

LIMITATION BILL 2004

Second Reading

Resumed from 10 November.

The DEPUTY PRESIDENT (Hon George Cash): There is notice of an instruction to the committee.

HON KIM CHANCE (Agricultural - Leader of the House) [12.30 pm]: In light of the situation that has unfolded since I originally gave notice of the motion of instruction to the committee, I now no longer intend to proceed with the motion. I believe the question before the House now is that the Bill be read a second time.

The DEPUTY PRESIDENT: I thank the Leader of the House for that. Therefore, the question before the House is that the Limitation Bill 2004 be read a second time.

Discharge of Order and Referral to Standing Committee on Legislation

HON NORMAN MOORE (Mining and Pastoral - Leader of the Opposition) [12.31 pm]: I move without notice -

That the order of the day for the second reading of the Limitation Bill 2004 be discharged and the Bill be referred to the Standing Committee on Legislation.

Very briefly, members will be aware that this Bill was referred to the Legislation Committee a week or so ago. The Opposition put forward the suggestion to the Government that it may wish to split the Bill to enable the House to deal with some issues raised by the Australian Medical Association. The Government was given time in which to consider that proposal; in fact, I put it to the Leader of the House on about Friday of last week. I also indicated to him that the Opposition did not have the resources to do the technical work on the splitting of the Bill and that if the Government was prepared to go down that path, it would need to use the resources of parliamentary counsel to do the procedural work of splitting the Bill into two. The splitting would be on the basis that those parts of the Bill that were of concern to the Australian Medical Association would be removed from the Bill and placed in a separate piece of legislation and the remaining parts of the legislation would be returned to the committee for its further consideration.

The Government, by not moving the contingent motion to split the Bill when it gets to committee, obviously made the decision that it does not intend to go down that path; therefore, it is not the intention of the Government to split the Bill. My advice is that it was possible for the Government to do that. I am also told that the Government may have the view that it cannot do it. My view is that it will not do it rather than cannot do it. We now have a situation in which the Bill in my view should return to the committee in its entirety for consideration. I am sorry that the Government did not accept our proposition and suggestion for dealing with this matter. The Government has chosen its course of action, and we must accept that.

Clearly, only the Leader of the House can move the motion to split the Bill. I am obviously unable to move that motion, which I would have supported had the leader in fact moved it. We now have a situation in which the Government has to all intents and purposes rejected our suggestion that the Bill be split and, by not moving the motion, has not provided the House with an opportunity to do that. We made the suggestion in good faith and the Government has not accepted our proposition, in which case it is our view, because of the nature of the Bill, that the Bill needs to go to a committee.

Hon Peter Foss, whose opinion on legal matters I highly respect, is strongly of the view that because of the importance and complexity of this Bill, it should go to the Legislation Committee. On all occasions when he makes such recommendations to me, I accept them. All members should do the same. When we consider the way in which the committee system has been able to scrutinise legislation over time and the significant benefits that have come from that process to the legislation that we now pass, members should always go down that path if they have the slightest doubt about a Bill. That is the position we have taken. That is why I move that the Bill be discharged and returned to the Legislation Committee. I hope that between now and when the Parliament resumes after the election, the committee may have some time to do some work on it. I indicate to the House, as I have indicated to the Australian Medical Association, that the moment the Parliament resumes after the election, if we should be the Government or even the Opposition, we will be very happy to deal with this Bill as a matter of urgency because of the issues that the Australian Medical Association has quite rightly raised. I have, therefore, suggested to the Australian Medical Association that there may be a delay of a few months, but I assured the association that the Bill is not opposed by the Opposition. It is, in fact, supported by the Opposition, but we believe very strongly that the Legislative Council must do its job properly, and the proper way to scrutinise a Bill of this magnitude is to refer it to the Standing Committee on Legislation. Therefore, in view of the fact that the Government is not prepared to split the Bill, we believe it should be referred back to the committee for its deliberations.

Extract from *Hansard*

[COUNCIL - Wednesday, 1 December 2004]

p8862c-8864a

Deputy President; Hon Kim Chance; Hon Norman Moore; Hon Jim Scott

HON JIM SCOTT (South Metropolitan) [12.35 pm]: The Greens (WA) will support this motion. Likewise, we would be unable to prevent the Bill from being passed. It is very important legislation, dealing significantly with people's rights and their corresponding responsibilities. We believe that the issues in the legislation must be examined in some depth, rather than passing the Bill in the current hothouse situation that the House is in by cranking through legislation purely because it is getting close to the end of the sitting year. This legislation should have arrived in this place much earlier to enable scrutiny by the House at the level required. The only way it can be properly examined without causing further delay is for it to be referred to the committee. It is a shame that the Bill has been struck at this time of the year, but it does need to be properly examined. Therefore, although the Greens do not oppose the Bill and do not want to cause problems to any section of the community, we want the legislation that passes through this place to be good legislation, not legislation of which half works and half does not, and which would be back in this place in six months for repair.

HON KIM CHANCE (Agricultural - Leader of the House) [12.37 pm]: I will not delay the House at all. I simply thank the Leader of the Opposition and Hon Jim Scott for expressing their views. The Government can anticipate the will of the House and I advise that, consistent with our earlier decision, we will not divide on this matter.

It is also necessary to say that although I do not have an understanding of the fairly complicated basis of this legislation, I am advised that it would be a very complicated matter to separate those matters on the limitation amendments that concern one particular section of society from the rest of the legislation. I am told that those matters are quite tightly intertwined. On the advice I have been given, I accept that, and it is the Government's position that it would be difficult. It must also be noted that although one section of the community has been very vocal in its views about this legislation, obviously a Bill of this nature affects a much broader section of the community. Therefore, simply splitting the Bill to achieve the ends sought by one group would not satisfy, for example, the Derby Agriculture Protection Board workers who may well be influenced by this decision. The Government notes the will of the House without further comment.

Question put and passed.