

TAXATION LEGISLATION AMENDMENT BILL 2014

Third Reading

MR D.C. NALDER (Alfred Cove — Minister for Finance) [2.56 pm]: I move —

That the bill be now read a third time.

MS R. SAFFIOTI (West Swan) [2.56 pm]: I thank the leader of government business for his cooperation in dealing with the Taxation Legislation Amendment Bill 2014. It just shows how we can achieve things when we get together, not when we send little spies out to Labor Party functions, as the government tried to do, as we understand, under the authority of the Speaker —

The ACTING SPEAKER (Ms J.M. Freeman): Member, please stay on the matter at hand. I would like to keep the house very calm in this debate.

Several members interjected.

Ms R. SAFFIOTI: I am congratulating the leader of government business, who many have said is a potential leader of the Liberal Party. I see him in the corridors. He has not shown a keenness to become Leader of the Liberal Party and Premier, but it may fall to him.

Point of Order

Mr N.W. MORTON: The member is talking about everything but the bill.

Several members interjected.

The ACTING SPEAKER (Ms J.M. Freeman): Order, members! I understand that we are now in a jollier situation than we were. I take the point of order. I have drawn the member to the question of relevance; so, member for West Swan, can we please address the bill.

Debate Resumed

Ms R. SAFFIOTI: He is always so eloquent.

Point of Order

Mr N.W. MORTON: The member continues to talk about things that are completely irrelevant to the bill before the house.

The ACTING SPEAKER (Ms J.M. Freeman): There is no point of order. The member did not even get a chance to say anything.

Several members interjected.

The ACTING SPEAKER: Member for West Swan, you have the call. Let us move it on. I am very interested in making some progress on this. The Leader of the House has allowed this debate, so let us debate the third reading of the taxation bill.

Debate Resumed

Ms R. SAFFIOTI: I reiterate how nice it is to do business with the leader of government business, especially when there are all those other people out there interfering and making things terrible. We had advisers coming to Labor Party functions; for example, a failed candidate at the last election. It was a marginal seat requiring a four per cent swing, and she could not win it, even though they threw everything at that seat. Anyway, let us get back to the point.

Mr F.A. Alban: It was way over six per cent when you took it over, member. It is not six per cent now, is it!

Ms R. SAFFIOTI: Member for Swan Hills, we were getting on so well.

The ACTING SPEAKER: I will keep standing up every time we do not get on to the point. Member for West Swan, that will waste your time. Can we just move on to the bill, please?

Ms R. SAFFIOTI: As I said, I will not take too long. I feel sorry for the member for Swan Hills. Former Leader of the Opposition Mr Matt Birney is out there circling his seat. We heard who is circling who.

Several members interjected.

The ACTING SPEAKER: Members, shoosh! I do not have the list but it is quite long. Member for Warnbro, you are on the list quite extensively. Let us all calm down and move straight to the debate.

Ms R. SAFFIOTI: I will go straight to the debate. We are debating the third reading of the Taxation Legislation Amendment Bill 2014. It feels like we have been debating this bill for a long time, and we have. It has been two weeks since that fateful Tuesday when we started the second reading debate.

As I have said before, Labor would support this bill but it is one of those bills that the more we looked at it, the more problems we saw. We raised some significant issues during consideration in detail. I cannot recall whether the minister said that he will look at any outstanding issues before this bill travels to the other place, but there are two outstanding issues. I truly hope that he receives further advice. It might be difficult for the minister sitting at the table trying to listen to interjections and questions. He should pause for just a minute and really look at the key issues. I want to go through some of the key issues that we raised. One issue was the definition of “political party”. We sought to broaden that to try to prevent any potential loopholes. We were looking at political parties and associated entities. We basically tried to strengthen the legislation. The opposition did not try to weaken the legislation; we tried to strengthen it. When we saw what we perceived to be potential loopholes in the legislation, we tried to put in some safeguards to reduce them. One of the key issues was definitions. We sought to extend the definition of political parties to include more groups. We also sought to extend the definition of trade unions to include employer unions, not just employee unions.

