

ESTIMATES OF REVENUE AND EXPENDITURE

Consideration of Tabled Papers

Resumed from 23 October on the following motion moved by Hon N.D. Griffiths (Minister for Racing and Gaming) -

That pursuant to Standing Order 49(c), the Council take note of tabled paper No 657 (Consolidated Fund Estimates 2001-02), laid upon the Table of the House on 13 September 2001.

HON DERRICK TOMLINSON (East Metropolitan) [5.49 pm]: I want to focus my remarks on the provision of \$15 million in the Premier's account for a royal commission into the Western Australia Police Service. When the Opposition Whip, Hon Bruce Donaldson, asked me to speak today, he suggested that I should use the opportunity to talk about my recent participation in the International Anti-Corruption Conference in Prague. I would rather not do that right now. I want to relive that pleasure of Prague at another time.

However, I will make an observation about the International Anti-Corruption Conference. It is more a comparison between what I observed at Prague and what I observed at Durban two years previously in 1999. Clearly, the composition of the delegates at Prague was somewhat different from that at Durban because of the unsteady state of international relations at that time. In fact, when the President of the Czech Republic, Vaclav Havel, was opening the conference at Prague Castle on the Sunday evening of 7 October, he advised the delegates that at that very moment the first aerial bombardment in Afghanistan had commenced. Clearly, in that international climate, the large delegation from Pakistan, India and the South-East Asian area that was apparent at Durban two years previously was visibly absent in Prague.

The two enduring impressions I had were, first, the change in the expectations of delegates from African countries; and, secondly, the emergence of a new generation of carpetbaggers. At Durban, there was an air of enthusiasm for the future of Africa. Nelson Mandela had retired, and his successor as President of South Africa opened the conference. The whole tenor of the African delegations, particularly the South African delegation, was one of enthusiasm for the future. They knew what their problems were and what the past was. However, they were not looking at the past; they were looking to the future. They knew the consequences of the problems of the past, and they were focused on resolving those problems. They knew the economic difficulties that their nations were experiencing, and the consequences of corruption within their nations. They also knew their indebtedness to organisations such as the World Bank. However, their attitude was one of optimism. "We will prevail" was the sentiment most frequently expressed.

In Prague, the mood of the African delegations - that is, South Africa through to Nigeria and all places in between - was much more sombre. In two short years, there was disillusionment. Their sentiment was that they understood what happened to them under colonial regimes, but now they were doing it to themselves; they were doing it to one another. They were no further ahead in the war against corruption in their respective countries than they were before. The difference was that they were doing it to themselves. They saw their increasing indebtedness, and that 40 per cent of their gross domestic product was committed to repaying loans. They saw that it was impossible for them to break out of the cycle of poverty, and there was considerable disillusionment that they were not making progress in solving the problems that they were so enthusiastic about tackling only two years previously.

It is not surprising that in that national sentiment there was also a searching for someone or an institution to blame. They knew that the corruption that was infecting their economies was their own corruption. They were doing it to themselves. However, they wanted to find an external institution to blame. Therefore, considerable resentment was expressed about their indebtedness to the World Bank, and there were continuing expressions of the belief that the World Bank should cancel their indebtedness. The disillusionment was palpable.

The second thing I observed in Prague was, as I call it, the emergence of a new generation of carpetbaggers. As a result of the focus of attention on corruption over the past decade in particular, especially through the work of organisations such as Transparency International and the 10 International Anti-Corruption Conferences, there is an understanding of the need to re-establish integrity in not only domestic relations but also international relations. As a result of this new focus on integrity in internal and international relations, there has grown, particularly, I am ashamed to say, within the universities, but also in institutions of government in the developed countries, a new group of people who call themselves ethics counsellors. Those ethics counsellors want to go to these countries, using World Bank funding of course, to teach them how to be ethical. Therefore, I came away with a pessimistic view, I suppose, of a continent of Africa that seemed to be disillusioned about the future, and of some carpetbaggers from the developed world who see an opportunity to hawk a new product called integrity counselling.

I am not sure whether I want to go to the eleventh International Anti-Corruption Conference in Seoul. I will give that considerable thought. Perhaps it might be better to go to the twelfth International Anti-Corruption

Conference in Mexico City four years hence. So much for the travelogue of Prague. Actually, it was not a travelogue of Prague; I simply wanted to share with the House two enduring impressions that I brought back from that conference.

I want to focus my attention in this debate on the royal commission.

