

**INSURANCE COMMISSION OF WESTERN AUSTRALIA AMENDMENT BILL 2013**

*Declaration as Urgent*

Resumed from an earlier stage of the sitting.

**MR B.S. WYATT (Victoria Park)** [8.01 pm]: I think I made my point earlier. In the final minute and a half left, I will re-emphasise the points I made in the first three and a half minutes. The opposition will, of course, again oppose this urgency motion, which seems to be the most common motion moved by the government since we returned to Parliament after the election. Day after day we are facing motions of urgency dealing with legislation that goes back decades, in some cases, and now this motion to deal with the Insurance Commission of Western Australia Amendment Bill, which is nothing more than a grubby little cash grab on the Insurance Commission. It is the legislative equivalent of fossicking around the back of the couch looking for loose change to buttress the ever-diminishing surplus for this financial year, no doubt, and the one projected for the next financial year. I know the Treasurer has had some trouble this financial year. We found out today in our briefing that the urgency from the government's side is that if this bill is not passed by 30 June, despite the transition provisions in it, the Treasurer will not be able to book the revenue this financial year; hence the urgency from the government. Everyone would accept—I know my friends on the other side of the chamber do—that when a substantial amendment bill is laid on the table for just a week and therefore does not allow the opposition to consult the appropriate third parties, inevitably it will be opposed.

**MR D.A. TEMPLEMAN (Mandurah)** [8.02 pm]: I am outraged because earlier today the City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Bill 2013 was declared absolutely urgent and absolutely needed to be debated and discussed. We were in the maelstrom of the debate. I was having a really good debate with the Minister for Local Government and suddenly the bill has been pulled because of another bill that is supposed to be even more important and urgent. The Minister for Local Government and I were trading blow after blow today. I had to get a rub-down at half-time and be towelled off! The City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Bill 2013 was supposed to be urgent but now it is not as urgent as the Insurance Commission of Western Australia Amendment Bill 2013.

**Mr T.R. Buswell:** This is more urgent.

**Mr D.A. TEMPLEMAN:** This is more urgent? This is another example of desperation. I would hate to see what a really urgent, urgent, urgent bill is. If we ever saw one of those, I think we would all pass out and expire! I got myself worked up. I got up very early this morning and towelled myself down because I knew I would be battling the Minister for Local Government and that he was probably ducking and weaving and mirror dancing —

**Mr T.R. Buswell:** Shadow boxing.

**Mr D.A. TEMPLEMAN:** Yes, shadow boxing. I knew that he was ready and I was ready for him. We traded blow after blow and then the government pulled out the rug from underneath me. Debate on the absolutely urgent bill that had to be debated today, even though it relates to something that was decided 51 years ago, suddenly had to be halted and the government brought on another bill that is even more urgent than the urgent City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Bill. I am outraged this evening. I know that the Minister for Local Government is outraged because I can see the veins around his temple pulsating. I think he had a few nervous wees during dinner time thinking that he had to be ready to take me on!

**The ACTING SPEAKER (Mr P. Abetz):** Member for Mandurah, I draw your attention to the relevance of this.

**Mr D.A. TEMPLEMAN:** This is very relevant. I am outraged that the City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Bill has been jettisoned.

**Mr T.R. Buswell:** It will be back.

**Mr D.A. TEMPLEMAN:** When? I need time to prepare. The Treasurer knows me and that everything is scripted for me; nothing is improvised. What happened? The government pulled out the rug from underneath me. I am outraged. I think we should be censuring the government for this move this evening and particularly the Leader of the House, who is not even here. He has gone off somewhere else. I know where he is—I paired him! That was the cunning plan—I paired him and then devious things would happen! We paired the Leader of the House, who no doubt is watching some interesting piece of theatre.

**Mr T.K. Waldron:** He should have stayed here; it's more interesting!

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**Mr D.A. TEMPLEMAN:** And the tickets are free, although he probably gets free tickets anyway.

I will walk out of the chamber shortly because I am so distressed that the City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Bill 2013 is now no longer as urgent as it was thought to be earlier. Some hours ago it was the most urgent matter that this chamber was going to debate and now it is not urgent because a better and more urgent bill will be brought on. I am outraged and will have to cool myself down. The Minister for Local Government was on the ropes tonight. I knew he was on the ropes. Only one more punch was needed and he would have been down for the count. Now he has been saved by the bell. Obviously the Leader of the House saw that the minister was on the ropes and now I will not have the chance to give him the killer blow until tomorrow. I am outraged—I am absolutely outraged by this!

**MR J.R. QUIGLEY (Butler)** [8.07 pm]: When I sat on the Labor government benches as the member for Innaloo, about where the member for Alfred Cove is now sitting, I listened to the then government being hectoring and lectured by the now Premier of Western Australia about the Labor government bringing in an urgent bill. The then opposition lambasted the government on that one urgent bill, arguing that it diminished democracy and that there was no opportunity to properly prepare for a suitable debate on matters that really affect the public of Western Australia. Look what has happened with the Insurance Commission of Western Australia Amendment Bill 2013. A briefing was scheduled for last Tuesday with people from Treasury but that was cancelled. I attended a briefing today with Treasury officials at only midday today —

**Mr T.R. Buswell:** There was a parliamentary requirement.

**MR J.R. QUIGLEY:** Because the government brought on another urgent bill! This not only makes a mockery of the parliamentary process; it is an abuse of the parliamentary process. It is taking away the public's right to hear an informed debate on very important matters in their Parliament. We cannot have a proper debate when those charged with the responsibility of testing the government's argument are given no fair chance to be briefed and to consider the propositions. To rush this in with indecent haste, as the Premier of Western Australia said when he was sitting on this side of the chamber in opposition, is an abuse of the democratic process of Western Australia. I rely upon what he said then in relation to one bill, whereas the whole of this government's agenda since the election has been in such disarray that it has become the subject of mockery. As the member for Mandurah pointed out, we had to suspend debate on one bill that was sought to be made urgent to debate another more urgent bill, and the minister responsible for this bill sits here in guffaws of laughter that one urgent bill had to be knocked out of the queue for another urgent bill. That has not happened just today. Since we have come back into this Parliament, the course of this government has been disarray in presenting legislation before the people's Parliament.

Let us consider the issues in this bill. One issue is the government's right, through the minister, to tell the Insurance Commission of Western Australia how much of its profit the government will seize to support its extravagant spending program. The same minister will give the tick on increased premiums that all motorists and the public of Western Australia will have to pay as more funds are sucked out of ICWA. That is part of the substantive debate that will come on and I do not want to address that in detail now.

These bills are not just flimsy issues to urgently fix a word or two that has been missed out of a bill. These are substantive issues that will affect every family in Western Australia who owns a motor vehicle—every person who has to take out compulsory third party insurance. Those people charged by the public with testing the government's argument are being denied reasonable opportunity to examine the government's proposition and to prepare for debate this evening on behalf of the public of Western Australia. It is a disgrace that this is happening time after time and the democratic process is being demeaned.

**MR M. McGOWAN (Rockingham — Leader of the Opposition)** [8.13 pm]: For the fourth time in the last five weeks we will oppose an urgency motion to deal with a piece of legislation introduced by the government. Tonight we are defending the democratic process.

**Mr W.J. Johnston:** Hear, hear!

**Mr M. McGOWAN:** The government is bringing on legislation without allowing the appropriate and proper time that is supposed to be made available to the opposition and the Parliament to properly consider that legislation. It has been part of the standing orders and the time-honoured process of Parliaments in the Westminster system for a long period that we do not rush legislation through without time to consider it because doing so does not allow proper debate in its consideration and mistakes are made in the legislation. Time and again issues are brought forward by oppositions and government backbenchers about errors in legislation. Sometimes governments listen to those debates in consideration and change the legislation. This government is not allowing the usual three weeks so that the Parliament can properly consider the legislation.

**Extract from Hansard**

[ASSEMBLY — Wednesday, 19 June 2013]

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Mr Ben Wyatt; Mr David Templeman; Acting Speaker; Mr John Quigley; Mr Mark McGowan; Mr Bill Johnston; Mr Paul Papalia; Ms Janine Freeman; Mr Troy Buswell

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If the government had done it once in the opening weeks of the second term of the Barnett government, it might be excusable, but this is the fourth time in the few weeks we have sat that the government has done this. A far better way to manage the Parliament would have been to bring back the Parliament for a week, introduce the laws the government wants passed, adjourn the Parliament for three weeks and sit again and allow the bills to be passed in accordance with time-honoured tradition. It did not do that. The government's legislative agenda is chaotic. What is more, it is disastrous for the state, and we will oppose this Insurance Commission of Western Australia Amendment Bill because, without the government revealing it to them prior to the election, it seeks to put extra costs on motorists around Western Australia.

The government did this also with the stamp duty legislation this week, which will provide a tax increase of \$526 million over four years on people in business around Western Australia. We opposed that but the government introduced both as urgent bills. I think the government is introducing both pieces of legislation as urgent bills because it wants to get them through as quickly and painlessly as possible so that it can get through the difficult parts of its agenda and hope that, in the next four years, the public will forget. In doing so, the government is denying the time-honoured traditions of this Parliament to allow for proper debate and consideration of the issues involved.

We hear about the chaotic way the government has organised the briefings for the opposition, so we do not even get proper briefings; we have to debate legislation on the day of the actual briefing. This is appalling and hopeless management of the Parliament. I think the government should be ashamed that in the last few weeks it has done this on four separate occasions—the Insurance Commission of Western Australia Amendment Bill, the City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Bill, the Duties Legislation Amendment Bill and the Rates and Charges (Rebates and Deferments) Amendment Bill.

**Mr W.J. Johnston:** And others.

**Mr M. McGOWAN:** Apparently there are others.

I do not think there is a time in recent history when a government has so flagrantly abused the established processes of the Parliament in the way this government has. As conservatives, who are supposed to be the upholders of tradition, members opposite should be ashamed of themselves. They do not exhibit any of the things we read about conservatives. They treat the Parliament with contempt; they treat proper process with contempt; and their legislation is flawed and will adversely impact on Western Australians. We will oppose not only this urgency motion but also the legislation because it will hurt people around the state.

*Division*

Question put and a division taken, the Acting Speaker (Mr P. Abetz) casting his vote with the ayes, with the following result —

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Ayes (28)

Mr P. Abetz	Mr M.J. Cowper	Dr G.G. Jacobs	Mr D.C. Nalder
Mr F.A. Alban	Ms M.J. Davies	Mr S.K. L'Estrange	Mr J. Norberger
Mr I.C. Blayney	Ms W.M. Duncan	Mr R.S. Love	Mr D.T. Redman
Mr I.M. Britza	Mr J.M. Francis	Mr J.E. McGrath	Mr A.J. Simpson
Mr T.R. Buswell	Mrs G.J. Godfrey	Mr P.T. Miles	Mr M.H. Taylor
Mr G.M. Castrilli	Dr K.D. Hames	Ms A.R. Mitchell	Mr T.K. Waldron
Mr V.A. Catania	Mr C.D. Hattton	Dr M.D. Nahan	Mr A. Krsticevic ( <i>Teller</i> )

Noes (13)

Mr R.H. Cook	Mr M. McGowan	Mr J.R. Quigley	Mr D.A. Templeman ( <i>Teller</i> )
Ms J.M. Freeman	Ms S.F. McGurk	Mr C.J. Tallentire	
Mr W.J. Johnston	Mr M.P. Murray	Mr P.C. Tinley	
Mr D.J. Kelly	Mr P. Papalia	Mr B.S. Wyatt	

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Pairs

Mr N.W. Morton	Ms R. Saffioti
Mr B.J. Grylls	Ms L.L. Baker
Mr A.P. Jacob	Mr P.B. Watson
Mr W.R. Marmion	Ms M.M. Quirk
Mr C.J. Barnett	Mr F.M. Logan
Mrs L.M. Harvey	Dr A.D. Buti
Mr R.F. Johnson	Mrs M.H. Roberts
Mr J.H.D. Day	Ms J. Farrer

Question thus passed.