The fundamental flaw that we found in the legislation throughout the debate is that eight organisations currently get an exemption from three state taxes. This whole issue came about when the Chamber of Commerce and Industry of Western Australia took the government to the State Administrative Tribunal after it claimed to be a charitable institution. The CCI won the case. That meant that the CCI would become tax exempt from 2012 and be reimbursed for taxes it had paid over the previous five years. We had a situation in which the CCI said, “Hang on, we’re a charitable institution”. An organisation that hates red tape and legislation has created a system in which we need more red tape and legislation because it challenged its tax liabilities in SAT. SAT determined that the CCI should be tax exempt, which started the debate. Initially, I thought that all up the amount was \$56 million but it is clear that the state has reimbursed or forgone revenue to the tune of \$66 million, which is a significant amount. That has been reimbursed, paid back and forgone over the past two years. The problem arose in the lead-up to 2012. In 2012, it became clear that we needed to amend legislation. The government took two years to bring the legislation into Parliament. As I have said on many occasions, if a Labor government was basically throwing away \$66 million of taxpayers’ money to the union movement, there would be a royal commission—yet the government comes in, gives away \$66 million to some organisations and drags its feet bringing this legislation into this place.

We were pretty angry that throughout the debate the minister could not give us an appropriate time line, in particular for when cabinet considered this bill. I am sorry to say this, but over the past couple of weeks the minister has not been able to tell us much in this place that is backed by fact. For example, in the debate on the costings and patronage of the rail line and, in particular, on this legislation, we were not able to find out from the minister when the initial decision was made by cabinet to change the law. I remember the debate at the time. There was some toing and froing. The minister said that the government could not let anyone know when this was decided in cabinet because of cabinet confidentiality. The Premier backed him up. Later that day the Premier came in and said, in relation to another issue, that cabinet discussed it yesterday. I think it was in relation to Hon Norman Moore. The reality is that the government clearly could have told us when cabinet made a decision—approval to draft, approval to print—on this legislation. I do not know why the government would want to hide something like that. I do not want to know what was discussed in cabinet and who was there; it does not really bother me who was in the room. I want to know when the matter was taken to cabinet and why the minister refused to tell us this basic fact. It was up to him to tell us. Why did he refuse to do it? That is the key point. He refused to give us the time frame. It has taken many years to bring this legislation into this place.

Congratulations to the member for Collie–Preston, who has just welcomed his first grandson. I understand he has a number of granddaughters. I think he has four daughters. It is the first son for a number of generations, so congratulations.

The other key point that we discussed in consideration in detail was the process established for any particular body appealing to the minister to seek an exemption from a tax liability. The point we want to make here is that the minister, with the concurrence of the Treasurer and after a particular process has been followed, can grant a tax exemption to any body that is not a trade union or a political party. We have a situation that we need to highlight again. The legislation specifically excludes trade unions and political parties from going to the minister to receive an exemption, but it allows the CCI and other like bodies to undertake that process. The opposition raised this issue a few times. We asked the minister why trade unions and political parties do not have an appeal right to the minister but bodies for which this legislation was created in the first place, such as the CCI, have an appeal right to the minister. We never received an answer.

Ms L.L. Baker: Ask again.

Ms R. SAFFIOTI: We have tried from every potential —

Mr D.A. Templeman interjected.

Ms L.L. Baker: Tenacious.

Ms R. SAFFIOTI: “Tenacious” is perhaps the better word. We tried and, hopefully, with this last opportunity as we on this side say goodbye to the Taxation Legislation Amendment Bill, which has been close to our hearts for two weeks and which we have grown to love and understand very deeply, the minister can explain why bodies such as the Chamber of Commerce and Industry of Western Australia, which created this mess in the first place, have an appeal right to the minister whereas unions do not. Even accepting that issue, we thought: let us put in some more safeguards. The process of agreeing to an exemption is that the minister defines public interest—we have seen some of his numbers today on patronage, so I am doubtful about the accuracy of his numbers on public interest—and he agrees to an exemption and the Treasurer concurs. That is the process. The decision is then published in the *Government Gazette*. We tried to make any decision made by the minister a disallowable instrument so that the minister would need to bring decisions into this place and Parliament would get to analyse the situation and either agree to it or disallow it. That would have put in a very significant safeguard. I have already given an example, but I may as well give it again this one last time. Sometimes 500 Club functions are held here at Parliament. I think the Labor Party will be invited to one by the Speaker next time. Next time I see a Liberal Party function, I will walk in and say that the Speaker invited me.