Sitting suspended from 6.00 to 7.30 pm

Hon DERRICK TOMLINSON: I was trying to figure out whether the correct word is stimulated or provoked; I think the word is provoked. I was provoked to speak about the allocation of \$15 million for a police royal commission in this year's budget by an article on the front page of *The West Australian* on Tuesday, 23 October. The bold headline read -

Untouchables. Taxpayers foot bill for corrupt officers.

The article by Ben Harvey went on to say -

Two police whose behaviour was deemed corrupt by the courts will keep their jobs, be eligible for promotion and have a \$100,000 legal bill paid by taxpayers.

The two police officers were internal investigators from the professional standards portfolio of the Police Service who, in October 2000, were found guilty to a charge of malicious prosecution. They had investigated Constable Nick Tomkinson, who was under suspension and awaiting trial on a charge of perjury. Constable Tomkinson, from the Cannington police district, had his home searched by Sergeant Malcolm Weir and Inspector Raymond Collins on the suspicion that drugs were on the premises. At one stage during the search there was an altercation in which Constable Tomkinson, who attempted to leave the premises on his motorbike, was restrained from leaving. In the contretemps that followed, one of the police officers suffered some bruising. Charges of assault were subsequently brought against Constable Nick Tomkinson and, at the trial, those charges were dismissed. Constable Tomkinson subsequently brought a claim of malicious prosecution against Sergeant Malcolm Weir and Inspector Raymond Collins. The first incident was in 1997 - this is where I have got my dates wrong. In 1999, the District Court found that Sergeant Weir and Inspector Collins were guilty of malicious prosecution and awarded \$51 000 in damages to Constable Nick Tomkinson. The District Court decision was upheld in a Supreme Court appeal in March of this year. The decision that led to the headline of "untouchables" related to a claim in the newspaper, which I am yet to test, that the Minister for Police will make an application to the Cabinet for the payment of damages awarded to Constable Tomkinson. The article caught my attention and provoked ghosts from the past, which have haunted me for the past 24 hours.

In March 1991, as a member of this place, I laboured under the somewhat false and pretentious title of shadow Minister for Justice.

Hon Kim Chance: And did so very well I might say.

Hon DERRICK TOMLINSON: The member was not here.

It was a false and pretentious title at the time because the real authority on matters of law in this place - from this side of the House - as it was then and is now, was Hon Peter Foss. He had declined the invitation of the then Leader of the Opposition, Barry MacKinnon to take on the role of shadow Attorney General and I was invited to be the shadow Minister for Justice. On 10 March 1991, I received a fax from a fellow called James Heaney. In that fax he included some forensic evidence that was presented in a trial in which he had been charged with break and enter and the rape of a 21-year-old woman. I looked at the statement of forensic evidence that James Heaney had faxed to me and alarm bells rang. I am not a lawyer and I do not pretend to be an expert in criminal law. However, commonsense told me that this forensic evidence did not ring true, because the forensic evidence indicated that the forensic samples taken from the victim of the rape did not match the analysis of blood type of James Heaney; neither did some other matters match, which caused me a bit of alarm.

I rang James Heaney and arranged to meet with him. I visited him at his home in Waikiki. I met a man who had been attempting to clear his name for four years at that stage. He had been charged with rape on the basis of identification by the victim and forensic evidence. He had spent some time in detention at Fremantle Prison before he was bailed. As I recall, he spent nine weeks in detention. Perhaps Hon Nick Griffiths can correct me, but it was of that order. Eventually, 12 months later, James Heaney came to trial. After the jury deliberated for three hours, he was acquitted. What was interesting in the trial and the transcript of evidence of the trial was that the first prosecution witness was a forensic scientist who gave evidence that, on the forensic evidence presented to the court, James Heaney could not have been the offender. James Heaney was acquitted. He was deeply offended by the fact that he had been charged with rape and had spent 11 of the 12 remaining years of his life trying to clear his name.