*Second Reading Resumed*

**MR B.S. WYATT (Victoria Park)** [8.21 pm]: It falls to me to spend the next 60 minutes reflecting on the Insurance Commission of Western Australia Amendment Bill 2013, and I intend to spend that time reflecting rather adversely on the government. I have already made some points about the urgency of this legislation and while there are members in this place, before they scuttle back to their offices, it is worth reminding them that I said to them last week that backbenchers have been sold a pup on this bill. They are rushing through a piece of legislation that the former chairman of the Insurance Commission said could have a materially adverse impact on the finances of the Insurance Commission. Yet, it is being rushed through in a week, not allowing proper scrutiny and abusing the democratic processes outlined by the member for Butler, and government backbenchers are sitting up there silently. I dare say this legislation will come back to haunt this Liberal government.

It is also interesting to note that we just finished debating—urgently again—the duties legislation, which will increase taxes on the business sector by \$527 million. We provided the opportunity for members on the other side to join with the opposition to ensure that, at the very least, the tax cut would come in 2015. But, no, it was deferred indefinitely, and now backbenchers are partaking in this grubby little cash grab on the Insurance Commission under the deceit that it is due to the competitive neutrality policy of the state government. I will go through that a little later during my contribution. It is being done under the deceit that this is good policy for the people of Western Australia, despite it not being mentioned at all prior to the election on 9 March. If it was indeed good policy and the government is so proud of what it is doing with the Insurance Commission, why did it not raise it before the election? Why did we not hear about the small business tax rises before the election? Why, prior to the election, did we not hear that the government intended ratcheting up compulsory third party insurance? It kept it all to itself, when clearly it knew it was its intent if re-elected. That was confirmed during the briefing with Treasury today when we asked: “When did you start drafting this bill?” Despite the Premier saying in Parliament this week, “Well, this decision was made subsequent to the election,” the Treasury officials told us that they started drafting this legislation in October last year. At the direction of the government, they started drafting the legislation to implement a dividend on the Insurance Commission. The government remained utterly silent about that during the state election campaign, despite the fact that it was specifically asked by the RAC whether it was its intent. The government wrote back to the RAC and informed it, “No, no, no; we won’t be implementing a dividend on the Insurance Commission,” and then less than three months after the election it did that very thing. As I have said before, it is the legislative equivalent of fossicking down the back of the couch looking for loose change! That is the situation the government is in, and it is of its own making that it is in this financial situation.

A member interjected.

**Mr B.S. WYATT:** Member for Bassendean, stealing from your kid’s piggy bank!

**Extract from Hansard**

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**The ACTING SPEAKER (Mr P. Abetz):** I would just like to remind members that they cannot interject unless they are sitting in their own seat.

**Mr B.S. WYATT:** I thank the member behind me who interjected on me! Stealing from your kid's piggy bank!

Do not think for a minute that it will not have an impact. The Treasurer says, "Minimal, minimal, minimal," despite the previous chairman saying that it will have a materially adverse impact on the financial future of the Insurance Commission. I am stunned that a conservative government—a Liberal government—would introduce this legislation. But now, when it is desperate for cash as we know it is—average expense growth 10 per cent every single year since Colin Barnett became Premier; unsustainable—and it has created the structural problem it is now seeking to address because it failed with its wages policy, it failed with its full-time equivalent cap and it failed with its real per capita expense growth, it expects the 2.8 million motorists of Western Australia to bail it out, just as it expects the business community to bail it out with the bill that went through this place this week that will generate another half a billion dollars in tax rises.

The deceit to the RAC is extraordinary. The RAC media statement put out by Matt Brown, RAC head of advocacy, on 13 June, when this bill was introduced, states —

"Prior to the State election the RAC sought assurances from both major parties that ICWA would not be used as a source of additional funds for government through the calling-in of special dividend payments," Mr Brown said.

"The RAC had been reassured by the State government's response that the ICWA Act did not allow the payment of such dividends.

The RAC had been reassured by Colin Barnett. We reassured him; we responded. Clearly, the Liberal government did, too, but as soon as the election was over, it broke its word. This is nothing more than the grubby little cash grab I referred to previously, and I think all members know it. This decision was not made subsequent to the election. As I said, Treasury officials told me, the shadow Minister for Finance, the member for Nollamara and member for Warnbro—we were all at the briefing—when we asked when they started drafting this legislation that it was in October last year. That exposes the lie that the decision was made by the government post-election. When he brought on the tax rise for small business, the Minister for Finance said, "We are being transparent"; the government was just not being transparent prior to the election. This will have an impact, and I will go through the reason for that; the Insurance Commission's results each financial year will show the impact.

The Treasurer said, during answers to questions I asked him during question time, that the underwriting side of the Insurance Commission makes a loss, but the return on the assets—the investment program—provides the income to really keep our compulsory third party premiums at the low level they have been at for a long time now. The Treasurer said that that artificially depressed the premiums of compulsory third party insurance. I dare say that where we are heading is that the Treasurer wants ICWA to sell those assets. He sees them as distorting the real price of compulsory third party premiums. That means we can look forward to a considerable increase—a very large increase—in our compulsory third party premiums. That will be because members opposite sat there silently and voted for the urgency of this bill before the Parliament had the opportunity to go about the process of ensuring that third parties were appropriately consulted.

The government has form when it comes to dividends. This is not a new strategy. I have an impression of the Treasurer now opening the proverbial drawers at home and looking behind the bed and behind the couch thinking, "There has got to be some change around here somewhere. I will keep looking around." He keeps looking for loose change in the ashtray of his car. He is now starting to get desperate and the Insurance Commission of Western Australia is right in his sights. I know that the Treasurer, smiling at me, agrees with me. I know he agrees because he has previously had form, and the government has previously had form, on dividends. The government has looked to our government trading enterprises as nothing more than cash cows. The former Leader of the Opposition, the former member for Belmont, Hon Eric Ripper, coined it as "sweating the assets". That is what the government is doing with its energy utilities and the Water Corporation. We saw the change in the dividend payout ratios in the 2010–11 budget. Up until then the previous payout ratios had been 50 per cent for all GTE's except that of the Gold Corporation, which was 60 per cent, and they were all raised; Horizon Power went from 50 per cent to 65 per cent; Synergy went from 50 per cent to 75 per cent; Verve went from 50 per cent to 65 per cent; Western Power went from 50 per cent 65 per cent; and the state port authorities went from 50 per cent 65 per cent. That gave an extra \$402 million, because the government reached in and treated those utilities as a chance to buttress its out-of-control spending and now it is doing the same thing with the Insurance Commission. The Treasurer says that it is just the same as is done with the other utilities—competitive neutrality. I will come back to the obligations under competitive neutrality shortly. However, there is no entity in the private sector that provides compulsory third party insurance. With Western Power and the

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Water Corporation or any of the energy utilities, I dare say the model to predict their revenues over the course of financial years is pretty straightforward. The customer base is known, the average use of energy or water is known and revenue can generally be reliably predicted, and the government can go to the Economic Regulation Authority, particularly with Western Power, to try to get its expenses sorted.

The difference with third party insurance, though, is the lumpy nature of insurance. This has previously been highlighted by the former chairman of the Insurance Commission. From memory, from my briefing on this topic, there are four third party insurance funds to the Insurance Commission, but there is only one of substance and I dare say the third party insurance fund probably makes up 99 per cent of premiums for the Insurance Commission. In 2009–10 the after-tax profit for the Insurance Commission was \$119.1 million. There was actually an after-tax profit in 2009–10 of nearly \$120 million, but there was an underwriting loss of \$44.2 million, and the reason for that profit was a 10.1 per cent investment return on those assets I referred to a minute ago. In 2010–11 there was an after-tax profit of \$33.6 million, obviously down from \$119 million, but the underwriting loss, instead of being \$44 million was \$151 million—\$68 million higher than was budgeted. That is a massive difference from the budget. But again, the profit was returned because of the 9.7 per cent investment return on the commission's assets. In 2011–12, which is the date of the most recent annual report of the commission we have, there was a pre-tax operating loss of \$188.3 million and the underwriting loss had grown even more to \$225.1 million. I remind members that in the three years from 2009–10 to 2011–12, the underwriting loss had gone from \$44 million to \$151 million to \$225 million, and in 2011–12 that was \$150 million worse than was budgeted. The investment return for that year was much smaller, and the annual report makes the point regarding global uncertainties. There was a 2.9 per cent investment return that brought the loss down to a pre-tax operating loss of \$188 million.

The former chairman of the Insurance Commission, Michael Wright, knew that this would pose some problems. We can see from his comments that because of the inherent difficulty of forecasting claims and litigation costs with insurance, he was always nervous about the imposition of a dividend on the Insurance Commission. On the news website insuranceNEWS.com.au on 24 October 2011 there was a story entitled “WA Government plans insurance raid”, and how correct that was. The news report states —

WA Treasurer Christian Porter is planning a raid on the reserves of the state's Insurance Commission and is also considering the introduction of a dividend regime to routinely divert excess funds into consolidated revenue.

It goes on to discuss the reserve reducing the solvency levels, which we will ask questions on in consideration in detail. The news report also states —

ICWA Chairman Michael Wright says the moves could have a “materially adverse impact” on the commission's future performance.

He is quoted as saying —

“The board has an awareness (borne of experience) of the inherent costs and uncertainties involved in conducting litigation,” he says in the commission's annual report. “It is also conscious of the concerns and abnormal volatility which are currently endemic in global financial markets.”

In the Insurance Commission's 2011 annual report, Mr Wright makes the point —

In assessing the adequacy of CTP premiums for the purposes of the *Motor Vehicle (Third Party Insurance) Act 1943*, the Insurance Commission is required to make an assessment of the extent to which premium income ... will be sufficient to meet claims, costs and other expenses to arise or be incurred under that Act.

Now the requirement to pay dividend is being brought into the Insurance Commission of Western Australia Act. That will clearly have an impact on the pressure on premiums. I want to read note 30 of the 2011 annual report into *Hansard* —

... A letter dated 12 August 2011 has been received by the Insurance Commission from the Treasurer; Attorney General, seeking information from the Insurance Commission (including actuarial advice) which would enable the Minister's office to consider options for the transfer from the Insurance Commission's Third Party Insurance Fund to the Government's Consolidated Account, of up to 50% of the present and predicted amounts which are calculated to represent a surplus in the Third Party Insurance Fund over a long term solvency level of 125%. The letter dated 12 August 2011, also suggests that the information sought from the Insurance Commission include actuarial advice to determine a range of scenarios including a 50% premium reduction in the Third Party Insurance Fund together with a 50% transfer of the

Fund's solvency reserves in excess of 125% and the estimated impacts on Compulsory Third Party premiums if the entire surplus in the Third Party Insurance Fund was reduced to a 125% solvency level.

... Information has also been sought from the Insurance Commission on the financial implications of reducing the solvency level of the Insurance Commission General Fund to 125% by transferring any excess to the Government's Consolidated Account.

The letter dated 12 August 2011 referred to above also records that, in addition to the possible transfers of funds from the Insurance Commission to the Government, the Department of Treasury has been requested to re-examine the future implementation of a dividend policy for the Insurance Commission.

Hence we had the then chairman in his annual report highlighting the point that the Insurance Commission has an awareness borne of that, I dare say, somewhat bitter experience of the inherent costs and uncertainties involved in conducting litigation, which is why the Insurance Commission cannot be compared with the Water Corporation, as the government does, or with any of the other GTEs, as the government has attempted to do, and certainly, as the previous chairman, Mr Michael Wright, pointed out in the commission's 2011 annual report.