Dr A.D. Buti: Use it as a fundraiser.

Ms R. SAFFIOTI: I think they do quite a bit, member for Armadale. I will go along to any Liberal Party function at the request of the Speaker.

Ms L.L. Baker: Madam Acting Speaker may ask you.

Ms R. SAFFIOTI: Madam Acting Speaker, can I go to any Liberal Party function held here in the next couple of weeks?

The ACTING SPEAKER: Member, you cannot draw the Madam Acting Speaker into the debate and you may want to move on to the relevant debate.

Ms R. SAFFIOTI: I sought advice from another Madam Acting Speaker on our side, the member for Maylands, and she gave me very bad advice. A Liberal Party function may be held at which the minister may be lobbied. The amendment I moved would have provided some safeguards and protected the minister. The minister could have said, “Look, personally, I would like to grant the exemption, but I would have to bring it to Parliament and there is no way, CCI, that Parliament would allow it.” We tried to put in a safeguard to give the minister some defence in the process, but the government chose not to support that amendment. Again, I think those safeguards would have strengthened and not weakened the legislation.

It has always been my experience that the commissioners of taxation at both the federal and state levels hold significant power and discretion. Normally, that discretion is not given to a member of Parliament and that is appropriate because, as all of us know, we are lobbied in our offices by particular groups. This amendment would have allowed greater safeguards and greater protection for any minister of the day. Again, we put that recommendation and moved that amendment, but, unfortunately, it was not supported by the government.

My agreement with the very good manager of government business was that I would speak for 15 minutes. He is not here, but I am sure he will appreciate that I am sticking to that agreement. I will sit down and let the member for Cannington provide his contribution to the third reading debate.

MR W.J. JOHNSTON (Cannington) [3.13 pm]: I rise to speak on the Taxation Legislation Amendment Bill 2014. I want to put a concept to the minister. Imagine that Jim McGinty, when he was Minister for Health, had been advised by his bureaucracy that an unexpected court decision had delivered a \$56 million windfall to his former union and that that windfall was continuing at the rate of \$11 million a year into the future, and he took two years to bring legislation into Parliament to deal with that matter. What would the minister have said about that? We have to start at that position because we know what the minister would have said if Jim McGinty had taken two years to fill a hole in taxation legislation that had benefited his former union by \$56 million plus \$11 million a year. The minister would have called for a royal commission. He would have been in Parliament every day demanding his resignation, yet that is exactly this situation but in reverse.

It is a long time since the Premier was the head of the Chamber of Commerce and Industry of Western Australia and, clearly, when he was at the Chamber of Commerce, nothing such as this occurred. The fact remains that the Premier was formerly the chief executive of this organisation. The idea that somehow or other the Labor Party accepts that it takes two years for the Liberal–National government to take action to do anything about that problem is unacceptable. It is either collusion or incompetence. I do not care what the answer is, but we still do not know whether it was collusion or incompetence. We would know whether it was collusion or incompetence if we had found out the time line for the decision-making process. As I have said before in the debate—after all, this third reading is an opportunity to reflect on the legislation and the debate—my suspicion is that the minister was advised that there was a need for action; as we know that the minister was advised by the Commissioner of State Revenue in July and August of 2012. I reckon in about October 2012 a decision was

made that there needed to be some response. However, the minister did not take any action for more than a year after that. It was only when the new arrangements for the recognition of charities under commonwealth law was reflected in a news report in *The Age* in January this year that the government said it decided to act. There is clearly this unanswered question. I do not imagine that the minister will answer it today because he has chosen to keep all this information hidden until now. I do not believe the minister will suddenly join glasnost and provide some openness for us today. If the commonwealth had not moved to change the process for the recognition of charities, would the government have ever acted at all? I wonder whether it would have acted even then.

