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House of Representatives

JUL 20 2007

OPINION COMMITTEE

July 20, 2007

FILE # RA-0589-AA
I.D. # 45275

The Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548
VIA Hand Delivery

Re: June 20, 2007 letter from you inviting input re: Opinion Request No. 0589-GA
Scope of the authority, Speaker of the Texas House of Representatives

Dear General Abbott:

As Chairman of the House Appropriations Committee, I was particularly concerned that speaker's race-politics nearly derailed the budget and the completion of our legislative duties during this past session. Thank you for inviting me to submit my views about the opinion requests you have received. House rules are not law and you are being asked to make determinations about legislative rules. It is my belief that the House rules are clear and that the requests to you are misuses of a chairman's authority to request A. G. opinions in that you are being asked, for political reasons, to analyze long-standing procedures that are the exclusive business of the legislative branch.

First and foremost, there is no such thing in the House rules as a "motion to vacate the chair". It has never existed, and for good reason. Putting aside for a moment the plain language of the Texas Constitution, which provides for the speaker's election to occur when the House first assembles, common sense makes it apparent that creating a procedure to remove and replace speakers during a session could have serious adverse consequences. We would have a hard time getting our work finished during any session involving controversial matters, and that would mean all sessions.

Secondly, there is no ambiguity in regard to the authority of the Speaker of the Texas House of Representatives to decide whether a member will be recognized. Our rules are plain and simple on this point. Speaker Craddick acted entirely correctly under the rules in the 80th legislative session. Given that the motion to vacate the chair was invalid, the speaker had a duty to decline to entertain the motion.

But regardless of whether the motion was valid or not, the rules plainly give the speaker authority to determine whether any member will be recognized, period. That rule is essential and makes perfect sense. If it didn't exist, any member could raise a privileged motion and successfully circumvent whatever business the House is conducting at that time. The unsuccessful actions attempted this past session prove that point.

You can be sure that such motions will be used to grind our proceedings to a halt whenever it suits the political agenda of some member to do so. In my 20 years of service in the legislature, every speaker has judiciously used the power of recognition, and the House has preserved this rule, session after session. The chairmen now asking for your opinion may have recently decided that they now disagree with the rules regarding a speaker's authority in regard to recognition, but they should face their colleagues regarding proposals to change this long-standing principle, not ask the attorney general to interpret it.

As you know, I am a rancher, not an attorney, but I hope my perspective will prove of assistance to you. I speak to you as a long-serving member who has observed the wisdom of the procedural traditions of the Texas House of Representatives, and they make a lot of sense to me. I believe the questions you have been asked are less in the nature of legal questions than they are political issues that should properly remain before the legislative body that they concern.

Respectfully yours,



Warren Chisum

✓ cc: Attorney General's Office, Opinion Committee