

WILLS AMENDMENT (INTERNATIONAL WILLS) BILL 2012

Second Reading

Resumed from 16 May.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [8.23 pm]: I rise to indicate that the opposition will be supporting the Wills Amendment (International Wills) Bill 2012. This short bill arises from a United Nations convention signed in 1973 that went to protecting international wills. It is worth noting that Australia has not yet signed this convention, so despite the fact that Western Australia may well end up passing the bill, it will not actually take effect until Australia signs the convention. The purpose of the convention was to eliminate cross-border issues that affect wills, such as if a person has assets in a different country from where they are at the time of their death and they have made a will made according to that country's provisions. The proposition was that a uniform law be developed to provide for a form of international will to sit alongside the local version. This bill provides for the formalities of making that additional international will, provides a process of certification that such a will exists, and designates the people able to give effect, if members like, to that certification.

It is important to note what this bill will not do, because some people might think that it would go some way to resolving disputes about the contents of wills that arise from time to time between families, some of whom may have assets in different countries. This bill does nothing to address those issues, and it is important that people recognise that we are not putting in place some mechanism to help families who may have assets overseas resolve those issues. This bill will not do that. This bill will provide for a form of certification that acknowledges that this is an international will that deals with matters that go across borders.

The formality is in the certification; it is uniform, and uses the form set out in article 10 of the convention. As I said, the bill does not solve any potential confusion or conflicts about the division of property or assets set out within the will, and the commonwealth is still to accede to the treaty. When the rest of the states pass it—I think there is really only one other jurisdiction that has already passed it—it will empower Australian practitioners to sign the certification attesting to the fact that an international will exists.

To that extent, there is no controversy in the legislation, and we support it; however, we note that it will not take effect until Australia signs the convention. We also make the point for those people thinking it is a way to resolve issues they may have within the particulars of a will that this bill will not do that for them. This bill will provide a process of certifying that an international will exists, and that is about the extent of it. With those comments, I indicate again that the opposition will be supporting the legislation.

HON ALISON XAMON (East Metropolitan) [8.27 pm]: I rise on behalf of the Greens (WA) to indicate that we will also be supporting the passing of the Wills Amendment (International Wills) Bill 2012.

HON COL HOLT (South West) [8.27 pm]: I just want to reiterate the words of my honourable colleagues who have risen before and say that the National Party will be supporting the bill as well.

HON MICHAEL MISCHIN (North Metropolitan — Attorney General) [8.27 pm]: — in reply: I will not draw out this debate any longer by saying much more than thanking the Leader of the Opposition, Hon Alison Xamon and Hon Col Holt for their indications of support for this legislation, which will be a useful adjunct to the Wills Act.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Michael Mischin (Attorney General)**, and transmitted to the Assembly.