If indeed the Treasurer is correct as per his statements, and he made the point that this proposed Insurance Commission of Western Australia Amendment Bill 2013 is long overdue to reform and achieve the competitive neutrality principals, then why was it not done previously? In 2011 Christian Porter talked about raiding the reserve funds, and we see now from ICWA's "Annual Report 2012" that that solvency level was reduced to 127 per cent. I asked the Treasury officials today, as a result of that reduction from 137 per cent to 127 per cent, whether a payment was then made to the government. They said, "No. No payment has been made to the government. Not yet." I dare say that is coming because the government wants to get its hand on the surplus above 125 per cent, as we see from note 30 in the 2010-11 financial annual report and as we also heard from Treasury officials today. The drafting of this legislation commenced in October last year, which puts to bed the Premier's claim that this was a decision made post-election and also highlights the deceit the Premier pulled on the RAC when he reassured it late last year that the Insurance Commission of Western Australia Act did not allow the payment of such dividends. He assured the RAC that the government was not about to change its position on the payment of dividends by the Insurance Commission. What he did not say was that Treasury was already drafting a piece of legislation to change the act so that dividends would be paid by ICWA to the government that would have, as the former chairman said, a materially adverse impact on the financial future of the Insurance Commission. The government says, "Well, it is okay because the commissioners of the Insurance Commission can recommend that they do not pay a dividend." But what the government does not go on to say is that be that as it may, the government can thoroughly ignore that and say, "We do not care what the commissioners of the Insurance Commission say. We will not only make them pay a dividend and tell them how much it will be, but also the Insurance Commission will not have to make a profit before it is directed to pay a dividend."

**Mr T.R. Buswell:** How can you pay a dividend if you have not made a profit?

**Mr B.S. WYATT:** Good question, and I put that to Treasury officials today who confirmed that a dividend can still be payable regardless of whether there is a profit. We had four members in there, Treasurer, and believe me, I was surprised by the answer.

**Mr T.R. Buswell:** I have written to myself as the transport minister, asking myself as the Treasurer or pointing out to myself that some of the ports that had occasionally made losses would not be paying a dividend.

**Mr B.S. WYATT:** Do you have the rights under the ports legislation to ignore that and so you still do?

**Mr T.R. Buswell:** Sorry?

**Mr B.S. WYATT:** Now that you have written to yourself as the Treasurer —

**Mr T.R. Buswell:** No, I normally write back and say, "Very good idea."

**Mr W.J. Johnston:** You are raiding the piggy bank and the past profits.

**Mr B.S. WYATT:** Correct, and what will happen this financial year, bearing in mind, members, that last financial year ICWA had an operating loss of \$188 million, and the underwriting losses were \$225 million, the government is rushing this legislation through so that the Treasurer can have a payable dividend this financial year. The Treasury will make sure a dividend is paid this financial year, and I am sure he knows exactly how much that dividend will be despite the fact that we do not know whether there is a profit or loss. The Treasurer, like the leader of government business, has his problem sitting to his right. His "problem" has already spent that money, and members on this side know the government is desperate when the budget —

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**Mr T.R. Buswell:** The health minister?

**Mr B.S. WYATT:** He is a bigger problem.

Several members interjected.

**Mr B.S. WYATT:** Despite the fact that the legislation was drafted in October last year, as Treasury officials confirmed, we know the government is desperate when this policy is not part of its budget. The previous change to dividend ratios was part of the 2010–11 budget. Now the Treasurer is rushing this through so that he is sure he can book this dividend payment into this financial year. I know the surplus/deficit is marginal, but I did not appreciate how marginal it was until I had the briefing today from the Department of Treasury. I assumed from the transitional provisions contained in this bill that even if this legislation passed in July, the Treasurer could still have the retrospective tax payment, member for Cannington, that would then be booked under the accrual accounting rules for the 2012–13 financial year. The Treasury officials confirmed I was wrong and if this legislation did not pass before 30 June this year, it could not be booked. As I said, the Treasurer knows how much he will take out of the Insurance Commission and he already knows how much before we have the financial results from the Insurance Commission. Do not tell me this is nothing more than a dirty little cash grab, as I described previously.

**Mr T.R. Buswell:** I assume when you go to the next election that your next policy will be to repeal this legislation.

**Mr B.S. WYATT:** If the Insurance Commission is still solvent by then and the Treasurer has not spent all the money, then that is something I might consider. I dare say that the Treasurer has already allocated all that money. I dare say that the budget will show all that revenue allocated away, just like the revenue from the duties legislation we passed recently this week has already been allocated away. I have no doubt about that. It is not just the former chairman of the Insurance Commission who expressed his concerns. An article in *The West Australian* on 14 June by Peter Kerr and Gareth Parker refers to this legislation. It states —

However, senior Perth finance executives, including ICWA’s former principal accounting officer Con Abbott, said the introduction of a dividend on ICWA’s profits would inevitably put pressure on the agency to lift CTP insurance premiums, which jumped 4.5 per cent this year. “ICWA is very much a social insurer and its purpose is not to be a point of taxation or revenue raising for any government,” Mr Abbott said.

That echoes the comments made by Mr Brown at the RAC. The problem with the argument surrounding competitive neutrality is that there is no private competitor, and that the Insurance Commission says, “We already meet our obligations under the policy in respect of competitive neutrality.” The Treasurer is now saying, as he did in his second reading speech, that this will meet our obligations. He states —

The purpose of this bill is to further align the Insurance Commission of Western Australia to the state’s policy statement on competitive neutrality.

The Insurance Commission already meets those obligations. The government does not need to apply a dividend to the Insurance Commission to meet the obligations under the policy statement on competitive neutrality dated June 1996. Of course, I had cause to go back and look at what these say. By way of background, the statement on competitive neutrality arose out of the examination principals agreement agreed upon by the Council of Australian Governments in April 1995 as part of the national competition policy. This Western Australian government policy complies with the requirements of that competition principles agreement. Those requirements are detailed at appendix A of the policy statement. Interestingly, at appendix A, under the heading “Competitive Neutrality Obligations under the Competition Principles Agreement”, dividends do not even get a mention. The government does not have to pay dividends to meet its obligations under its own competitive neutrality policy. The Insurance Commission of WA is already meeting those obligations. Clause (4) of the appendix, in part, reads —

Subject to sub-clause (6), for **significant** [emphasis added] Government business enterprises which are classified as “Public Trading Enterprises” and “Public Financial Enterprises” under the Government Financial Statistics Classification:

...

I say, by way of an aside, that the Insurance Commission is listed in this document as a public financial enterprise —

- (b) the Parties will impose on the Government business enterprise:
  - (i) full Commonwealth, State and Territory taxes or tax equivalent systems; —



It already does, as the Treasurer said in his second reading speech —

- (ii) debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees; and
- (iii) those regulations to which private sector businesses are normally subject, such as those relating to the protection of the environment, and planning and approval processes, on an equivalent basis to private sector competitors.

That all sounds reasonable, but nowhere in appendix A, which lists the obligations under the competition principles agreement, is there any mention of the requirement to pay a dividend. The very first point made in the Treasurer's speech and in his answers to questions that I put to him during question time is that this is good policy that is long overdue, despite the fact that he did not talk about it until after the election, because it meets the government's obligations under the policy statement on competitive neutrality. Rubbish! ICWA already does. The Treasurer should be honest and tell them he needs the money for his surplus—tell them he is running out of cash, because that is the reality. I recommend the policy statement on competitive neutrality, because it is actually an interesting read.

**Mr W.J. Johnston:** Very interesting.

**Mr B.S. WYATT:** Thank you, member for Cannington.

On the very first page of the document, quoting the "Competition Principles Agreement", it states —

"The objective of competitive neutrality policy is the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities: Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership."

Competitive advantage over whom? Members? Treasurer? Is the Treasurer planning on allowing other organisations to provide third party insurance in WA? If so, then his argument might start to have some merit. I have not heard that being announced by the government. During the briefing we got from Treasury officials today, they gave us a document titled "Interjurisdictional Comparison of Government-owned Entities that provide Compulsory Third Party Insurance and provide a return to owner". The point is made in the document that in the Northern Territory, South Australia, Tasmania and Victoria, compulsory third party insurance is provided by a state-owned entity, while in the ACT, New South Wales and Queensland it is not. From our briefing today, it is my understanding that in New South Wales there are six separate providers of compulsory third party insurance.

Maybe the Treasurer can respond to this question in his response to contributions to the second reading debate: does the Treasurer intend to open up the provision of compulsory third party insurance to the private sector? I think that is a fair question; I am looking forward to his answer on that.

**Mr T.R. Buswell:** No.

**Mr B.S. WYATT:** No? The Treasurer says no. Okay; that resolves that little issue. All the way through the policy statement on competitive neutrality, the point is made that it is all about creating a fair level of competition when the government is competing with the private sector. I quote again from the state government's policy document, in reference to the objective that I quoted a minute ago about the elimination of resource allocation distortions. It states —

This objective has its roots in the Hilmer Report, which recommended that a mechanism to deal with competitive neutrality between government businesses and other businesses should form part of a national competition policy for two reasons:

- concern that it is not fair for government businesses to enjoy artificial competitive advantages when competing with private firms; and
- it may be a misallocation of resources to subsidise (by artificially conferring a net competitive advantage) the provision of services by the public sector, if to do so limits or prevents the opportunity for more efficient provision of those services by the private sector.

The Treasurer has just said he does not intend to open up the provision of CTP to the private sector, so at no point do those two reasons apply. Yet, in the Treasurer's second reading speech, he stated —

The purpose of this bill is to further align the Insurance Commission of Western Australia to the state's policy statement on competitive neutrality.

**Extract from Hansard**

[ASSEMBLY — Wednesday, 19 June 2013]

p1826b-1849a

Mr Ben Wyatt; Mr David Templeman; Acting Speaker; Mr John Quigley; Mr Mark McGowan; Mr Bill Johnston; Mr Paul Papalia; Ms Janine Freeman; Mr Troy Buswell

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The very reasons for the policy do not apply to the Insurance Commission. For one thing, it provides compulsory third party insurance exclusively; and secondly, as the Treasurer confirmed tonight, there is no intention to change that, so we are not going down the path of the New South Wales model, where there are a number of providers of compulsory third party insurance.

I had cause to reflect on the statement of corporate intent put out by the Insurance Commission for 2012–13—prior to being aware of the fact that this financial year it will have to pay a dividend if this legislation passes through both houses of Parliament before 30 June. I therefore dare say that a lot of what is written in the statement of corporate intent may need to be revisited by the board. Interestingly, this appears at page 19 of the statement of corporate intent —

*The Insurance Commission of Western Australia Act 1986, does not currently include a specific dividend requirement.*

Cabinet in December 2009, approved the drafting of the *Insurance Commission of Western Australian Act 1986 Amendment Bill*, subject to the Insurance Commission giving consideration as to whether a dividend policy should apply. *(A decision on the minimal capital required by the TPIF needs to be made in order to consider how a dividend policy might best be determined. An independent review was commissioned in this regard).*

I have previously outlined to members the statements made in the 2010–11 annual report by the former chairman, Michael Wright, and his concerns about applying a dividend policy to the Insurance Commission, which were noted extensively at note 30 of the *Financial Statements*. I noted in particular that through, as I said, probably fairly rough experience, the board of the Insurance Commission is aware of the inherent costs and uncertainties involved in conducting litigation; we have had such extraordinarily different results over the last three years from the Insurance Commission from what it has budgeted, because insurance is difficult to predict—the costs are difficult to predict. Yet now, despite advice to the contrary from the people who know, the Treasurer is going to impose a pressure on ICWA that will clearly drive up premium costs. Coming back to the comments I made previously about competitive neutrality, the statement of corporate intent at page 19 under the heading “Competitive Neutrality” states —

The Insurance Commission is committed to the principles of Competitive Neutrality. Applicable legislation, internal policies and procedures, will continue to be aligned with the State’s Policy Statement on Competitive Neutrality 1996, —

That is the document that I was just waving around —

to ensure the Insurance Commission operates free of competitive advantages and/or disadvantages.

