

**REVENUE LAWS AMENDMENT BILL 2012**

*As to Remaining Stages*

**HON SIMON O'BRIEN (South Metropolitan — Minister for Finance)** [8.30 pm]: I seek leave to proceed to the third reading forthwith, and, in so doing, note that in the third reading debate I will acknowledge the standing committee report that we have received following referral of the bill.

Leave granted.

*Third Reading*

**HON SIMON O'BRIEN (South Metropolitan — Minister for Finance)** [8.31 pm]: I move —

That the bill be now read a third time.

I note the nineteenth report of the Standing Committee on Legislation. Members will recall that after the second reading, the bill was referred to the legislation committee for consideration of a very discrete matter. That was specifically to identify whether there were any clauses in the bill that could be identified as Henry VIII clauses. I think I can summarise the committee's report as finding that there were no Henry VIII clauses, and we are all relieved about that. With the hindsight of the experience, it worked well to refer this bill to the committee. It was a great example of our committee system working. It was a bit irregular to refer a bill for consideration of just a discrete element. We could probably have talked it through at the committee table but on this occasion I think it worked. It worked in a couple of ways. First, it meant that the detailed examination could be done out of plenary session, thereby freeing up the house for other matters. The committee could tap into some departmental and other advice to add to the quality of its deliberations and, ultimately, findings. Within the time limit that the house set, which was quite tight, the committee produced a very good, concise, clear and useful report. I would like to thank Hon Donna Faragher and her colleagues on the legislation committee for the service that they rendered.

In noting this report, I also make the observation that this nineteenth report is something that members ought to remember because they might want to go back to it when the question of a possible Henry VIII clause arises in the future. I will not go into discussion now about Henry VIII clauses. For the purposes of the bill, that has been dealt with. I note in passing that because we have had this committee inquiry about a non-contentious bill, it has been able to look directly at the very narrow scope of the referral and produce a document that is a great discussion paper on Henry VIII clauses. Free of any other matters that might muddy the waters, it becomes a very good and easy-to-read report for future members to refer to. Thanks once again to that standing committee.

Finally, before concluding my third reading speech, one other matter arises from this report. I refer to the committee's comments at paragraphs 4.9 and 4.16, which correctly note that while the explanatory memorandum was accurate at the time the bill was introduced in the Legislative Assembly, subsequent changes to the status of the commonwealth legislation to which it referred meant that it was not up to date when the bill was second read in the Legislative Council. While this inaccuracy did not affect the underlying argument that retrospective change would be required, it is not acceptable that the explanatory memorandum was not updated before it was tabled in the Legislative Council, and for that I apologise unreservedly. The internal procedures of the Office of State Revenue have been reviewed to minimise the possibility of a future occurrence of this type. To show the diverse and moving nature of this bill and its unique provisions, the commonwealth's proposed reforms to its tax treatment of living away from home allowances, the commonwealth's Tax Laws Amendment 2012 (Measures No. 4) Bill 2012 was still before the Senate at the time of the most recent note I have, which was dated the fourteenth of this month. As a result, State Revenue was not in a position to determine the amending regulations, if any, that will be necessary. That shows the moveable feast that we are dealing with.

All sides of the house agree with the policy of this bill, which is to provide these exemptions in the way that was enunciated during the passage of the budget, regardless of how changes elsewhere might move the underlying landscapes. Again, I thank the committee, the opposition and other members for their support of the bill and I commend its third reading to the house.

**HON KEN TRAVERS (North Metropolitan)** [8.38 pm]: I want to add a couple of quick short comments on the Revenue Laws Amendment Bill 2012 and join with the Minister for Finance in noting the report that was provided to us by the Standing Committee on Legislation. The minister is correct that this is another one of those reports in which it would be useful for us all to have bigger drawers in which to keep those sorts of reports so that when these matters come up, we have a reference point. I think there is general agreement about Henry VIII clauses. On this occasion the committee has put forward the view, based on some very sound advice from the advisers to that committee, that it does not see the clauses as being Henry VIII clauses. It noted that clause 42 has retrospective effect. Paragraph 5.6 points out that clauses permitting legislation to have retrospective effect are as objectionable to the house as Henry VIII clauses. At the beginning of paragraph 5.6, the committee made

the point that that applied to “other than in exceptional circumstances”. The committee drew its finding to the attention of the house. The question that we need to ask tonight is whether on this occasion we will allow it. We have proceeded forthwith to the third reading stage, which is obviously a sign that the house collectively is happy on this occasion to note the exceptional circumstances that apply.

I agree with the minister that it is unfortunate that we do not make more referrals to committees to look at these sorts of clauses and report back to the house in a constructive way to give advice. It is my personal view that we have probably saved this house at least one or two hours that we would have spent debating this bill if we had gone through the Committee of the Whole process. We will probably now have spent no more than 10 minutes of debate on these matters at the third reading stage. I think that is a good outcome for the house, which we were able to do with the benefit of being able to seek advice from the minister as the instructing minister on this piece of legislation and from the Clerk and the Clerk’s office on the implications of these particular clauses in this bill.

With those comments, I indicate that the opposition’s position, as members would recall, was that we supported the bill in policy and detail with the exception that we wanted clarification about that issue of some of the clauses. That has now occurred, so we can pass the bill at the third reading stage having noted the committee report. I join with the minister in thanking both the staff and the members of the committee for the report that they provided. As I said, I just wish I had a bigger drawer in which to keep some of these reports that I always enjoy and think are good reference points for the future.

Question put and passed.

Bill read a third time and passed.