It may well be that the government was prepared to let this matter slide for another 12 months and then another 12 months. The behaviour of this government is a disgrace. An amount of \$56 million was refunded—that was a decision of the courts, so I cannot blame the government for that. But the \$11 million a year—mate, that is you, minister. You did that. Not you personally; I mean you as the collective government. The decision of the Liberal–National government was to do nothing for two years. It bled \$11 million off taxpayers and gave it to the organisation that the Premier used to lead. As I said, when the Premier led the Chamber of Commerce and Industry, this never came up; he did not do any of those things. I am not holding him responsible for the behaviour of the current leadership of the Chamber of Commerce and Industry. However, it is the same organisation. In the same way that no-one could have held Jim McGinty to account for something that happened after he ceased to be secretary of the union, no-one could possibly hold the Premier to account for what happened at the Chamber of Commerce and Industry after he ceased to work there. That is not what I am saying; I am not making any of those types of allegations. I am asking: what would the minister have said if it had happened for Jim McGinty and the missos, now United Voice? We know what would have happened. There would have been a hue and cry and a demand for a royal commission. The fact that the Labor Party is more mature than that is important, and it is why we have not called for a royal commission or for anyone's head. But the government has to explain why it did nothing for two years. According to the minister, the government acted only because of an article in *The Age* in January this year. What a brilliant way to act! Get this: the government does not act when it twice receives advice from the Commissioner of State Revenue that action is required. Rather, it acts only after an article is published in a Melbourne newspaper about events in Melbourne. Hey; there are limits to credibility on these things, and that is way beyond those limits!

I turn now to a couple of other issues. The first issue is that there is no prescribed procedure for having these matters dealt with by the minister. The minister is putting himself in a terrible position by doing it this way. The Taxation Legislation Amendment Bill states that there are categories of organisations that are not to receive the benefit, those organisations being a relevant body. However, it then creates a situation in which, notwithstanding that the government will ban relevant bodies having the benefit, if a relevant body satisfies four out of six categories, there is a way of getting the benefit. The way to get that benefit is to ask the minister for the benefit. There is no prescribed system to get to the minister to ask him to grant that benefit. I specifically asked the minister during consideration in detail whether he could be lobbied at a meeting of the 500 Club. He said that he could be lobbied to grant the benefit at a meeting of the 500 Club. It frightens every thinking person in Western Australia that the government is allowing this system. Despite the fact that an organisation is a relevant body and, therefore, is not eligible for this taxation benefit, the minister can be lobbied at a Liberal Party function to grant the benefit. If it were the other way around and an organisation could lobby the minister at an event of the 500 Club to not get the benefit, that would be one thing, but this is to get the benefit. It is behind closed doors —

Mr C.J. Barnett: There is no evidence of that.

Mr W.J. JOHNSTON: That is exactly what the minister said would be permitted by the legislation. We went through this in detail. Mate, this bill has been in front of the house for two weeks! We have been through this in enormous detail. I will get to why it has been here for such a long period.

That is exactly what this law will permit, and that is bad law. We then get to the question of what a trade union is. The minister took a ridiculous position when he said that if the government included section 54 organisations under the Industrial Relation Act 1979, he would not know which organisations they were. We asked the obvious question: what is a section 54 organisation? The minister could not name a single body that is recognised under section 53 of the Industrial Relations Act 1979. I asked a question, and the minister explained how the Commissioner of State Revenue would decide that; he would rightly ask the registrar of the Industrial Relations Commission. Guess what? The registrar of the Western Australian Industrial Relations Commission keeps two lists—one is a section 53 list and the other is a section 54 list. The process of identifying a section 53 organisation is identical to the process of identifying a section 54 organisation. Let us understand what this is all about. It is all about saying that a union of employees is a relevant body and, therefore, under this legislation it is prevented from getting the advantages of the so-called fourth-limb charity arrangements. A union of employees is one of two categories that are not able to ask for special deal from the minister. At no time has the Labor Party asked that unions be given a special deal. We never once moved an