In the statement of corporate intent for 2012–13, the commissioners of the Insurance Commission of WA make the point that it already complies with the applicable legislation and internal policies and procedures of the government’s competitive neutrality policy. Again, I come back to the argument made by the Treasurer that the reason the government is implementing this dividend is not a grubby little cash grab; it is to make things fair and equal and to ensure that the competitive neutrality policy applies to the Insurance Commission as it applies to all other government trading enterprises, and, as a result, the government will take 65 per cent of its profit, despite the warnings of the people who know. Not only that, but also members will rush it through Parliament in one week. I say to members that this is one bill that they should think twice about before rushing through Parliament in such a short period.

The Treasurer said in answer to a question during question time—he is right on this point—that the underwriting side of the Insurance Commission makes a loss. I have gone through those losses; they are significant and, indeed, are getting larger. The underwriting loss for the last financial year was \$225 million. That is a significant loss, bearing in mind that that is \$150 million worse than was budgeted, highlighting that inherent unpredictability that the former chairman was concerned about in the 2010–11 annual report. The Treasurer said in his answer to me that a loss is being made and assets are held by the Insurance Commission that are invested out of, for example, surplus positions when the Insurance Commission runs a profit, as it did in 2009–10 and 2010–11, and it is the return on those assets that have not offset it, but have helped to reduce the overall loss by ICWA. I put it to the Treasury officials today, and we had some discussion on this point. The Treasurer was not in the chamber when I made the point. He obviously has some concerns about those assets, because he made the point that those assets had artificially suppressed the compulsory third party premiums over a period.

**Mr T.R. Buswell:** Potentially.

**Mr B.S. WYATT:** I will quote the Treasurer. In referring to compulsory third party premiums on 13 June he said —

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That is another example of a government product that has had its price suppressed for almost a decade in relation to compulsory third party insurance, and ultimately somebody will have to pay. In my view, we need to start correcting those premium fees to try to offset some of that cost imbalance.

He also made the point that ICWA —

... has a very large and very interesting asset base that generates a rate of return. That rate of return more than covers the losses incurred in those two areas of operation.

The Treasurer was referring to RiskCover as well, but the Treasury officials confirmed that RiskCover is basically irrelevant for the purposes of this bill. What is not correct is that it does more than offset it, because ICWA is still running significant losses. The Treasurer clearly has some concerns about the fact that the Insurance Commission has these assets and has been using them to offset the underwriting loss. Do I have that correct from his statements?

**Mr T.R. Buswell:** No. What I was saying is that it does have a large asset base. What concerns me is that for a number of years there has been, for a whole range of reasons, a reluctance to adjust CTP premiums. I think that CTP premium movements have formed a disconnect with the costs that those premiums partly cover—for example, the cost of care for people who suffer injuries and the like.

**Mr B.S. WYATT:** Yes, but I dare say that it is probably not unusual for insurance companies to operate in a very similar way.

**Mr T.R. Buswell:** It is very unusual for insurance companies to go for eight years or so without any adjustment to premiums.

**Mr B.S. WYATT:** That is not correct; it has not been eight years.

**Mr T.R. Buswell:** A substantive adjustment. You have the same piece of paper I have.

**Mr B.S. WYATT:** As we were advised today by the Treasury officials, there was a 4.4 per cent increase in 2003, a 10 per cent reduction in 2006, a 4.6 per cent increase in 2007, a four per cent increase in 2009, and obviously there will be a 4.1 per cent increase this year. From what the Treasurer has just said to me, his view is that clearly CTP premiums need to rise. In the results that I went through before from 2009–10, 2010–11 and 2011–12, there were underwriting losses and the Treasurer no longer—he can interject if I misinterpret him—thinks it is appropriate for the asset returns to act as a cover for those losses.

**Mr T.R. Buswell:** In part.

**Mr B.S. WYATT:** In part; okay. ICWA will now have to pay a dividend, but, regardless of what it recommends to government, the government may very well say, “We don’t care; you’re paying one anyway. This is what it is; pay up”, and ICWA will have to do that. So it will have to do one of two things. Firstly, it will have to generate a higher return off its asset base. I must admit that the Treasury officials nodded furiously at that: “That’s right. We think it has been too conservative in the way it has managed its asset base and we want it to be under pressure to get a higher return.” Secondly—this reflects what the Treasurer has just told Parliament—it will have to ratchet up premiums because its underwriting losses will be so great, and it will be liable for a dividend to government, that premiums will have to rise. I dare say that two things will happen. Firstly, there will be a different investment program from the board of the Insurance Commission to get a better return from its assets; and, secondly, there will be an increase in premiums. I do not accept for a minute—this will be a point that we disagree on—that that will be minimal. Twelve months or two years from now I think we will see a considerable rise in CTP premiums from the Insurance Commission.

I am looking at the “Insurance Commission of Western Australia: Prudential Guidelines for Investments”. It is not as though the Insurance Commission currently invests that conservatively. It is not as conservative as I suspected before I left the Treasury briefing today. The “Insurance Commission of Western Australia: Prudential Guidelines for Investments” dated September 2011 makes the following point at paragraph 1.2 —

The asset allocation adopted by the Commission as determined from time to time is set out in Schedule 1.

Schedule 1 has the asset allocation, which states at page 7 —

The Commission has determined to adopt an asset allocation for its investment portfolio in respect to the asset classes listed below subject to the following minimum and maximum allocations:

It then lists the assets of cash, Australian fixed interest, overseas fixed interest, indexed bonds, Australian equities, overseas equities, property et cetera. The quote at clause 3 of the schedule states —

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The Commission concluded that an approximate 68/32 split between “growth assets” ... and “defensive assets” ... was appropriate for the neutral asset allocation in view of the objectives of the Commission.

That is a fairly unconservative investment profile. The Insurance Commission has 68 per cent of its assets in the growth category. As the Treasury officials told us today, we do not think ICWA is getting enough out of its assets. In a year or two, that will see a change made to the prudential guidelines for investments issued by the Insurance Commission because a dividend will be required to be paid. The board will no doubt have to revisit that document, which was last revisited in September 2011. I suspect the ratio will be 80–20. More of the Insurance Commission’s assets will be put into a higher risk category. It is moving from being a not very conservative Insurance Commission to a not at all conservative Insurance Commission because it will have to get more out of its assets to pay the dividends and it will have to increase its premiums to reduce the underwriting loss that the Insurance Commission has been carrying. The Insurance Commission’s prudential guidelines refer to the commission’s objectives that are outlined on page 11 of its statement of corporate intent. The first investment objective of the Insurance Commission is to —

- Achieve an investment performance target of CPI+3.5% annualised over rolling seven year periods.

As I said, the investment return over the last three years was 10.1 per cent in 2009–10, 9.7 per cent in 2010–11 and 2.9 per cent in 2011–12. That was not great in 2011–12, but we can forgive that due to the difficult financial circumstances around the globe. In 2009–10, there were strong returns that no doubt met that objective. Another thing the commissioners of ICWA will have to do is revisit their investment objectives. The target of CPI plus 3.5 per cent will have to be increased. That is why we will see the change to the prudential guidelines that guide the Insurance Commission’s investment decisions.

Importantly, the objectives go further. There are four of them. I have already read the first, and the other three are —

- Achieve a rate of return for each asset class that exceeds the relevant performance benchmark over rolling three year periods.
- Maintain a level of liquidity that is sufficient at all times to meet business division requirements.
- Contribute to the Insurance Commission maintaining a fully funded position.

It is that part of the investment objectives that so concerned the Treasurer during his answer to my question about making sure that the investment return tries to, at the very least, offset the underwriting losses. Now Liberal Party members are putting a further cost on ICWA. That cost already has been factored into this financial year, despite the fact that we do not even know whether the Insurance Commission will run at a profit or a loss. That is why the Treasurer sees this as an urgent bill. He needs the dividend that he will demand from the Insurance Commission to be paid this financial year. The financial year is not even over, so we do not know what the commission’s position will be. The concerns raised by the former chairman of the commission, Michael Wright, and the former principal accounting officer, Con Abbott, are correct. This may very well have an adverse material impact on the financial future of the Insurance Commission. In an article in *The West Australian* on 14 June, Mr Abbott said —

ICWA is very much a social insurer and its purpose is not to be a point of taxation or revenue raising for any government ...

That is not going to change. The Treasurer confirmed that tonight. He has no intention of opening up the provision of compulsory third party insurance to the private sector. The commission will maintain its status as a social insurer.

Another reason that I think this bill has been rushed into the chamber and rushed through this financial year so that it is up and running is the Bell Group litigation.

**Mr T.R. Buswell:** What?

**Mr B.S. WYATT:** There has been some media commentary around this and it was another topic of conversation with Treasury officials today. By way of an aside, no-one from ICWA was at the briefing. The Treasurer might want to make sure that someone from ICWA is here during consideration in detail because many questions could not be answered. Someone from the Insurance Commission must be here during consideration in detail. If members look at every annual report of the Insurance Commission for the past three years, as I have done, and they go to the commission’s home page on its website, they will see a recent media statement regarding the Bell litigation. I will not go into the history of that.

**Mr T.R. Buswell:** You can.

**Mr B.S. WYATT:** It is quite interesting. As a lawyer, I find it very interesting.

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**Mr T.R. Buswell:** It was put to me that there are lawyers who have spent their entire professional working life on the Bell litigation.

**Mr B.S. WYATT:** Treasurer, personal friends of mine are now enjoying houses in Margaret River because of the Bell litigation, and I envy them greatly! In the Supreme Court, a judgement was made to award about \$700 million to the liquidator, not including interest costs. That decision went to the Court of Appeal and the liquidator comfortably won the appeal and now the matter is before the High Court. I dare say that this year either a settlement will be reached, although that is unlikely if a settlement has not been reached to date, or the High Court will make a judgement. We have seen the High Court overturn the Court of Appeal before, member for Butler, over some issues of criminal law, but I would not be at all surprised if the High Court upheld the Court of Appeal's decision. That will mean a significant judgement to the benefit of the Insurance Commission.

**Mr T.R. Buswell:** Irrespective of that process, which will determine the size of the cake, there will then be a possibly long, drawn-out argument about how that cake is divided.

**Mr B.S. WYATT:** Of course.

**Mr T.R. Buswell:** The point I am making is that it is not even on our radar.

**Mr B.S. WYATT:** It is worth reflecting on the conversation I had with the Treasury official about that anyway. For the accountants among us, it was interesting. I put to the Treasury officials the allegations raised in *The West Australian* article that I referred to earlier that the state could reap a \$1 billion windfall—65 per cent of \$2 billion or \$3 billion is a lot of money. There was some dispute. I asked the Treasury officials whether that could be considered revenue for the purposes of the profit or loss of the Insurance Commission. Apparently, the Insurance Commission is not willing to express a view while the litigation is ongoing, but one view put to me by the Treasury officials was that it is an extraordinary, one-off payment and is not an ongoing revenue source, so, no, it could not be considered revenue. I asked blankly whether it was Treasury's view that it was a revenue source.

**Mr T.R. Buswell:** Treasury views everything as a revenue source.

**Mr B.S. WYATT:** Treasury certainly considers it a revenue source for the purpose of the Insurance Commission. If the Insurance Commission is successful —

**Mr T.R. Buswell:** Part of the payment would have to be viewed as a recoupment of moneys paid because the Insurance Commission has paid a significant amount of money.

**Mr B.S. WYATT:** There will be costs, of course. The litigation has cost hundreds and hundreds of millions of dollars. I dare say that the vast majority of the final settlement will probably have been earned in interest from the date of the original judgement of \$700 million. Either way, Treasury's view is that that will be revenue to the Insurance Commission, despite the exchange with the Treasurer, and I appreciate that exchange. The Treasurer and Treasury will decide the dividend payable by the Insurance Commission, not the Insurance Commission.