James Heaney appeared before the Select Committee on the Western Australian Police Service. The committee made the observation in its report that James Heaney had not received an apology from the Government. The committee felt that he should receive an apology and perhaps compensation. I am somewhat gratified that the report was referred to the Solicitor General to investigate. One of the matters he looked at very closely was the committee's observation of the treatment of James Heaney. After some investigation, which involved James Heaney submitting to a DNA analysis, which demonstrated that there was a 99.9 per cent probability that he was not the offender, the Solicitor General recommended, on the basis of the forensic evidence available to him then and his analysis of what can best be described as an inept police investigation, that the Government recommend to the Governor that James Heaney be given an ex gratia payment and an apology. Cabinet accepted that recommendation. I recall ringing James Heaney and telling him that Cabinet had agreed that he would receive compensation - I did not know the sum - and that he would receive a letter of apology. James Heaney cried at the other end of the telephone. When he received the letter of apology, he sent to me shortly after Christmas of that year a faxed copy of it along with a faxed copy of the cheque for \$160 000 compensation.

My great regret in all of that, which I will always regard as one of the seminal episodes of my political career, was that about 15 months later James Heaney died. While fishing in Cockburn Sound with his son, he beached his fishing boat at Point Peron, suffered a heart attack and died on the beach. I attended his funeral and it is the only funeral I can recall at which I openly wept. I cried because of the awful waste of 11 years of a man's life and the fact that James Heaney had had only a short 15 months to enjoy the restoration of his dignity.

One of the things that James Heaney did in attempting to restore his dignity was to sue the prosecuting officers for malicious prosecution. James tried to sue everybody. He tried to sue Joe Berinson, the then Attorney General. He tried to sue the Commissioner of Police. He was obsessed with clearing his name. He instituted proceedings to sue the two prosecuting officers for malicious prosecution. He was given permission by the court to proceed with that action. His solicitors sought advice from a Queen's Counsel before proceeding. The QC they approached was Allan Fenbury, a QC of considerable esteem in the legal fraternity of Western Australia. Fenbury suggested that there were four issues that Heaney should consider before proceeding with malicious prosecution. The first was to determine whether or not the police action constituted incompetence or malice. He advised caution and his advice of caution was that malicious prosecution of police officers is not a popular action for two reasons. Firstly, because of what he called the interest of society. Society's predominant interest is in the efficient enforcement of criminal law. A considerable trust is placed upon the Police Service and its members. Therefore, there is a reluctance to prosecute police officers or to find guilt among police officers for something as grave as malicious prosecution. Secondly, because of the concern that a groundless prosecution for malicious prosecution by itself, regardless of the outcome, has a deleterious effect upon the reputation of the accused and the self-respect of the accused. For those two reasons, Fenbury urged caution in that there was an inherent reluctance of courts to pursue malicious prosecution. However, Fenbury said that for Heaney to proceed, it would be necessary to demonstrate, first, that the accused - in other words, those officers who were being accused of malicious prosecution - had deliberately instituted the prosecution to expose the person against whom they had proceeded to publicly ridicule. In other words, that there was a deliberate malice in the prosecution. That was an extremely hazardous undertaking.

To do that, it would be necessary to demonstrate either that the proceedings had been withdrawn or that the proceedings had been resolved in the plaintiff's favour. It would be preferable that the proceedings had been withdrawn because of some flaw in the prosecution. In the case of Heaney, at least there was the prospect of demonstrating malice in so far as Heaney had been found not guilty. The proceedings had been resolved in his favour. In the case of Tomkinson, who had been charged with assault, the proceedings brought by the two officers, Sergeant Weir and Inspector Collins, had been resolved in Tomkinson's favour. He was found not guilty. That does not mean that he was innocent, merely that he was found not guilty.

The third element that Fenbury suggested Heaney needed to resolve was that the proceedings were instituted without reasonable and probable cause and that the proceedings were deliberately instituted for some improper purpose. As part of his argument, Fenbury cited two authorities. The first was a precedent in the case of *Hicks v Faulkner*, 1878, which he used to define what is an honest belief. It is necessary to establish that the charge in a malicious prosecution case was not based upon an honest belief of guilt on the part of the alleged offender. Fenbury quoted from *Hicks v Faulkner*. In part, it stated -

An honest belief in the guilt of the accused based upon a full conviction, founded on reasonable grounds, of the existence of a state of circumstances which, assuming them to be true, would reasonably lead any ordinary prudent and cautious man, placed in the position of the accuser, to the conclusion that the person charged was probably guilty of the crime imputed.

That is what Fenbury suggested Heaney had to establish. I put it to members that Tomkinson would also have had to prove or to demonstrate that evidence mirroring the charges brought against him, when considered by any reasonable person, would not have led to the conclusion that he was guilty as charged.

