

INSURANCE COMMISSION OF WESTERN AUSTRALIA AMENDMENT BILL 2002

Third Reading

MR M. McGOWAN (Rockingham - Parliamentary Secretary) [2.11 am]: I move -

That the Bill be now read a third time.

MR D.F. BARRON-SULLIVAN (Mitchell - Deputy Leader of the Opposition) [2.11 am]: I will take interjections from my colleagues as well as from members on the other side!

Mr R.C. Kucera: Say something sensible.

Mr D.F. BARRON-SULLIVAN: This is an easy question for 10 points: when was the last time a headline in *The West Australian* mentioned WA Inc? The lot opposite should know. It was yesterday, under the heading "Labor shrugs off spectre of WA Inc". The Australian Labor Party has brought in this legislation to look after community groups. It is promoting this as saviour legislation for community groups suffering from public liability insurance problems, and it attracted a headline that reminds us of why the ALP lost the 1992 election.

It is now nearly 2.15 in the morning and I do not have a clue why we are dealing with this legislation now. If we were to deal with it next Tuesday, it would still reach the upper House and be available for consideration there. We could be debating this and deliberating on it during the day when more members from both sides of the House were present and, hopefully, we would resolve the matter in the most proper way. As the member for Murdoch asked, where is the trust in addressing these matters? We have tried to approach this legislation in as positive and constructive a way as possible.

At times some heated words were said, particularly at the consideration in detail stage when we were pushing on when perhaps we should have been taking a break. One of the concerns I have is that while dealing with this legislation at the consideration in detail stage, suggestions and concerns put by members on this side of the House were ignored and the members rebuked for making them. At times, members on this side were challenged for pursuing their watchdog role and for attempting to improve this legislation. Eventually, of course, we found a legislative drafting error, which might have been of minor embarrassment to the Government. We let that ride. Now the legislation is back again. It was very frustrating to find that the parliamentary secretary was reluctant in the extreme to answer questions about how sections of the legislation would operate and, quite frankly, displayed the arrogant attitude we see regularly from this Government.

I turn now to some of the matters we learnt during discussion on the Bill. It appears there is at best great uncertainty whether this legislation will result in a reduction in premiums for community and sporting organisations and so forth. At worst it appears that premiums will not decrease. I say that because it was confirmed that organisations will not be able to use this new community fund to shop around for better premiums; in other words, they cannot, if they already have public liability insurance, go to the Insurance Commission of Western Australia to get cheaper premiums. The parliamentary secretary also appeared to confirm that they would pay the same level of premiums as they have most recently paid. Again, I cannot see the point of an organisation that has public liability insurance doing that if it does not have the opportunity to reduce its premium by going through the community fund.

We asked how the premiums would be calculated. Advice that appeared to be passed on from one of the advisers in the Insurance Commission was good to hear; that is, the actuarial data to be used will be based on the situation in Western Australia, and not on national information. That should potentially result in lower public liability insurance premiums. Again, that information appears to be at odds with some of the answers given by the parliamentary secretary.

We asked also how excesses would be calculated; again, to this day I do not know. We were not able to get the detail on that. However, it appears that a number of community organisations will be required to pay excesses if they make claims on their public liability insurance policies, or the policies they had in the past, whereas currently they may not have to do so.

Interestingly, the premiums will be used for something else; that is, to fund a number of other activities not directly related to the provision of public liability insurance, such as research and promotional programs and so on. According to the parliamentary secretary, those activities will be funded from the premiums paid by these community organisations. That, again, is at odds with the advice he gave that the community fund would be worked out on a commercial basis. If that is the situation, it is strange that these ancillary activities, which can be initiated by the Insurance Commission, can be paid for through higher premiums imposed on these community and sporting organisations. There was absolutely no way of getting a commitment from the parliamentary secretary about exactly which organisations would most definitely get coverage through the community fund. He appeared to indicate that organisations such as Surf Life Saving Western Australia were

likely to get coverage but, again, there was no firm, definitive commitment that even an organisation such as that would be covered.

I think the member for Merredin pushed the fact that the legislation, because it is limited to incorporated bodies, could create some difficulty for small organisations not only in regional areas but also throughout the State. Efforts were made to convince the parliamentary secretary that this criterion could be relaxed; unfortunately, those efforts fell on deaf ears. It is strange though because, after all, approval for public liability insurance through the community fund will ultimately rest with the Treasurer. It would not matter therefore whether a small organisation was not incorporated; it would still have to go through a process of multistage testing and ultimately be approved by the Treasurer before public liability insurance was offered.