**Mr T.R. Buswell:** I have a suspicion that that will be beyond my time in this place.

**Mr B.S. WYATT:** I am not so sure about that. The Treasurer might get a quick decision out of the High Court this year. Whether that results in a cheque being written rather quickly by the Insurance Commission is another matter. The point I am making is that whilst the Treasurer says that the commissioners can say, "We recommend that no dividend is payable to the government", the Treasurer can say, "I don't care what you say, commissioners, you're paying me a dividend, and this is how much it will be." That is in the Treasurer's mind now as he rushes this bill through the Parliament because he needs to get that dividend this financial year.

**Mr T.R. Buswell:** It is now. Strewth, you've made my day!

**Mr B.S. WYATT:** I dare say the Premier has spent that money in any event.

Members, be aware that the government has rushed in legislation that may very well have a materially adverse impact on the only provider of compulsory third party insurance in WA. The government is treating the Insurance Commission of Western Australia as one of those little cash cows to buttress its financial circumstances. As I indicated that former chairman Michael Wright pointed out, the insurance industry is inherently unreliable and volatile. If we start taking dividends out of it, it will have an impact on how the commission drives the asset base and on the premium pressures that will obviously come back to Western Australians, who will pay more for compulsory third party insurance. That is why the opposition opposes this bill. Liberal members should be concerned with this legislation. If they have been listening to what I have been saying, they should be concerned and they should join the opposition in opposing this amendment bill.

**MR J.R. QUIGLEY (Butler)** [9.21 pm]: I start my comments on this Insurance Commission of Western Australia Amendment Bill by putting before the Parliament my opposition to the bill. It is timely to reflect on the purpose of the compulsory third party insurance scheme. As the shadow Treasurer mentioned in his erudite

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speech to the Parliament this evening, this is a piece of social legislation. It is not optional insurance, such as we have for our homes or contents or for those who choose to insure their life to provide for their loved ones after their passing; this is insurance that everyone who owns a motor vehicle is required to pay so that all other road users will have recourse to compensation in the event of an act of negligence by the car owner.

Years ago, in its wisdom, the Parliament of Western Australia set up compulsory third party insurance so that people would not lose their capacity to earn income—people who had lost a limb and in even more tragic cases suffered serious brain injury or closed head injury. To do this, there would be a piece of social legislation providing a statutory requirement that, as part of registration, every car owner would be required to enter into an insurance contract that would offer benefit to every road user. It was structured so that car owners, who are forced into insurance contracts, not contracts of choice, could enter those insurance contracts at the lowest possible reasonable premium. It must have regard to the commission's ongoing obligations, sometimes for 20 or 30 years, to an injured party—large expenses—but at the lowest possible premium. It must also have regard to the requirement to get around the city and the necessity for nearly every family to own at least one car, if not two. Managed wisely and conservatively, the commission was able to build up an asset base that not only was managed conservatively to secure its ongoing obligations for any injured motorist for decades to come, but also offered the premiums for compulsory insurance. That I think is the critical factor—compulsory insurance at the lowest possible rate. In doing so, the commission has built a considerably large asset base that derives income, and that has enabled it to keep the pressure off premium rises. I take a different point of view from that of the Treasurer of Western Australia, who sat in this chamber tonight and almost bemoaned the fact that there had not been any significant premium increases for six years. That is to the credit of the commission because every motorist has their arm behind their back being forced into taking out this insurance contract of compulsory third party insurance. Now the government, which is hungry for money because of the promise it made to the people of Western Australia prior to the last election—new members arrived in this Parliament on the back of these promises—that all its commitments were fully costed and fully funded, has been found out, once again, to have made a false promise. When I say “once again”, I revert to the emblematic promise the government made prior to the 2008 election that in its first 100 days of office it would introduce laws to keep brothels out of neighbourhoods. I think four years have passed since that promise that it would happen in the first 100 days and, of course, we are nowhere near that bill being introduced. It is not even on the notice paper.

With this last election the government came forward with a suite of promises that its commitments, unlike Labor's, were all fully costed and all fully funded. Now we find out they are not fully costed and not fully funded, and their promises are falling on the ground like leaves in autumn. The Treasurer is now looking around at government instrumentalities to try to raid the coffers.

We complained during the motion to have this bill declared urgent that insufficient time had been accorded to members of this Parliament to be properly briefed and have a discussion with each other in the party room about the merits of any aspect of this bill. As was noted during that debate, the briefing was set down for last Tuesday, but was cancelled and then rescheduled for today, just hours before the introduction of the bill. I will tell members that I attended that briefing and there were two remarkable things about it. Firstly, no government member or backbencher was at the briefing. None. No government member or backbencher took the trouble to go along to the briefing that had been organised to ask the officials about the consequences and impact of the aspects of this bill.

**Mr A. Krsticevic:** But you would have had a briefing.

**Mr P. Papalia:** Did you attend?

**Mr A. Krsticevic:** Of course!

**Mr J.R. QUIGLEY:** Who briefed the member?

**Mr A. Krsticevic:** The department.

**Mr J.R. QUIGLEY:** Who briefed the member?

**Mr A. Krsticevic:** There were four or five people there, I think.

**Mr P. Papalia:** Was there someone from ICWA?

**Mr A. Krsticevic:** Yes.

**Mr J.R. QUIGLEY:** That is a revelation, because opposition members were offered three officers from Treasury and no-one from ICWA. We could not ask any question of any officer from ICWA on the consequences for ICWA of the Insurance Commission of Western Australia Amendment Bill 2013. We have read in the paper that the previous chairman of ICWA said it does present a risk to the Insurance Commission,

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but we could not ask anyone from the Insurance Commission what or how large the risk might be. We have been rushed into this Parliament without any time to consult the insurer itself. This is not a Treasury bill. This is not the “Western Australian Raid the Coffers Treasury Bill”; that is not the short title of the bill. The title is the “Insurance Commission of Western Australia Amendment Bill 2013”, and it has only four clauses. The first two clauses deal with the title of the bill and the commencement date, and clause 3 states —

This Act amends the *Insurance Commission of Western Australia Act 1986*.

Clause 4 inserts proposed subdivision D, which is proposed sections 28, 29, 30, 31 and 32, into the Insurance Commission of Western Australia Act, yet no-one from the commission was present at the meeting. No-one was there who we could ask about the consequences of the government, for example, demanding a 65 per cent dividend on the profits. We were not allowed to ask that question; we were straitjacketed. We did not have time to leave that meeting and try to schedule meetings down the terrace with ICWA to ask it, because we were briefed at 12 noon today, and the Parliament then started for the day. We could not consult with the Insurance Commission because the bill was rushed on as urgent on the same day. What a disgrace and what an insult to democracy in Western Australia in relation to a piece of social legislation! I know that, yes, the government has the numbers, and at the division on whether this bill should be declared urgent, 28 government members voted to declare it so. But when the shadow Treasurer was delivering his very erudite speech this evening, I had a look around the chamber and counted eight people present!

**Mr P. Papalia:** On their side?

**Mr J.R. QUIGLEY:** On the other side! I then went into the members’ bar to see what was happening, and there were more people crouched around the television watching what the government Whip informed me was *Burn Notice* on Channel 10—some shoot ‘em up program—than there were in this chamber trying to understand what was happening with this bill. I understand that the member for Alfred Cove—a person with some economic background—has sat in this place throughout the debate and listened conscientiously. I have noted that. But I bet members he does not stand and speak on this bill, because we have here a government of drones. No-one is out of the mould of the Premier, who, during the disintegration of Western Power, had the guts to stand in this chamber and speak his own true mind. Anyone with any economic sense knows that taking 65 per cent profit out of ICWA will result in a cost pressure on premiums, and the person who says that is the Treasurer, while bemoaning the fact that there have not been rises in a system of compulsory insurance.

This diversionary comment by the Treasurer about the Bell Group litigation needs to be dealt with. We can all remember nearly 20 years ago, when the Insurance Commission was not so profitable, what the then Liberal government then did. It imposed a \$50 extra levy on every insurance contract to top up the Insurance Commission. When every motorist got their bill, there was a bold line that read “levy \$50”, to top up the WA Insurance Commission. Now, 20 years later, as this Bell litigation has worked its way through the system and the smart money is on the Insurance Commission getting its money back, that money is owed back to all the people who paid the \$50 subsidies, otherwise it is daylight robbery! It is a Liberal government again! All taxpayers had to chip in the \$50 to keep the commission afloat, and now, as the wheels of justice have slowly ground on and the commission is about to get back all that money we had to subsidise when it was in a loss situation, it should all be returned to the people. That could be done not necessarily by way of a dividend and writing a cheque out to every motorist, as I understand some will have passed on and we have a new population here, but there is a moral obligation to pass it back to the taxpayers by keeping the premiums down.

What did the Treasurer say in his second reading speech? He stated —

The purpose of this bill is to further align the Insurance Commission of Western Australia to the state’s policy statement on competitive neutrality.

That was dealt with comprehensively and adequately by the shadow Treasurer, who said that there is no competitive neutrality because there is no competitor. This is a piece of social legislation and we the taxpayers and the population of Western Australia set up this organisation, not private individuals or private investors from America or banks in London.

[Member’s time extended.]

**Mr J.R. QUIGLEY:** We set up this organisation to offer cover to all motorists. It is now time to say, after all these motorists had to put in \$50 to keep the ship afloat, that we are going to get the billion dollars back and we are going to keep the premiums down. But not this Treasurer; he bemoans the fact that the premiums have not significantly increased for the past six years. No competitive neutrality policy exists here because it is the sole insurer, not that we were allowed to speak to the sole insurer and ask about the impact this might have on premiums for all Western Australians—not a bit of it!

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The Treasurer went on to say in the second reading speech —

In Western Australia, minimum requirements for government trading enterprises to achieve competitive neutrality include being subject to both full commonwealth and state tax equivalent payments, and the payment of dividends to the consolidated account. The majority of Western Australian GTEs, from large utilities such as the Water Corporation and Western Power, through to smaller entities like ... Gold Corporation, are subject to these requirements.

Enterprises such as the Gold Corporation pay these dividends. That is a loud warning for all Western Australians, including the member for Alfred Cove, because we know that with the dividends the government has been dragging out of the Water Corporation and Western Power, costs have skyrocketed. That was the government's Achilles heel at the election. It did not get us over the line because of other factors that may or may not be sorted out in September, but those costs were soaring. It was the government's Achilles heel, and those costs are still soaring. Why are they soaring? It is because of what the government is taking out of the Water Corporation and Western Power, and so it will be with the Insurance Commission of Western Australia. This bill provides that —

**Mr T.R. Buswell:** Western Power's charges are set by the ERA.

**Mr W.J. Johnston** interjected.

**Mr J.R. QUIGLEY:** My friend will deal with that.

This bill provides that the board is required to make a recommendation, and publish the recommendations in its annual report, about what dividend it thinks it can pay. It further provides that the Treasurer can then say, "Get knotted; this is what I want." Then, if we FOI the Treasurer and all of his memos behind his reasons for raiding the coffers, we will be told that they are all redacted. There is a special unit at the Department of the Premier and Cabinet, and although the government does not have the money to give staff computer screens, it has gone so far as to give them great big, dirty, thick, black permanent markers that redact the whole of the document, which happens time and time again. Therefore, we will never get to see the information. But as long as all Western Australians understand that the Insurance Commission will go the same way as all of these other government trading corporations, who gives a fig at the end of the day how much of a dividend is taken out of the Gold Corporation? No-one in Butler loses any sleep over that, I can give the tip. It involves the gold traders and those people who generate the income for the Gold Corporation, and if the state takes the profits, no-one in Butler will lose any sleep or cry into their beer. Those traders will inevitably get increased premiums under this scheme—not that we are allowed to ask ICWA how much these premium increases might be, because the government would not allow anyone from ICWA to attend the briefing. Only Treasury officials were allowed to attend so they could say that in New South Wales the insurers paid dividends to their shareholders. Duh—that is because all those shareholders are private investors; it is not a social enterprise. Those investors are people from around the world who have invested in insurance companies, who sell premiums and who are entitled to a dividend. The taxpayers of Western Australia own this Insurance Commission of Western Australia, and it is to those taxpayers that the Liberal government has turned in its time of need and said that it wants \$50 from them every time they renew their insurance policies. The government then puts on the insurance policy that it is a surcharge to top up the Insurance Commission of Western Australia.