The second authority that Fenbury referred to was Fleming's *The Law of Torts*. Using the fact that Heaney was acquitted is not sufficient proof of reasonable cause. He may have been acquitted, but that does not prove that his accusers did not have reasonable belief of his guilt. Referring to Fleming's *The Law of Torts*, Fenbury gave this authority -

In any event, unshakeable certainty in the guilt of the accused is not demanded, since a fair minded man -

which embraces women -

may well feel justified in bringing a suspect to justice without, in his own mind, prejudging the issue. It is sufficient, if he believes that the probability of guilt is such that upon general grounds of justice, a charge is warranted.

In other words, he may have probable cause for initiating a prosecution, although lacking a conviction of guilt beyond reasonable doubt that a jury must entertain to justify a verdict of guilty. Fenbury was cautious in advising Heaney that the prosecution's belief in his guilt may have been an honest belief and it may have been based upon evidence that people of reasonably sound judgment would share in regarding as sufficient for launching a prosecution. Fenbury cautioned Heaney against a very hazardous course of prosecution and against a very hazardous judicial course. Fenbury advised that it was difficult to bring an action for damages for malicious prosecution because they were regarded unfavourably by the law. Therefore, Heaney and Tomkinson, by inference, would have had to demonstrate that there was malice, that there was no reasonable cause for the charges, that the charges were brought deliberately to discredit the accused and that the police officers had an improper motive for charging the accused and bringing the matter to court. Fenbury therefore advised Heaney, "It is hazardous, this is what you must demonstrate and I urge caution."

Having said that, in not quite so many words, Fenbury said that a further deficiency in bringing such an action related to section H of the second schedule of the Interpretation Act 1918, which does not exist in the Interpretation Act 1984, as we have it, except in section 77(4), which reads -

Notwithstanding subsection (1), section 47(2) of the *Interpretation Act 1918* and the Second Schedule to that Act shall continue to apply to any Act to which that section applied immediately before the commencement of this Act.

Subsection (1) states -

The *Interpretation Act 1918* is repealed.

The schedule to which Fenbury referred was the schedule to the 1918 Act. However, by section 77(4) that repeal did not apply to section H of schedule 2, which states -

No action shall lie against any Justice of the Peace, Officer of Police, Policeman, Constable, Peace Officer, or any person in the employ of the Government authorised to carry the provisions of this Act, or any of them, into effect, . . . unless there is direct proof of corruption or malice . . .

That is a very strong inhibition against proceeding with a malicious prosecution. Fenbury advised Heaney of that and, no doubt, Tomkinson's counsel was similarly aware of the requirement "unless there is direct proof of corruption or malice".

Section H of schedule 2 adds a dissuader from proceeding in a malicious prosecution case against a police officer for this reason, and I quote -

. . . in case of judgment after verdict, or by a Judge sitting as a jury, or on demurrer been given for the defendant, or of the plaintiff discontinuing, or becoming non-suit in any such action, the Court before which the action was brought may award treble costs to the defendant or such portion of those costs as the Court thinks fit.

If one brings a malicious prosecution against a police officer and fails, one faces the added hazard of treble costs. If one brings a malicious prosecution against a police officer and withdraws, one faces treble costs of a portion of costs that the court thinks fit.

James Heaney lodged his application for malicious prosecution against the two police officers. Counsel for those officers offered him a deal to withdraw; that was, if he withdrew, they would not pursue costs. James Heaney had already spent in the order of a quarter of a million dollars trying to prove his innocence. He had

been found not guilty. Unfortunately, the Attorney General of the day wrote him a letter, when he first applied for an ex gratia payment of compensation, which in effect said that although the court found him not guilty, it did not find him innocent. The Attorney General of the day, Hon Joe Berinson, standing where Hon Kim Chance is now sitting, said later that he would not now - in the knowledge that he had - make such an explicit statement in such a letter. Unfortunately, he did. James Heaney took considerable offence at that because he had been found not guilty but was not innocent. All James Heaney wanted to prove was that he was innocent. James Heaney did not proceed with his case for malicious prosecution. I think James Heaney was wise.

Fenbury also suggested to James Heaney that there was an alternative course of action, which was to pursue the case through the Ombudsman. If the Ombudsman found in his favour, it could mean an apology and compensation. James Heaney approached the Ombudsman but, unfortunately, James Heaney was so hell-bent on proving his innocence that he took actions against the Attorney General, the Commissioner of Police and the two police officers. Of course, under the Act, the Ombudsman had no course other than to suspend any investigation until such other courses of action available to the complainant had been resolved. The Ombudsman therefore never had a chance to thoroughly investigate James Heaney's case.