There was a fascinating revelation during consideration in detail when it was determined that it would cost around \$250 000 to establish this community fund arrangement. When we asked where the money would come from, the parliamentary secretary initially answered that it would come from the Government. Naturally, we asked which part of the Government it would come from and we were told that it may come from the Insurance Commission of WA or it may come from the consolidated fund; in other words it had not been budgeted for. That was absolutely staggering. It is my understanding that when a submission is made to Cabinet - I would love to attend a cabinet meeting - each piece of legislation must have a financial analysis component. Surely that analysis must have indicated that \$250 000 was needed to kick-start this scheme and where it was coming from, at least so the Treasurer knew that it was budgeted for. On the basis of the advice we received, the Treasurer has to find \$250 000 from somewhere.

Mrs C.L. Edwardes: They do not know where it is coming from, and they are not getting it back.

Mr D.F. BARRON-SULLIVAN: We were also told that the Government is not getting it back; it is not a loan.

Mrs C.L. Edwardes: But section 18 does help you out.

Mr D.F. BARRON-SULLIVAN: Big time; we will come to that.

Mr E.S. Ripper: I have a number of devices that I will apply.

Mr D.F. BARRON-SULLIVAN: That sounds painful.

The obvious question is: is the scheme workable? The answer is not so obvious. I commend the parliamentary secretary, because he did respond to a request to provide details of the criteria for determining whether a community organisation would be eligible for assessment for public liability insurance from the community fund. The only problem was that when we started going through the application of those criteria, we were left bedazzled. A number of terms contained in the criteria could not be adequately defined. We had phrases like "a reasonable premium increase" and "essential in the public interest", and no-one could tell us what they meant. One thing that did shine through was that it will be one helluva process for an organisation to get public liability insurance, particularly a small community group. Firstly, they must find an associated government agency to which they can go and be tested by the chief executive officer. In some cases, the community organisation might have some difficulty determining which agency is the relevant one. Once the organisation works that out, the CEO will apply a huge test with all these criteria in it; however, we still do not know whether all the criteria or just a few must be applied successfully or whether it is up to the subjective judgment of the CEO. We were left wondering how that stage of the multistage test will be applied.

The matter then goes through to the Insurance Commission of Western Australia to be assessed. The officers would be very competent in determining such insurance matters. It will then be chuffed off to the Treasurer, who we understand has some degree of discretion, but we do not really know whether the Treasurer can apply his discretion to overturn a negative assessment earlier in the multistage assessment process of some cases.

This is the beauty! The legislation provides for moneys from this community fund to be transferred to the consolidated fund or to any other fund. We also know that this process could run at a profit. In fact, the briefing we received indicated it most likely will run at a profit. I hazard a guess that if community groups do not pay any less in premiums than they are currently, but the actuarial costs go down because they are based on the Western Australian situation, this process will stand a very good chance of running at a healthy profit, in which case the Government will be able to plunder that fund and apply the money however it wants. We did not hear any adequate explanation indicating otherwise and, when we indicated our opposition to that arrangement, the Government decided it would go ahead with it in any event. It looks as though the Government has placed itself in a position whereby it can profit from the misery of community organisations around the State. Hence the WA Inc headline. This is the first time we have seen a WA Inc headline for a while. I take my hat off to the parliamentary secretary: this is the second bad headline he has received on a couple of pieces of legislation that the Government thought were going to be positive attributes for its political fortunes.

Another disappointing aspect was that we on this side of the Chamber made some suggestions that the Government might think about applying some of the \$51 million in additional revenue that it will receive from

the stamp duty on insurance premiums this year to assist community groups to obtain information about risk management and to get through the assessment process so that they can get public liability insurance through the community fund established under this Bill. However, no, the Government is not interested in setting up a hotline or providing any firm commitment to community groups. Again, it was a worthwhile suggestion that was left by the side of the road. There is no certainty that the premiums for community groups will decrease; in fact, the parliamentary secretary seemed to indicate that they would not. We have seen some shoddy legislation in this Parliament. We have certainly seen a very shoddy attitude at times from the person managing it. I hazard a guess that this Bill has opened a Pandora's box of financial accountability for the State. It is no wonder we have seen another Labor Party headline that ends with the expression "WA Inc".