**Mr I.C. Blayney** interjected.

**Mr J.R. QUIGLEY:** I am sorry? There was a mumble from the vegetable patch up the back row; what was it?

**Mr I.C. Blayney:** Is it because of WA Inc losses? Is that why we are paying the \$50 levy?

**Mr J.R. QUIGLEY:** That is right. What has that got to do with the price of cheese?

**Mr I.C. Blayney:** That is why we are paying the levy.

**Mr J.R. QUIGLEY:** Yes, they are getting —

**Mr I.C. Blayney:** Your bad management.

**Mr J.R. QUIGLEY:** Come on, member for Geraldton. The government is getting that back through litigation because it was duded in those contracts when the banks foreclosed. It is lined up to get \$1 billion back, and that is why Mr Kerr and Mr Parker write in *The West Australian* that the state could reap a \$1 billion windfall from this controversial raid. The new chairman of the Insurance Commission appointed by this government, Mr Wright's successor, Mr Cooper, said yesterday that the issue was a matter for the government. Of course it is a matter for the government how much it will take—thank you for that, Mr Cooper! The article states —



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... Frank Cooper, said yesterday the issue was a matter for the Government, and there were safeguards. “There is provision in the legislation for the board to give consideration to the impact on premiums and also the financial position of ICWA overall,” ...

I agree. That is in the legislation, but the very next proposed subsection states that the Treasurer can override all of that. That is what Treasury officials conceded this afternoon. The Treasurer is not bound by the safeguards that the board relies on in trying to keep these premiums low. The Treasurer is the same person, they pointed out, who has the authority to sign off on increased premiums. Therefore, there is no safeguard in the legislation requiring some other person, either in cabinet or in some other agency, to approve the increased premium. The person who gets to do the raid on the profits that ICWA has garnered to keep the premiums of the taxpayers of Western Australia down is the one and same bloke who says that premiums can be jacked up to pay for it.

**Mr P. Papalia:** And you can set the rate of dividend.

**Mr J.R. QUIGLEY:** That is what I mean. The person who does the raid by setting the rate of the dividend can then say that the premiums be put up to X to pay for the dividend. This is an absolute rort on the Insurance Commission of Western Australia. For those Treasury officials to give us this pap that in New South Wales the insurers paid dividends to their shareholders is just a nonsense, because the people there are private investors.

**Mr T.R. Buswell:** I think you’ll find they said Victoria.

**Mr J.R. QUIGLEY:** The Treasurer was not in the meeting. There were no government people in the meeting. That show *Burn Notice* must still be running on Channel 10 because there are no government members in this place to listen to this debate.

**Mr A. Krsticevic:** There are more of us than there are you guys.

**Mr J.R. QUIGLEY:** Of course, there was an election; we got whipped. There was an election; of course there are more government members. There was an election that the government took by fraud so of course there are more government members in the house. What do they expect? There was a six per cent swing against the Labor Party. Do government members think we do not know that? Of course there are fewer of us. The point is that there were 28 government members in the chamber to crunch this bill through as urgent, but when the bill is being debated, there is less than a handful of them here. It is just a disgrace.

**Mr W.J. Johnston:** Shame; shame!

**Mr J.R. QUIGLEY:** Shame.

**Mr T.R. Buswell:** Ring the bells, then!

**Mr W.J. Johnston:** Do you want us to?

**Mr J.R. QUIGLEY:** Give it 10 minutes before we ring the bells. The TV program runs till 10.00 pm and we do not want to get the Liberal members out of their chairs and spill their coffee. This opposition is reasonably hamstrung in our opposition, and I say “reasonably hamstrung” because we have not had the opportunity to discuss the impact of this bill with the executives of the Insurance Commission. We have been briefed only by the officers from Treasury, who just cannot wait to get their hands on this measure. They said not to worry because the legislation has a provision that if this measure does not pass by 30 June, although they cannot get their hands on the money this year, they can still raid the coffers and declare the dividend. They cannot get the money until next year, but it will just accrue. Treasury has worked out how it will screw this Insurance Commission. Treasury will not let a dollar get by and it will not protect the position of taxpayers and motorists. Motorists do not even know this debate in the middle of the night is happening, because the bill is being rushed through as urgent with insufficient debate on what is happening here.

They made a great big hoo-ha of the fact they were putting a \$50 levy on every motorist and on every bill. When the Treasurer makes his speech, I want to know the following. When the premiums inevitably rise, will there be a notice on the bill that says this bill has risen because of the raid by the Liberal government on the Insurance Commission of Western Australia? Will the government put that on the bill so that every motorist knows why it has gone up? It should be there, should it not, member? The opposition of the day wanted it put on every bill at the time that it was a WA Inc subsidy; they took the money, and now they will take it again. Are members opposite going to put it there this time? Of course not. This government does not want its fingerprints on this grubby tactic it is pulling on the motorists of WA—as if there is not enough cost pressure on every family already. Over a period the personality of a government changes, and this is slowly picked up by the taxpayers. Members on the opposite side are transfixed on the newspaper. I have not had a chance to read the newspaper yet, but I bet Muja A and Muja B figure big in that newspaper as it starts to dawn on the taxpayers —

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**Mr W.J. Johnston:** On the front page.

**Mr J.R. QUIGLEY:** On the front page, is it, member? It will start to dawn on the taxpayers that they have been duded to the tune of \$250 million or more as the drawdown rises on the facility identified by the member for Cannington. Now, to make up that shortfall, the government will slug motorists. It should be put on every third party insurance bill that this is the Muja A and B stuff-up levy.

**MR W.J. JOHNSTON (Cannington)** [9.51 pm]: I start by making the observation that so far as I can see, every single bill introduced by the government since the election has been declared urgent, and the Insurance Commission of Western Australia Amendment Bill 2013 is amongst them. The State Agreements Legislation Repeal Bill for the Kingstream agreement was declared urgent when all we did was repeal the act. The Natural Gas (Canning Basin Joint Venture) Agreement Bill 2013 was declared urgent even though it did not need to be passed until Christmas. The Treasurer's Supply Bill 2013 was declared urgent; it was not really urgent but it was declared urgent anyway.

**Mr T.R. Buswell:** It felt urgent.

**Mr W.J. JOHNSTON:** It felt urgent because there was nothing else to talk about, and the Insurance Commission of Western Australia Amendment Bill 2013 has now been brought on with indecent haste. The Duties Legislation Amendment Bill 2013 and the rebates bill, whatever it was called —

**Mr B.S. Wyatt:** The rates and charges bill.

**Mr W.J. JOHNSTON:** The rates and charges bill was declared urgent, and although another bill will be declared urgent next week, the Leader of the House has agreed to delay it for a week. He will still declare it urgent because it is not on the table for three weeks —

**Mr D.A. Templeman:** What is that one?

**Mr W.J. JOHNSTON:** That is the Petroleum and Geothermal Energy Legislation Amendment Bill 2013 with 170 clauses.

**Mr B.S. Wyatt:** What do you think we should do when they finally have a bill that lies on the table for three weeks?

**Mr W.J. JOHNSTON:** We should have a party. When the government brings in a bill that actually complies with standing orders, we should have a party. What does the member reckon?

**Mr B.S. Wyatt:** I think we should. A party is still a way off then.

**Mr W.J. JOHNSTON:** I think the party is quite some distance away.

**Mr T.R. Buswell:** This bill complies with standing orders; it is just the part of the standing orders that adjusts —

**Mr W.J. JOHNSTON:** It is an ordinary bill. I will get to the hair and I will split it for the Treasurer.

**Mr D.J. Kelly:** I do not mean to be argumentative, but you stopped us for that.

**Mr T.R. Buswell:** Fair point.

**Mr W.J. JOHNSTON:** That is a fair point. It uses a procedure in the standing orders that is not designed to do what has been done. That standing order is designed to provide for setting aside the proper procedures of the house when the house has to deal with something that, if it did not, would create some external crisis. This is not one of those bills.

**Mr T.R. Buswell:** Yes, it is.

**Mr W.J. JOHNSTON:** It is in the Treasurer's office!

I want to get onto further discussion about this bill and the idea of mutuality. ICWA does not pay dividends because it acts on a mutual basis, which means that all the resources of the organisation are available for its clients, not its owners. That is why it is set aside from Western Power. The minister said, "What about Western Power?" The minister interjected something about the way the Economic Regulation Authority sets the cost that Western Power is allowed to charge. Minister, that is one of the costs that are pushing up electricity prices. When a new subdivision is developed, developers are required to put in the Western Power infrastructure, which adds about \$10 000 onto the price of a block. The developer obviously hands the cost onto the purchaser of the block, who pay \$10 000. The infrastructure is gifted by the developer to Western Power. Western Power then has that added to its capital base.

**Mr B.S. Wyatt:** To get a return on it?

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**Mr W.J. JOHNSTON:** No. It is before that. As it is increasing its capital base, Treasury says that that is a profit because it is calculated on an accrual basis. Western Power then borrows money to pay Treasury for the profit it has made from the gifted infrastructure. This was one of the issues raised with me by the former Minister for Energy, Hon Peter Collier, in answer to a question last year about Western Power's profits. He specifically went on at some length, even though I had not asked him, about the gifted assets problem for Western Power. The Treasurer raised a very interesting issue that needs to be considered in detail.

**Mr T.R. Buswell:** My recollection is that some work has been done in that space.

**Mr W.J. JOHNSTON:** I am sure it has—probably by Treasury to make sure it keeps getting money out of Western Power!

**Mr T.R. Buswell:** I do not think it was initiated by Treasury, unfortunately.

**Mr W.J. JOHNSTON:** Western Power is borrowing money to pay a dividend to the state government. It happens every year with Western Power. Its debt goes up to pay the Treasurer the dividend. By taking the dividend out of the Insurance Commission, the Treasurer is saying that instead of having the insurance arrangements operate to benefit the members of the scheme, they will operate to benefit the shareholders of the scheme. I make the observation about health insurance. The health insurance scheme itself, even though there are some privately owned health insurance funds, is carried out on a mutual basis. There is an ongoing argument between the Labor Party and the Liberal Party in respect of Medibank because it is done on a mutual basis. A future Liberal government will sell it; it has already told us this. This will bring to the commonwealth government the benefits that have been paid for by the members of Medibank, and that is exactly what this government is doing here. The reserves of the Insurance Commission are available to offset underwriting losses because it is being done on a mutual basis. If that is removed, there can be only one conclusion: costs will go up; they have to go up because if money is not available in reserves, it must be found from somewhere else. This is a bit like Western Power borrowing money to pay the government a dividend in respect of gifted assets. This is shifting costs to another part of the community. It is a tax by another name. It is the same way that the energy system is being used as a tax by the current government, and that is what drove the current government to unreasonably and unfairly increase electricity charges by an outrageous 62 per cent during its first term of government. That is the exact same driver in this instance.

This government is interested in building monuments to the Premier. One of those monuments, interestingly enough, was covered on the ABC TV news tonight—Elizabeth Quay. Everyone is starting to wake up to the fact that Elizabeth Quay will not be completed on time for the private sector investment in that project, but the \$440 million of infrastructure down there is going to have to be paid for, and this raid on the back of the sofa of the Insurance Commission of Western Australia is part of that. The government likes to talk about its big projects, but what it does not point out to the community is that those big, fancy projects, such as the Northbridge Link, Elizabeth Quay and the \$339 million taxpayer subsidy to the Oakajee port, are paid for by a raid on the back of the sofa of the Insurance Commission of Western Australia, and that is what is going on here. We are looking in every hollow log.