amendment, voted against any clause or took any action that would have permitted unions of employees to get a benefit as a fourth-limb charity. A number of members made the observation that, save for that decision, it is probable that unions would get through the fourth-limb process. Notwithstanding the fact that they would probably get the fourth-limb benefit, not once did the Labor Party attempt to get this benefit for trade unions. We attempted to prevent registered employer associations from being given the benefit, but the government refused that. The government did it on the basis that an employer association would be caught by the provision that states that if an organisation has as its objective to promote trade, industry or commerce, it would be caught by the provisions. But there are two issues with that argument. Firstly, even though a body that is designed to promote trade, industry or commerce is caught by the provision, it is also allowed to appeal to the minister to be exempted from that exclusion. In other words, a trade, industry or commerce organisation is permitted to get through the second gateway to obtain tax-exempt status. That is the first thing. Even though the minister said in the chamber that these organisations are relevant bodies, he retains the right to give them special treatment. The minister fails to understand that for the reasons that a union is likely to get through the fourth-limb provisions, a union of employers is also likely to get through the fourth-limb arrangements because it does not necessarily promote trade, industry or commerce. What it does relates to employment arrangements, not necessarily trade, industry or commerce. They are separate issues. We know they are separate because they have been separated in the legislation. It is quite likely that those employer associations may well qualify. The minister said that he will be able to use a regulating power. The problem is that if the organisation has got through the fourth-limb arrangements, the minister will not know that. He will only know about the ones that have not got through the fourth-limb arrangements. The minister will never be advised about those that get through the fourth-limb arrangements; and, rightly so, because that would involve the commissioner telling him about the tax affairs of a taxpayer, which we do not want. If an employer association gets through, the minister will never know. Therefore, he will not be able to take any action because he will not know that it has happened. The argument that he can then introduce a regulation is redundant because he will not know that that has occurred. He will know only if the organisation's application is refused and then it applies.

There is also the problem that the minister never explained why he wants to allow a section 54 party to apply for exemption, but he does not want a section 53 party to apply for exemption. As I have continually said, at no stage has the Labor Party asked that section 53 organisations be granted exemption, and it has never asked that they be able to even apply for an exemption. The government has not provided any explanation of why it wants section 54 organisations to be allowed to apply for an exemption. The fact that the government cannot explain why it wants to allow that to happen is another reason that the whole thing stinks—it stinks to high heaven! This should be deeply embarrassing to the Liberal government. This is worthy of further investigation. Indeed, it is quite likely that on coming into government, the Labor Party will hold an inquiry into what happened in those hidden two years. We will seek out the truth on this matter and determinedly try to find out why it was that the government wanted to grant to section 54 parties a benefit that is not available to section 53 parties. Let me make it clear: this is the opposite of the allegation that is normally made about the Labor Party. We are denying a benefit to trade unions. We have never opposed that at any stage of this debate—never once. We have attempted to make it so that trade unions of employees are treated exactly the same as trade unions of employers, and it is the government that has refused to treat them equally. It has deliberately designed the legislation to allow a benefit of potentially millions of dollars to flow to employer associations, and it is just unbelievable for the government to pretend that those associations are charities for the purposes of giving them a benefit. It is outrageous and we will ensure that a future Labor government will fix that problem. We will also ensure that we get to the bottom of how it happened. It took a newspaper article that appeared in January 2014 for the government to take action, after it had been advised by the most senior official in the tax system in Western Australia as long ago as July and August of 2012 that it needed to act. That gap is something that has to be properly explained.