MR B.J. GRYLLS (Merredin) [2.25 am]: The National Party will continue to be the champion of unincorporated groups. Once again, the National Party moved amendments to include unincorporated groups within the reach of this legislation, and, once again, those amendments were lost. However, we again put on the record that there are many extremely valuable groups in the community that will not be covered by this legislation. That is a disappointment, certainly to the many small groups in my electorate, as well as those in the electorates of the member for Wagin and other National Party members, who are continually contacted by these small groups, which are struggling under the burden of public liability premiums that are simply unaffordable.

National Party members played a strong part in this debate. One of the major issues we raised was that the concept of the Insurance Commission of Western Australia Amendment Bill was to provide affordable premiums to these groups. We were disappointed that the parliamentary secretary did not demonstrate to us how those premiums would decrease; in fact, he stated the opposite. The best he could do was assure us that premiums would be offered at the same amount as the last premium received, which is why this problem has arisen. Hopefully, the parliamentary secretary is incorrect on that point and the new Insurance Commission fund will be able to offer premiums to these groups at a level that is definitely lower than the last bill they received and is affordable.

Another issue of concern that was raised by National Party members - we hope the parliamentary secretary and his department can address it - was the process an organisation must go through to access the new state government fund. The first thing an unincorporated group will need to do is apply for incorporation. We were told that that would cost an unincorporated group only \$80 and a little time. However, once the group has been incorporated, it also must prepare an annual report, and it costs \$600 to access an accountant to prepare that report. It is quite an impediment for these small groups.

I will outline the process that these groups must go through to access the fund, and then some of the concerns we have with this Bill will become apparent. First, the affected organisation will approach an affiliated state government agency, with peak or industry association comment, requesting insurance cover. The agency will then assess the organisation and ensure that it is unable to find relevant, affordable or any other cover from the market. This means that the new government fund will be a last resort for insurance cover. The agency will then refer the organisation to the Insurance Commission of Western Australia for consideration. The Insurance Commission will assess the request and provide an initial quote for cover. The Insurance Commission will then seek the Treasurer's approval of eligibility and provision of insurance. Upon the Treasurer's approval, the Insurance Commission will determine a final commercial premium, and, on acceptance, provide insurance documentation. If the Treasurer's approval is not forthcoming, the Insurance Commission will advise the referring agency and the organisation of the decision. After all that process has taken place, the volunteer group, if it has gained insurance at a rate that it can afford, can then plan the event or cake stall or whatever will take place. The idea of the cake stall is used because it illustrates the measures that some small groups must use to raise a small amount of money. It is quite an untenable situation, which will require further examination from this Parliament, because although the Government has attempted to put a process in place to enable such events to occur, I am sure that this process will not be undertaken, and events such as cake stalls, which are so important to our community, will still be under pressure and will not go ahead. I hope that, as this Bill is enacted - because the National Party will support it - some effort is put into streamlining the application process to make it a little more realistic for small groups with limited time. As we have all said, volunteers and community groups should be out there performing community work, not sitting in offices or at meeting tables trying to fill in the reams of paperwork necessary to access this insurance fund.

One of the other points that came up quite strongly was the way in which any surplus generated by this fund will be distributed. The National Party is extremely concerned that the legislation, as it is drafted, allows for these surpluses to be transferred to any other fund. The debate was stalled on this point for quite a long time during the consideration in detail stage, and we are still unsure of how it will work. I checked the uncorrected proofs of *Hansard*, and I thought I had a commitment from the parliamentary secretary that this surplus could not be transferred to any other fund. I wait for the corrected version to see if that commitment is still there. I will commit to the volunteer groups that National Party members represent in their country electorates that we will be

vigilant in making sure that any surpluses created by this fund are returned to the fund so that it may offer cheaper premiums.

That is what this Bill is all about - providing cheaper, affordable public liability insurance for the many very important groups in our community that do such good work. The National Party will support this Bill, but it has many issues with it, and will be vigilant in that support. It is late in the night. We will allow this Bill to be passed tonight. Many questions still need to be answered, and the National Party will be keeping a close eye on this legislation.