All of those aspects of this case that applied to James Heaney applied equally to Tomkinson when he brought his charge of malicious prosecution against Sergeant Weir and Inspector Collins. He too hazarded a trebling of the costs awarded against him if he failed. He too had to demonstrate malice. He too had to demonstrate that the charges had been brought against him without a reasonable assumption on the part of the prosecuting officers that he was guilty as charged. Tomkinson had to demonstrate, as Heaney would have had to demonstrate, that any reasonable person, given the evidence of the two prosecuting officers, would assume guilt beyond reasonable doubt. Tomkinson proceeded with his case of malicious prosecution in the face of those hazards, and succeeded. I thought the minister for public resources would be interested in this debate.

Hon N.D. Griffiths: I am extremely interested; that is why I have not left the Chamber.

Hon DERRICK TOMLINSON: Good. I know the minister and I shared great sympathy for James Heaney when he came before the committee and said he had been stitched up. I think the committee unanimously agreed that James Heaney had been stitched up. I think that is a fair representation of the unpublished recollection of the committee. Not only did Tomkinson succeed in his charge of malicious prosecution in the District Court, but also the Full Court of the Supreme Court upheld that decision of the District Court.

I find the articles on this matter in *The West Australian* of yesterday and today somewhat perplexing, because those articles claim that the Commissioner of Police, Mr Matthews, has recommended that no disciplinary charges be brought against the two police officers found guilty of malicious prosecution. I ask members to ponder what malicious prosecution means. Malicious prosecution means that those two officers, who were entrusted with upholding the law, have by demonstrated malice, not merely ineptitude, brought charges that any reasonable person would not have brought, because no reasonable person would have assumed guilt on the evidence available. That means, in a simple word, that those two police officers corrupted their position of trust and authority. They were found guilty by a decision of the District Court and the Supreme Court, and they are, therefore, corrupt police officers. Even given the requirement of proof in a charge that is unpopular in the eyes of the courts, and also in the eyes of the public, because of the public's desire to have faith in the people in whom it entrusts the maintenance of law and order in our society, that charge proceeded and succeeded. Given that those two officers have demonstrably abused their position of authority, for some self-gratification, those police officers are, by any simple definition, corrupt officers. However, those newspaper articles allege that the Commissioner of Police has recommended that no disciplinary charges be brought against those two officers. The reason those newspaper articles make that allegation is that the courts may not have had available to them all of the evidence that is available to the Commissioner of Police. Page 11 of today's *The West Australian* does not quote the Commissioner of Police but purports to paraphrase him in these terms -

The standard of proof needed in an internal investigation was higher than the proof needed in a civil trial, he said.

The standard of proof required in a civil trial is the balance of probabilities. The Commissioner of Police is suggesting that the standard of proof required in an internal investigation is stronger than the balance of probabilities. The standard of proof required that is stronger than the balance of probabilities is guilt beyond reasonable doubt. Yes, it was a civil action, but the court found those two officers guilty of malicious prosecution.

We are about to spend \$15 million on a royal commission on the Western Australia Police Service. I do not want to speculate on what that royal commission may find. I do not want to speculate on the evidence that may be revealed in that royal commission. I do not want to speculate on the conclusions of those royal commissioners or royal commissioner, yet unnamed. However, two officers have been found guilty of malicious

prosecution and have been ordered to pay \$51 000 damages to the person against whom they have maliciously brought charges, and against whom they took those charges to full prosecution in the District Court and have defended in the Supreme Court. According to the Commissioner of Police, or according to the representation in *The West Australian* of what the Commissioner of Police believes, those two officers were found guilty on the basis of evidence that was less than the evidence that is available to the commissioner. That is an untenable proposition, because if the Commissioner of Police had that evidence, why was that evidence not made available to the courts? Is the Commissioner of Police, according to *The West Australian*, guilty of withholding evidence from the courts? If he is - and I doubt it - then surely he would be equally as guilty of corruption. The Commissioner of Police was confronted with two officers who have been found guilty in a court action, yet those officers are not to face disciplinary charges. In my opinion, the charges faced by the two officers would justify a section 8 charge, which would require them to demonstrate why they should not be dismissed from the Police Service. Given those circumstances, why are we about to spend \$15 million on a royal commission on the Western Australia Police Service?

