form to be made available to Members.

(3) That, when the consideration in detail of the Prohibition of Human Cloning Bill 2002 and the Research Involving Embryos Bill 2002 has been completed, the remaining stages of the measures be dealt with separately and in accordance with the provisions of the standing orders and ordinary practices of the House.

May I say at the outset that I am a strong supporter of the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 in its entirety. But I also have great respect and empathy for those in this place who have concerns with sections of the consolidated bill. We have benefited from 105 speakers sharing their thoughts on this bill, liberated by the duty and opportunity afforded by the rare and precious conscience vote available to all members regardless of their party or position in this place. This has been a historic and extraordinary debate.

This conscience debate has displayed to our nation the very best qualities of policy analysis; clear and critical thinking; deep reflection; how principles, values and motives flavour the law-making process; and how our aspirations for our nation are articulated and pursued through this parliament. The product of this healthy process and our agency as elected representatives has been 105 excellent contributions on the public record—some remarkable, many memorable, but all considered.

What these speeches make clear and what the conscience debate has highlighted is that the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 incorporates two very distinct ideas, two complementary but separate concepts that have warranted two separate streams of deliberation and introspection. We should be able to accommodate these separate ideas and facilitate their independent determination. What is a conscience vote if it is not a process of independent thought? Conscience votes are, by definition, not supposed to be about compromise. Others may have differing descriptions of what a conscience vote is about, but I know what a conscience vote is not about. A conscience vote should not see a person corralled into a position that is not in their heart or consistent with their guiding principles or core beliefs. A conscience vote is diminished when a single vote is expected to reflect a considered position on a cluster of issues. In fact, the undivided bill will produce a compromised vote. Some colleagues will be forced to weigh the issues of conscience and vote in favour of the idea that is most in keeping with their conscience or vote against the idea that is most unconscionable.

The dividing of the bill, as I propose, will overcome this dilemma of conscience. It will remove the need for compromise and competition between conflicting matters of conscience. In effect, my motion underpins the integrity of the conscience vote afforded to all members on this bill. The motion divides the consolidated Research Involving Embryos and Prohibition of Human Cloning Bill 2002 into the Prohibition of Human Cloning Bill 2002 and the Research Involving Embryos Bill 2002. The two separate bills faithfully carry forward the policy embodied in the consolidated bill. It is consistent with the 5 April 2002 COAG agreement and is true to the bill, as negotiated by the COAG Implementation Group.

The clause numbering of the original consolidated bill has been carried into the divided bills to facilitate ease of reference and to minimise confusion if other amendments are put before the House. If passed, the clause numbering will be tidied up as part of transmitting this business to the Senate. The monitoring powers assigned to the National Health and Medical Research Council Licensing Committee and its inspectors in relation to licensed premises under part 4 of the Research Involving Embryos Bill 2002 have been carried over into the Prohibition of Human Cloning Bill 2002 by the inclusion of a new clause 55A.

A new clause 61 in both bills ensures that the review of the operation of the law envisaged in the consolidated bill is carried forward and linked in the divided bills. This is consistent with clauses 4 and 10 of the COAG communique and the statement contained in the explanatory memorandum for the consolidated bill. Despite the protestations of New South Wales Premier Carr, who contends that the splitting of the bill is inconsistent with the spirit of the COAG agreement, the divided bills, if passed, do nothing to prevent the states from enacting complementary legislation and amount to a change in form rather than substance.

The Parliamentary Library, the Clerk's office, the National Health and Medical Research Council and the Minister for Ageing have been consulted in the preparation of the divided bills. The Minister for Ageing last night wrote to me concurring with the advice of the NHMRC that this motion and the consequential bills:

... are not divergent from the spirit or the letter of the COAG Agreement and the Bill as negotiated by the COAG Implementation Group.

Some may argue that dividing the bill as I propose presents some kind of tactical advantage to those opposing the regulated and supervised scientific inquiry into new remedies to cure illness and relieve pain and suffering utilising surplus IVF embryos. That argument assumes that people who find this idea unconscionable will overlook their concerns simply to support the proposed prohibition on abhorrent endeavours involving human cloning and certain other practices relating to reproductive technologies. As has been articulated in many speeches, it is more likely that members who feel strongly against the provision controlling research involving embryos will otherwise vote against the entire bill, effectively voting against the ban on human cloning—something which I hope all members find appalling. The argument that splitting the bill provides a particular tactical advantage is unpersuasive and unconvincing, but the arguments in favour of supporting this historic and extraordinary motion to divide the bill are, in my view, compelling. This is an extraordinary debate.

It is clear from the speeches that a single vote in favour of or against the bill in its entirety will not truly reflect the conscience of all members. Undivided, the bill will reflect a compromised vote, with many members disenfranchised from voting according to their conscience. A separate vote on separate bills will guarantee the integrity of the conscience vote. It will send a clear, unambiguous message about this chamber's view on these hugely significant questions, as evidenced by the number of members who have spoken. Such clarity will remove any temptation to second-guess the motives of the House of Representatives and the intentions behind each member's vote. A divided bill will provide for clarity of conscience to be reflected in the transparency of the vote.

For those who share my optimism and confidence that both bills will pass this chamber with a strong majority, let us not disenfranchise our colleagues, just as we would hope not to be disenfranchised ourselves on a matter of conscience.

If this motion is successful, it will be the first time the House will have divided a bill. Research indicates that this is a rare event in the Westminster tradition—if it has happened at all. In the past, the House has rightly resisted previous attempts by our Senate to initiate the division of a bill. There is a case for arguing that such action by the Senate is a breach of the privileges of this House. However, it is no such breach for the House to divide one of its own bills. In previous instances of Senate action to divide a bill the division was motivated by politics. Obviously, no political motive is involved in this attempt. There has never been a better candidate for the division of a bill, as the decisions in this case will be based on conscience, not politics. Speeches in this place and statements by party leaders testify to the conscience nature of the matters before the House.

The debate so far has been a great example of the minds of the nation at work. My motion seeks to provide maximum choice so that members are not called upon to vote on the principle of the combined bill before getting the opportunity to divide it. The policy concepts before this House are complex, challenging and of the most significant order. During the debate, members have described these issues as matters of life—life giving and life sustaining—and of death. These are questions that should not be determined by a conscience divided. I encourage you to support this motion to divide the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 into the separate Prohibition of Human Cloning Bill 2002 and Research Involving Embryos Bill 2002.