MRS C.L. EDWARDES (Kingsley) [2.33 am]: Accessibility and affordability have been the two key words for this legislation. Having gone through the consideration in detail stage, I would suggest that neither will be achieved. The answers from the parliamentary secretary about affordability were that the premiums would be about the status quo. Therefore, those community organisations that are already finding that public liability insurance premiums are far in excess of what they can afford will find it too much. Accessibility will be another of the real questions. The member for Merredin has just highlighted the process, which is very bureaucratic. A complaint that I often heard from volunteer organisations was that volunteers are being asked to do too much paperwork and have to do too much to continue to comply with the requirements to be a volunteer in an organisation, which takes the fun out of it. Therefore, people will find that it is just too hard. Members know that very often volunteers work for more than one organisation; they wear many hats. It is very hard to continue to increase that volunteer pool. If these types of processes make it too difficult for people to do volunteer work, we will lose the good value that they give to the community, because they will not participate to the extent that they currently do. I implore the Government to make the process of assessment and the Treasurer's approval a one-stop shop.

The parliamentary secretary said that the Insurance Commission was not able to assess those community organisations. I suggest that the insurance industry has been assessing those organisations for many years now without the help, advice and support of individual departments and agencies. I agree that if a department or an agency were able to assist some of those organisations in better risk management and the like, it would have a role to play, but that would be its only role to play. As part of the assessment process, such a body should not be involved in public liability, because it would be too hard. Once the assessment goes to the Insurance Commission and a price is put on it, it must then go to the Treasurer - all within a matter of days. I do not know of anything that moves that quickly in the public service, let alone through a minister's office. It is unreasonable to expect that the process to determine an eligible community organisation and approve the application will work within such a short time frame. The Government must rethink that process.

I will comment on the way in which the parliamentary secretary handled the passage of the Bill. It is not easy to have responsibility for the passage of a Bill for the first time. The parliamentary secretary was put in a difficult position, it seems, because he did not appear to have a full say in any of the changes that were being made, particularly on clause 9. His briefing notes must have told him that a surplus can be transferred across to any other fund or to consolidated revenue in the event that a fund is wound up. If that were the case, we could expect to see in amended section 18 of the Insurance Commission of Western Australia Act the words "in the event of the fund being wound up the Treasurer can approve a transfer across to another fund or to the consolidated revenue fund". However, those words were not included in the legislation. The parliamentary secretary is a lawyer and he has had training in the interpretation of words. He would know when he read proposed section 18 that what we proposed was plausible. Not only was it plausible, it was black and white. It must have been very hard for him to know that what we said was true. There is a possibility that surplus funds could be transferred other than in the event of the winding up of a fund. It would have to be done in a proper manner, but the power to do so is included in proposed section 18. However, the parliamentary secretary could not deviate from the script he had been given. To some extent, he had been put into the position of handling the Bill with his hands tied behind his back. If that is the case, in future the Government should allow the parliamentary secretary to have some flexibility when issues have not come up before they are discovered during debate. If the parliamentary secretary refused to acknowledge what was before him because he did not know how to get out of that situation, I am happy to put that down to his inexperience and first time in handling a Bill. However, it resulted in this House debating a simple issue into the early hours of Wednesday morning. What the parliamentary secretary said was not exactly true; it might have been the intention, but it was not what was contained in proposed section 18. It was silly to keep the House back to explain that.

The second reading speech should have made reference to the amount of \$250 000. It is a significant amount and ought not to have been left for debate in the consideration in detail stage. Those sorts of issues ought to be incorporated in the second reading speech.

In response to many questions asked by the Opposition, the parliamentary secretary expressed the view that we should not be asking those questions because they related to documentation that he had very kindly given us. I

pointed out that if he had not given us that documentation we would still have had to debate the matter. The provision of those documents assisted the passage of the legislation and the parliamentary secretary should not have been affronted by our questions, because that was not the intention.

The Opposition supports the legislation, primarily because many community groups and organisations are looking for some form of assistance. I hope this legislation provides that assistance, but I seriously doubt whether it will provide the key factors of accessibility and affordability for those community organisations.

MR M. McGOWAN (Rockingham - Parliamentary Secretary) [2.42 am]: In view of the late hour, the fact that the issues have been widely canvassed and this is an outstanding Bill for community groups, and the criticisms of the Opposition have been carping and entirely unjustified, I commend the Bill to the House.

Question put and passed.

Bill read a third time and transmitted to the Council.

House adjourned at 2.43 am (Friday)