The minister has said that he will look at the question of the definition of “political party”, and I encourage him to do so. The inclusion in the definition of an associated entity as defined by the commonwealth Electoral Act would solve the problem instantly, rather than relying on the paragraph (f) provision to say that it is a group for payroll tax reasons or a related body corporate under the Corporations Act, or as the sole or dominant purpose of preferring a benefit on a body related to another paragraph. It may be that that definition includes an associated entity of a political party, but it may also be that one could structure an associated entity the dominant purpose of which was charity but that also included a political purpose and that therefore would get through. If we simply had “associated entity” in the definition of “political party”, that would not ever arise and we would not be at the mercy of lawyers and the courts in the future because we would have done our job. I encourage the minister to have a look at that. I put up what I understand was a very simple amendment that may not have covered what we were trying to achieve, but I just did it here in the chamber with the assistance of the Clerks. With all the resources of government, I am sure that the minister could come up with a better amendment than mine—and that is why I withdrew it. I encourage him to go and have a look at that. I also encourage him to have a look at

the definition of “trade union”, because as I explained, with virtually no effort he could change paragraphs (a), (b) and (c) without even blinking to include employer associations just by deleting individual words. I think he would have to delete six words over the three paragraphs and it would instantly include all the registered trade unions of employers in Australia as being incapable of getting through this gate. I am not asking for a benefit; I am asking that we ensure that we collect the right amount of tax.

I want to finish at my last amendment. I accept that a better draftsman with more knowledge would probably have come up with a better definition than I provided, but let us get to the bottom of that. Had we included the section 50 parties in this legislation as being organisations not allowed under any circumstances to be treated as charities, it would have been an improvement. The fact that the minister resisted that is very telling. He wants the section 50 parties to get through, and I explained in detail my view about UnionsWA. I have no connection to UnionsWA; I am not involved with it. A long time ago I used to be vice-president, but that was long time ago. I have no knowledge of its intentions in the future; it has nothing to do with me. But the point is that had the minister accepted my amendment or developed it further to make it clear, he would have solved that problem. Of course, the one thing the minister should not do is go to the other chamber and introduce a comment banning UnionsWA but not the other section 50 parties, because that would be transparent and dishonest, if that is what he is intending to do. He needs to define all the section 50 parties or else he is just cheating; it will not be acceptable.

I finish on the fact that we have taken a long time with this bill, but it is not as though we have been repetitive, wasteful or any of those things. This has been a genuine attempt to get to the bottom of what the government is trying to do. This is complex legislation with complex definitions. There are complex interrelationships between clauses, and provisions have needed to be repeated three times because they deal with three separate acts being amended, but if the minister had been better prepared, it probably would have taken less time. For example, there is the fact that he does not know what he is dealing with in respect of section 53 parties. The minister could not name a single organisation covered by his own definition. Usually during consideration in detail the opposition asks the minister for examples; that is not unusual. In fact, the minister should have expected us to ask him for examples. That is what we do. We put hypotheticals to the minister—what happens if X, Y, Z occurs—and he answers. I do not know how he came to spend two weeks in the chamber without being able to answer any of those basic questions about the operation of his own legislation. Next time the minister has to be better prepared; otherwise, it will take another two weeks of parliamentary time, and the Leader of the House will be unhappy with him. That is not the way to get things done.

I observe that it took the Premier 2.5 hours to get his legislation through on Tuesday night. I was the opposition lead speaker for that legislation, and the Premier and I are not famous for being cosy, yet we still got that legislation done in 2.5 hours. Had the minister been better prepared, the legislation would have got through this place faster. I ask the minister to please do more research next time, be better prepared and know about the provisions of the legislation. We cut him some slack because we know that Treasury develops the legislation and the minister only introduces it. But even given that, surely it would have meant that the minister would have worked harder in the three weeks between introducing the legislation and having it debated, particularly given that it has taken the government two years to bring the legislation to the chamber. It was in July 2012 that the Chamber of Commerce and Industry of Western Australia caused the problems that led to today. The minister is meant to be the next leader of the Liberal Party, and good luck to him. His success has nothing to do with my success, so he can do what he likes, but if he really thinks that he is capable of being leader of the Liberal Party, he will have to do better than he has done over the past two weeks. The last two weeks have been a shambles because the minister was not ready for the debate. I do not understand how he can get to the job of being a minister and bring legislation to Parliament without knowing anything about it and being unable to answer basic questions like: who is a section 53 party? It is not that hard. As the member for West Swan put it so well, if we were in government bringing banking legislation into the chamber, and we knew that the minister was going to be dealing with it, we would have read up on banking issues because we are not banking specialists. On our side of the chamber we have a number of former senior union officials—and guess what? We know about unions, and we were ready for the discussion. Frankly, I did not realise that I was going to get involved in this debate; I did not specifically gain a detailed understanding of the legislation. It was just that it was so damned obvious what was needed to improve it, and it took me minutes to develop some amendments that would improve the legislation. It took me minutes to look at the definition of trade union and see that removing “section 53” would have solved all our complaints. The minister said at one stage in the debate that everyone knows what a trade union is. Yes, everyone knows the common usage meaning of trade union. Those of us who have attended hearings at the Industrial Relations Commission know that trade unions include employer associations. We know it does not include the Chamber of Commerce and Industry of Western Australia. We know these things because we have been doing it for years. We do not expect the minister to know it instantaneously but we thought he would have found out the answers to some basic questions.