Back in the 1980s, governments started to centralise the bank accounts of the government departments; that was an appropriate thing to do, because all the government departments had their own bank accounts and they all had large cash holdings in them. They were able to centralise that and it meant that they could reduce the amount of cash held by the government; it netted off debt. It was a good idea, but this is not a good idea. That was about making sure that government departments were providing value for money to the taxpayer. This is about increasing costs on an operation that has been done on a mutual basis.

I know that the member for Mirrabooka is probably going to make a contribution about aspects of the impact of that on workers' compensation, briefly —

**Mr D.A. Templeman:** Very briefly!

**Mr W.J. JOHNSTON:** It will not go longer than 30 minutes; I know that!

She is much more knowledgeable than I am on these things, so I am not going to go there, but I make the point that there is a good reason that, for such a long time, governments of all political persuasions have not done what this government is doing. They have accepted the benefit in a mutual arrangement for the Insurance Commission of Western Australia; that is why it has been treated differently from other entities. I am not going to go into the competitive neutrality issue in great detail, but I will raise the fact that it appears that, when the government raises competitive neutrality in respect of ICWA, there are two agendas at work: either it intends to sell ICWA, or it intends to open up the market to private insurance companies. Otherwise, there is no competitive neutrality.

In the electricity system, both Synergy and Verve have private sector competitors, and Western Power operates within an established framework. Although it does not, for very good reasons, have a private sector competitor, it

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is operating within a competitive environment. Part of the reason for disaggregation was to expose all its costs and identify where there were artificial cross-subsidies that were pushing up prices for one person at the expense of another. But that is not the case with ICWA. ICWA is operating in select areas of activity and it is operated not for the benefit of the shareholder—the government of Western Australia—it is operated for the benefit of the insured person. It is a while since I looked, but we have the lowest motor vehicle third party insurance costs in the country. I would say that part of the reason for that is that it is done on a mutual basis.

I will not unnecessarily delay the house; I do think these are important issues. I am looking forward to the second reading debate; because I had other parliamentary duties, I was unable to attend the briefings during lunchtime today, so I will be interested to hear some more details, as we go through, about what the government intends with this bill.

**MR P. PAPALIA (Warnbro)** [10.04 pm]: My interest in the Insurance Commission of Western Australia Amendment Bill 2013 was piqued when the Treasurer suggested that it was possible—in fact, likely—that dividends could be extracted from ICWA without any impact on premiums. The suggestion was that premiums would not necessarily rise just because a dividend hitherto not taken from the commission was to be taken. I found that interesting, and I look forward to benefiting this evening and throughout the debate from the Treasurer's much-renowned high-quality education. It is well documented that I did not attend the University of Western Australia, and I certainly did not attend the business school and win an economics prize, as the Treasurer did; but I found interesting the suggestion that it was possible to take dividends without affecting premiums.

That suggestion was repeated when we were given a hasty and very late briefing by Treasury staff around lunchtime today, which I was fortunate enough to attend. It was suggested there that it was possible, despite the counterintuitive nature of the suggestion, to remove around 65 per cent of the net profit, after tax, from ICWA without the ICWA board being moved to increase premiums. That was the suggestion. I found that interesting. What eventually became evident was that there are two possible outcomes in the event that this dividend is extracted from ICWA: firstly, the outcome that we are all convinced will occur and the government is steadfastly refusing to acknowledge as a likelihood, which is that when the government takes the dividend, it will impact on the profit—possibly on the reserves, in the event that there is no profit—and therefore ICWA will increase its premiums at a rate beyond what has historically been the case. We know that premiums have been incredibly low for the last 10 years.

I thank the Treasury staff for forwarding a couple of documents to us; the Treasurer had a staffer there to scrutinise what we asked for and ensure that we did not get too much information. We had two bits of paper sent to us today, but there is a third document which I was promised and which I would have appreciated getting because I think it would have been very informative. That document provided an indication of other jurisdictions' annual premium rates in comparison with Western Australia's. I still think that the Treasurer should provide that document; it is a worthwhile document and it would be of interest to the people of Western Australia. That document indicated that the annual premiums in Western Australia were incredibly low in comparison with those in every other jurisdiction.

I do not think I was alone in this, but the sense that I derived from the Treasury staff who were briefing us was that they saw it as a bad thing for compulsory third party premiums to be so low. Anyone owning a car in Western Australia and wanting to drive it has to pay those premiums, and it is apparently a bad thing that those premiums have been kept low for over 10 years. That is extraordinary, and probably a reflection of their philosophical stance. The member for Butler referred to the social nature of the insurance scheme, and the role of the commission in providing an essential service; I would imagine that most Western Australians would see it as a good thing that the annual premium is low.

But it is not just low; when we looked at the rises over the last 10 years—that is another document we did not get—it was indicated to us that of the annual rises over the last 10 years, there were about three rises of around four per cent and one drop of more than 10 per cent. The annual premium is increasing this year by, I think, a little over four per cent. That results in our premium in Western Australia being \$247. That is very low in comparison with every other jurisdiction. In fact, the next lowest premium rate —

**Ms J.M. Freeman** interjected.

**Mr P. PAPALIA:** That is from February this year; thank you. I think there was another document that had more reflective average figures. I note that in this document, Western Australia's premium is \$247 and Queensland has the next lowest premium of \$299. When I said to the Treasury staff that the next lowest premium was 50 per cent higher than the premium in Western Australia, they agreed that that was the case. The next lowest premium of any other jurisdiction is 50 per cent higher than the premium in Western Australia. That indicates to me that Western Australia is getting a benefit —

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**Mr P. Abetz:** Did they all have no fault or not?

**Mr P. PAPALIA:** I did not see that detail.

**Ms J.M. Freeman:** Most of them have no fault, apart from Victoria.

**Mr P. PAPALIA:** The point is that the view that a low premium is a bad thing was expressed by the Treasury staff. They suggested that it would not be a bad thing if the premium were to rise; it would be a good thing. That was their natural inclination. The alternative to that occurring, as far as I could tell from the briefing, is that the stance taken by the Insurance Commission of Western Australia on its investments would be altered. Currently, as indicated by the shadow Treasurer, it is not that conservative, but it is more conservative than it will be under a regime whereby it has to find additional revenue to compensate for paying a dividend. As we know from the contributions of other speakers this evening, that dividend may be required by the Treasurer regardless of whether there is a profit. ICWA will be driven by necessity to do probably both things, but at least one of those two things. It will increase premiums to a much higher rate than we currently confront and/or it will shift its investments to a far riskier portfolio than is currently the case. Those are the consequences of what is going on with this bill. The Liberal–National government will impose higher premiums on all Western Australians who own a vehicle, but it will also, in all likelihood, expose them to greater risk through the investments made by ICWA on their behalf. The investments will be more exposed than they are currently. The government is moving away from conservatism and is increasing costs. It is extraordinary that the government should be doing this without, as the member for Butler indicated, a whimper or any murmur of dissent from government backbenchers. That is incredible.

The other concerning piece of information that was elicited from the briefing today, and as has been pointed out by several people, is that there were no ICWA representatives at the briefing. I am pretty disappointed about that, Treasurer, particularly in light of the revelation this evening that government backbenchers were given the benefit of access to ICWA representatives. It is pretty poor that members of the opposition were not given that benefit. We had questions, and every time we asked questions of the Treasury officials about the impact on ICWA and what ICWA might be inclined to do in the event that the government called for this dividend, their response was that they could not give us that information. That is extraordinary, it is wrong and it is an indication of the rushed nature of this bill and the duplicitous nature of introducing it in a fashion whereby the opposition is deprived of the opportunity to have a briefing and then seek further briefings or further information at a later date. I think the Treasurer should be ashamed of that. I have noticed that, unusually for him, it has been a quiet evening. He has sat quietly.

I think there are some pretty nasty components to this legislation. This legislation will have some pretty nasty consequences, not the least of which is the suggested dividend level of 65 per cent of net profit after tax, as was indicated to us by the Treasury officials. When we looked at one of the other information sheets that were provided to us today about government trading enterprises and dividend payout rates, it was pretty clear that 65 per cent is the lowest rate in the figures provided for the five years prior to 2011–12. The table shows that 65 per cent is the lowest rate imposed on any of the GTEs in any year. As a rhetorical question to government backbenchers, what do they think is the likelihood that the rate will remain at 65 per cent in light of the fact that the Treasurer can demand whatever rate he wants? The Treasurer gets to set the rate. It does not matter that the chair of the board of ICWA might say, “Treasurer, we don’t recommend that you do that. On behalf of the Western Australian public, for whom we manage this fund, we say that that could have negative consequences.” ICWA might say that in exactly the same way as the former chair, Michael Wright, indicated that payment of a dividend may have a materially adverse impact on the financial future of the commission, but it could be ignored entirely by the Treasurer. What do members think? What is their gut feeling about a Treasurer who is absolutely desperate to acquire as much money as he possibly can this year and in coming years to make up for the appalling financial management that the government has imposed on the state for the past five years? Do they think he will leave it at 65 per cent? I think not. I suggest that in all likelihood it will get elevated, and it will easily be higher than that. It will be adjusted as necessary by the Treasurer as he requires additional funds, and he will require additional funds because it is very obvious that the cupboard is bare and, as has been stated earlier, he is scratching around behind the cushions at the back of the sofa in a desperate bid to find every last possible coin to make up the gap.

**MS J.M. FREEMAN (Mirrabooka) [10.17 pm]:** I rise to talk about some missed opportunities with the Insurance Commission of Western Australia Amendment Bill 2013 and compulsory third party insurance. I note the contributions of previous speakers, who raised issues about the misrepresentation of the competitive neutrality policy and the difficulty of the board and its lack of power in acting in the best interests of its clients who have compulsory third party insurance. Both those issues have been well dealt with by previous speakers.

I want to talk about the missed opportunity of having a discussion through green papers and white papers on compulsory third party insurance, as other jurisdictions have had. In particular, there are jurisdictional issues. For example, the New South Wales report outlines that the premium in Victoria is lower because it is not an adversarial scheme as it is not fault based, which was discussed by way of interjection previously. Basically, its green paper is titled “Reforms to the NSW Compulsory Third Party Green Slip Insurance Scheme”. New South Wales has a private scheme, as members have been told, but the need to establish fault means that the CTP scheme in New South Wales is essentially adversarial. In general, the injured person must prove that someone else was at fault to receive the benefit. In comparison, the Victorian compulsory third party scheme is a no-fault scheme, and premiums are considerably less expensive.

If we are looking at an organisation such as the Insurance Commission of Western Australia that has these funds, why are we not giving the benefits back to the people who buy the service—that is, people with compulsory third party insurance? The member for Butler said that earlier, but in a very heightened fashion. I think we have missed an opportunity to look at all of those issues, such as fault and no fault when we consider that the Productivity Commission’s “Disability Care and Support” report made a finding on page 89 that, overall, no-fault systems are likely to produce generally superior outcomes compared with fault-based systems. We are looking only at the issue of the application of the money that is coming from the operation of ICWA and not the broader aspect of how the organisation operates. The government says that this bill applies the same principles as it does to other government trading authorities that pay the government dividends. Does that mean Lotterywest is the next government trading authority that the government will ask to pay a dividend to prop up its budget bottom line? The opposition also raised the issue of privatisation, given the purpose of competitive neutrality. All these issues could have been put before us in a much more considered way. These issues confront every driver in the community, which is the majority of people in Western Australia.

The government could have taken this opportunity to use the additional funds in ICWA to deliver greater benefits to the community covered by their insurance, such as those considered in South Australia’s compulsory third party insurance green paper. South Australia has looked at the extremely important issue of rehabilitation and the lack of provision for rehabilitation in the system. I will not go through that bit by bit because I know that everyone wants to go home. My point is that the dividend the governments gets and puts into consolidated account funding to build what the government says are essential items but which we question, such as the Elizabeth Quay project, could have been invested in such things as rehabilitation services to benefit the people who pay the premiums.

