



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (AUSTRALIANS WORKING TOGETHER AND OTHER 2001 BUDGET MEASURES) BILL (NO. 2) 2002

Consideration of House of Representatives Message

SPEECH

Thursday, 12 December 2002

BY AUTHORITY OF THE SENATE

SPEECH

Date Thursday, 12 December 2002
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Questioner
Speaker Cherry, Sen John

Source Senate
Proof No
Responder
Question No.

Senator CHERRY (Queensland) (4.53 pm)—I move an amendment in the terms set out on sheet 2792 revised:

At the end of the motion, add:

“but reasserts the principle that the division of any bill by the Senate is a form of amendment of a bill, not different in principle from any other form of amendment, and should be considered as such”.

The reason I am moving this amendment is the approach taken by the House of Representatives to the division of the Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Bill 2002. I was quite disturbed by the statement about the division of this bill from the Speaker, and I would like to read out some of the words contained in that statement. It says:

The Speaker reminded the House that, on two occasions since 1995, the Senate had requested the House to consider a proposal to divide a House bill. The position of the House has been that the division of a bill in the house in which the bill did not originate was not desirable. Also, I understand that there may be grounds for the Senate action in purporting to divide a House bill being considered to provide the first stage of a failure to pass a bill for the purposes of section 57 of the Constitution. On the two previous occasions on which a Senate message purported to divide a bill originating in the House, the House did not consider the message seeking the concurrence of the House in the Senate action. It rests with the House as to whether it will consider the Senate message on this occasion.

We do have a message that has been sent back from the House of Representatives, but I believe that the Senate should not be prepared to accept the general intent of the advice from the Speaker to the House, which is why I think this assertion of the principle of what a division of a bill means is quite important. I sought advice from the Clerk of the Senate on this issue, and the Clerk made this point:

Because dividing a bill is simply a form of amendment, in the case of a bill which has been received from the House of Representatives, the Senate must inform the House that the bill has been divided and seek the agreement of the House (in effect, of the government) to the division of the bill. If the division of the bill by the Senate is not agreed to in the House, this has the same effect as disagreement to a Senate amendment: the bill cannot pass unless the Senate does not insist on its division of the bill or the government ultimately agrees to the division of the bill. Disagreement over division of a bill is exactly the same in principle as disagreement over amendment in the case of a bill received from the House.

He went on to say:

There is no rational basis for the apparent view of the government's advisers that the division of a bill has to be dealt with in some different fashion from a bill amended in the Senate.

If the government does not agree with the division of a bill by the Senate, it simply registers this disagreement in the House and informs the Senate of this decision, as with other amendments.

I think that is an important principle. We should assert the principle quite emphatically that, while we are prepared to look at the issue of recommitting this bill in the Committee of the Whole, the House should not adopt an odd attitude to a reasonable action of the Senate in its suggestion that the best way of moving these bills was in fact to divide them into the non-controversial and the controversial components.

Moving to the content of the legislation, it is a pity that the government did not accept the division of these bills. If it had, we would have had the Working Credits Scheme up and running now and we could have sat down and had a debate about the very important, complicated and detailed issues involved with the breaching regime and the penalties regime, which obviously impact on the matters that the government proposed relating to mature age allowance holders and parenting payment recipients.

It is a pity that the government did not accept the splitting of this bill. It is a pity that it has been done, from the House's point of view, on a technical objection to the bill being split by the Senate. Certainly, whether it be on the technical grounds or the policy grounds, it is a pity that the House did not agree to that action. I have moved

this motion because I think it is important to note that we would prefer that if the government does not agree to the splitting of a bill that it be on policy grounds and not on technical grounds.