We will not divide at the third reading of this legislation because it is not so fatally flawed that we need to oppose it and we do not want to leave the gate open for money to fly out to these organisations, but it is bad legislation. We will amend it in government and we will investigate why it took so long for the government to act. In July 2012 the government was told by its own professional public servants that it needed to act, and only when the government read *The Age* on January 2014 did it act. It does not make sense.

MR D.C. NALDER (Alfred Cove — Minister for Finance) [3.40 pm] — in reply: I thank members of the opposition for their contributions. The bill was triggered by a State Administrative Tribunal decision in 2012 when it found at common law that the Chamber of Commerce and Industry of Western Australia is a charity and as such is entitled to an exemption from payroll tax. This bill seeks to improve the efficacy of existing state tax exemptions for charitable institutions. The amendments in the bill do not seek to alter the charitable status of the Chamber of Commerce and Industry nor of any other organisation affected by these amendments. The area of charitable law is very complex. Several options were developed before a workable legislative scheme was identified that could effectively exclude only the narrow band of fourth-limb charities that the government was seeking to exclude from receiving state tax exemptions.

The amendments also seek to exclude from state tax exemptions trade unions, political parties and professional associations. We have gone over that many times over the past few weeks. As I outlined during consideration in detail, the common-law definition of a charity is evolving and the government is concerned that it may extend to include trade unions and political parties—hence the reason both classes of organisations have been excluded from state taxation exemptions for charities. The nature of employee trade unions and political parties and their purposes are well understood in the community and are readily definable. These organisations are paying taxes and the government is of the view they should continue to pay. It is not appropriate for the government to subsidise unions and political parties through a tax exemption at the expense of the community. Some examples of unions include the Australian Workers Union, the Transport Workers Union, the Construction Forestry, Mining and Energy Union and the Automotive Food Metals Engineering Printing and Kindred Industries Union.

Although I note the issues raised by the opposition in relation to unions of employers, the hypothetical scenarios described during consideration in detail were not the best use of the house's time and deterred from the main purpose of the amendments to exclude charitable organisations currently exempt from state taxation for which an exemption is considered inappropriate. It is expected these organisations will be captured under the exclusion of fourth-limb charities that have as a purpose the promotion of trade, industry or commerce if, indeed, they are a charity in the first instance. Furthermore, the proposed amendments include a regulation-making power to exclude from the exemptions any class of organisations that are not specifically identified in the amending legislation. As I indicated during debate, the matter will be looked at between houses and we will give it further consideration.

Finally, in closing, due to the broad nature of the way amendments have been drafted, it is possible there may have been the unintended effect of excluding an organisation from the exemption where it is considered appropriate for an exemption to apply. The proposed amendments include the power to reinstate the exempt status of an excluded organisation when it is in the public interest to do so. These determinations are required to be published in the *Government Gazette*. They are expected to be an exception to the rule. Members can be assured that my discretion to reinstate the exempt status of an excluded body will be judiciously applied.

Question put and passed.

Bill read a third time and transmitted to the Council.