This is not a debate about compulsory third party insurance in Western Australia or about the Insurance Commission of WA; it is about getting more money from the community but not delivering any benefit in return. That is my view, in any event. The government is not putting out papers, such as those that I have discussed. Unlike what Bill Shorten urged in February 2012, the government is not even considering an overhaul of the system to ensure that claims take into account catastrophic injuries regardless of blame, which is what happens in Victoria and New South Wales. That is why their schemes have an added cost. The member for Southern River and I talked about this previously. An article written about this in *The West Australian* states that unlike Victoria and New South Wales, which have vehicle insurance schemes with lifetime care for catastrophic injuries regardless of blame, WA’s fault-based system restricts claims to when negligence is proved. Andrew Probyn also wrote an article in *The West Australian*, which states —

WA’s fault-based system is nowhere near as good or as comprehensive as the no-fault schemes in Victoria, NSW and Tasmania.

With the indulgence of the Parliament—I know it is late—I will give the two examples that show how this has an impact on people. Andrew Probyn’s article continues —

Say a Victorian-plated car and a WA-plated car crash into each other in Perth. Both drivers are equally and injured and the drivers are equally culpable.

The driver of the WA car, covered as he is under the fault-based compulsory third party insurance scheme, would sue the Victorian driver at common law and if successful would obtain a judgment that would be reduced by half as a result of his 50 per cent contribution to the crash. But until the WA driver’s action is settled, he would probably need to rely on the public health system and community services for support, assuming he hasn’t received an interim payment.

By comparison, the driver of the Victorian vehicle, who remember is equally culpable, would be entitled to reasonable medical, rehabilitation and disability services as well as income and impairment benefits regardless of fault, because he is insured under Victoria’s Transport Accident Commission’s no-fault scheme.

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Andrew Probyn goes on to refer to the starkness when we consider whether there is a fault issue there. I am trying to say that we have missed the opportunity to have the debate about how ICWA and the compulsory third party insurance scheme need to better serve our community instead of better serving the government coffers. I refer to a letter from the Premier to the Every Australian Counts Campaign Committee. The Premier responded to a question about a no-fault insurance scheme, which is referred to as the national injury insurance scheme, by writing —

The Liberal Party is committed to considering the introduction of no fault insurance for people catastrophically injured in motor vehicle accidents as the first stage of a National Injury Insurance Scheme. This will require careful analysis —

That is not something that we have given to this cash grab, but we need to give careful analysis to something that benefits the people; it somewhat concerns me that that is the case —

of the impact on Compulsory Third Party insurance premiums, changes to legislation and resolution of issues relating to transition and administration of the scheme. These tasks are expected to take at least 12 months.

We have an urgent bill in front of us that takes a benefit away from the community and puts it into the general coffers when we could have had an informed debate around the whole system of compulsory third party insurance and the Insurance Commission of WA. It is a real missed opportunity and the people of Western Australia are poorer for it.

In closing, I seek clarification from the Treasurer. In *Hansard* of 12 June 2013, in answer to a question from the member for Victoria Park, the Treasurer outlined the business of ICWA with compulsory third party insurance, which he claimed runs at a loss. I understand that has been dealt with here, but the Treasurer also talked about the fact that the commission also runs RiskCover, which I am aware of. I am quoting from *Hansard* —

The commission also runs RiskCover. In RiskCover it raises premiums and makes payouts for claims, in particular of late, through government agencies workers' compensation claims, and it pays administrative costs. That runs at a loss.

The Treasurer went on to talk about where the profits come from. The Treasurer's advisers who came to see us today—that was part of the problem, because they were only from Treasury—claimed that the dividend will have no impact on the role of RiskCover as a self-insurer for government. I ask that in the Treasurer's response he puts on record that additional costs will not be passed to RiskCover and overburdened agencies that pay RiskCover because of this increased dividend that will come from ICWA. Clearly, the advisers said that it will have no impact on the costs to government departments. It is difficult to use "premiums" because they do not pay premiums; they are self-insured so they pay for the cost of the delivery of the service from RiskCover. My concern is that this will mean that all those areas that previously could cover their costs or break even or operate with some loss will now bear the additional costs. Not only will the government take dividends from this organisation, but also the dividends will come from the costs of its departments paying into RiskCover. The government will pay itself through an administrative process. Can the Treasurer tell me that there will in no way be any impact from ICWA not gaining any profits through RiskCover? If profits start to be made through RiskCover, it will be paying for the dividend and, therefore, the government department will be paying for that.

I also want to quickly ask the Treasurer how he foresees ICWA will deal with issues such as those that arose after the HIH Insurance collapse. The Treasurer would know that when the second-largest insurance company was placed into provisional liquidation in 2001 with losses of up to \$5.3 billion, ICWA and WorkCover had to pick up the claims that were left through an employment indemnities supplementation fund. That is an additional cost.

One of the other lost opportunities that need to be understood in this—I am rushing through it and probably not finessing my arguments as well as I usually would—is that at one stage community organisations could not get insurance coverage. The member for Belmont, as a former councillor of the City of Belmont, would remember that. As members will be aware, organisations are having those problems today. Members opposite introduced a bill that meant the Insurance Commission of WA could offer discounted insurance for community organisations. That was solved in another way because the Attorney General then changed some of the liability laws around community obligations—thereby, as I understand it, reducing some of the premium payments. But, as we all know, premium payments are now much larger for community organisations. An organisation such as the Insurance Commission of WA, as the member for Cannington so eloquently put it, is a mutual fund—an organisation for the mutual benefit of people who contribute to it through premiums. If we start to use the profits to prop up the budget bottom line, we do that to the detriment of all the community.

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**MR T.R. BUSWELL (Vasse — Treasurer)** [10.30 pm] — in reply: I thank members opposite for their contributions this evening to the Insurance Commission of Western Australia Amendment Bill 2013. I place on record my apologies to all members of the opposition for the muck-up in and around the provision of the briefing. It is, as they rightly pointed out, not satisfactory, although in the current circumstance, we tried to accommodate the need of members opposite for that information the best we could. I give an undertaking as far as my office is concerned that we will avoid that in the future. I think we did a pretty good job in our four or five years in this place. Our performance in organising that was not at an acceptable level, and we will deal with that.

I do not intend to go through all the issues raised. It has been a very comprehensive debate; a range of issues were raised. No doubt we will have time in consideration in detail. Member for Victoria Park, I contacted my chief of staff a while ago and asked whether we could find someone from ICWA to come down tomorrow. I think the chief executive officer may be overseas at the moment but we will find someone who is familiar with reinsurers and all the sorts of things that they do.

**Mr B.S. Wyatt:** Sent overseas, was he?

**Mr T.R. BUSWELL:** No. He is a former Treasury official. I would like to have had him here. I think what has shone through in a lot of the debate is the importance of ICWA to the people of Western Australia. It is not the government's intent, notwithstanding the obvious links between dividend payments and certain fiscal constraints, to put in place a regime that will remove from the board its capacity to run an efficient, financially viable organisation.

I would like to thank in particular the member for Mirrabooka for the important point she raised in her speech that when we compare this type of insurance with those in other jurisdictions across Australia, we are simply not comparing apples with apples because there are different products in the jurisdictions. In relation to no-fault—let us call it the national injury insurance scheme reforms—my personal view is that it is a path we will go down. We have given in-principle support to the commonwealth; we just need to work through a few issues around that. There will be initially a one-off impact on premiums, but there will be other impacts on premiums as a result of that, I am sure.

In relation to NIIS, the logical place to start is in relation to accidents involving motor vehicles because we have a framework in place. I hope that in the not-too-distant future we can progress that because it is important. As the member for Mirrabooka pointed out, there are some hideous inequalities in the way Australians are treated when it comes to personal injury, depending on the jurisdiction in which they are insured. If we can help address some of those inequalities, that would be a good outcome that would cost money. I do not accept the argument that simply having a requirement to pay a dividend has led to the disparity, as is the case in Victoria, Tasmania and the Northern Territory. I think South Australia has what we will call at best a *de facto* premium, off the top of my head, whereby its equivalent is forced to pay for a helicopter and some other things I think.

**Mr B.S. Wyatt:** South Australia, yes.

**Mr T.R. BUSWELL:** I cannot remember what it is. But I just do not accept the argument that the existence of the dividend leads to the disparity of the premiums, because there is a whole range of reasons why there is a disparity in premiums and a lot of that is around not only cover but also a range of historic factors that are embedded into those premiums over time.

I will provide advice tomorrow in relation to RiskCover, but I made the, I think, legitimate point the other week that there are pressures within RiskCover in and around workers' compensation. I have asked the Insurance Commission of Western Australia to do a bit more work to understand what is driving some of that. One of the things that I would be interested to look at is some of the profiles that come out of RiskCover's coverage of workers' compensation versus some of the outcomes that we deliver out of WorkCover and the outcomes that that generates for a whole range of other workers. There is no hidden agenda; I am just interested to understand whether there are differences. I suspect that there may be, but I do not know. That would be an interesting job of work, which ICWA in due course will look at.

I look forward to working through consideration in detail tomorrow. As I say, a range of entirely legitimate concerns and policy points of difference have been raised by the opposition. Again, I place on the record my apologies for the kerfuffle around the arrangement of the briefing. It was unfortunate and we will certainly endeavour to make sure that, from my office's point of view, that does not happen again.

*Division*

Question put and a division taken, the Acting Speaker (Mr I.C. Blayney) casting his vote with the ayes, with the following result —



**Extract from *Hansard***  
[ASSEMBLY — Wednesday, 19 June 2013]  
p1826b-1849a

Mr Ben Wyatt; Mr David Templeman; Acting Speaker; Mr John Quigley; Mr Mark McGowan; Mr Bill Johnston; Mr Paul Papalia; Ms Janine Freeman; Mr Troy Buswell

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Ayes (26)

Mr P. Abetz  
Mr F.A. Alban  
Mr I.C. Blayney  
Mr T.R. Buswell  
Mr V.A. Catania  
Mr M.J. Cowper  
Ms M.J. Davies

Mr J.H.D. Day  
Ms W.M. Duncan  
Ms E. Evangel  
Mr J.M. Francis  
Mrs G.J. Godfrey  
Mr C.D. Hatton  
Dr G.G. Jacobs

Mr S.K. L'Estrange  
Mr R.S. Love  
Mr J.E. McGrath  
Mr P.T. Miles  
Ms A.R. Mitchell  
Dr M.D. Nahan  
Mr D.C. Nalder

Mr J. Norberger  
Mr A.J. Simpson  
Mr M.H. Taylor  
Mr T.K. Waldron  
Mr A. Krsticevic (*Teller*)

Noes (13)

Mr R.H. Cook  
Ms J. Farrer  
Ms J.M. Freeman  
Mr W.J. Johnston

Mr D.J. Kelly  
Ms S.F. McGurk  
Mr M.P. Murray  
Mr P. Papalia

Mr J.R. Quigley  
Mr C.J. Tallentire  
Mr P.C. Tinley  
Mr B.S. Wyatt

Mr D.A. Templeman (*Teller*)

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Pairs

Mr N.W. Morton  
Mr B.J. Grylls  
Mr A.P. Jacob  
Mr W.R. Marmion  
Mr C.J. Barnett  
Mrs L.M. Harvey  
Mr R.F. Johnson  
Dr K.D. Hames

Ms R. Saffioti  
Ms L.L. Baker  
Mr P.B. Watson  
Ms M.M. Quirk  
Mr F.M. Logan  
Dr A.D. Buti  
Mrs M.H. Roberts  
Mr M. McGowan

Question thus passed.

Bill read a second time.

*House adjourned at 10.39 pm*

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