I started out with my visit to Prague. On my way to Prague, I visited Singapore and London. The anti-corruption squad in Singapore has a simple slogan: swift and sure action. Its role is to investigate and to prosecute. I asked the officer in charge whether he had any role in educating the Singapore police force against corruption. He asked why he should bother with education. He said the real effort is to bring offenders to justice and have them successfully prosecuted. Once they are successfully prosecuted, seeing them serve time in prison is the most educative demonstration of the consequences of corruption that this officer could give. I asked the same question of the police integrity section of the London Metropolitan Police Service. They understood the difficulty of prosecuting a police officer. The chances of a successful prosecution are slim. Their main aim is to get corrupt police officers out of the service. I suggested that a corrupt police officer could leave the service with all his privileges, including superannuation, intact. This does not happen in London. They have the authority to confiscate 80 per cent of the superannuation of a corrupt officer. It is a great disincentive to being caught acting corruptly. Here in Western Australia two police officers have been demonstrated to be corrupt in two courts of the law, and the Commissioner of Police, allegedly, will not bring disciplinary charges against them. If that is the case, spending \$15 million on a royal commission will be a waste of time and money. Until the Police Service is willing to purge itself of the small number of corrupt officers, it will be a failure.

HON BARRY HOUSE (South West) [8.32 pm]: In noting the budget papers for the year 2001-02, I will focus on a couple of issues which have, for me and many others in the State of Western Australia, provided a reminder of what it is like to have a Labor Government. The people of Western Australia are beginning to reassess what it is like to have a Labor Government. The State has not seen one since 1993, and this budget points to many of the elements that drive a Labor Party once it obtains the reins of government. Firstly, it is untrustworthy. Before the election, we heard the current Premier state unambiguously that there would be no increases in taxes. We are now reminded that the Labor Party is the party of high taxes. We have also seen, unfortunately, that elements of the Labor Party are vindictive, driven by envy, and rooted in past class struggles.

Several members interjected.

The DEPUTY PRESIDENT: Order, members. The member on his feet has been speaking for only two and a quarter minutes, and does not need any interjections.

Hon BARRY HOUSE: The Labor Party is still held back by elements of the 1700s, and the old class struggles of rich versus poor, and is driven by the trade union mentality. There is a very influential element - I am not saying all government members are like this - that could be called bigoted socialist. That is the only term I can think of using. This year's budget papers show that the Labor Government is opposed to reward for effort, and it will drag down people who strive to do better for themselves and their families. That creates a clear distinction between the major philosophies that strive for government in this State. I am very proud to be on the other side of that equation. The Labor Party has set the scene to demonstrate that its members are very poor economic managers. Many commentators have made an objective assessment of this budget, and deemed it untenable. Its structure will not hold up over a full year. We now see, from the budget papers, that the Labor Government is opposed to private home ownership, or at least does not encourage it. It is also anti-business.

The Government demonstrates these shortcomings, first, in the area of land tax, in the form of the aborted premium property tax. Land tax is also being extended to homes owned by small businesses through trusts and companies, the Valuer General's valuations have been increased, and the rate has been increased by 2.5 per cent. The other vehicle that demonstrates my assessment of the Labor Government is payroll tax, which is to be extended to subcontractors in the building industry. This will adversely affect many people. All these taxes are taxes on the family home. The extension of payroll tax to subcontractors in the building industry is a tax on future home owners, because it will be passed on.

I will quote the figures to remind members of the scale of these taxes. The revenue measures are estimated to raise a total of \$45 million in 2001-02, rising to a massive \$510 million over the four years to 2004-05. Three categories of payroll tax increases are proposed. Grossing up the value of taxable fringe benefits is estimated to raise \$6.2 million this year, rising to \$18.2 million for 2004-05. Extending the payroll tax base to contractors - I will have more to say about this later - begins next year, and is estimated to be worth \$20 million per annum. The third category is the increase in the top payroll tax rate, which will raise \$27 million this year, estimated to rise to a massive \$72 million in 2004-05. There are also two categories of land tax increases. The removal of the principal place of residence exemption for property held by companies and trusts will kick in next year, and is estimated to raise \$10.7 million, rising to \$12.3 in 2004-05. With a stroke of the pen, the revised tax scale increases to \$32.7 million in 2004-05, and, of course, the premium property tax was mooted to raise \$12.1 million this year and the equivalent of that in forward years. The total impact of all of these taxes was to be \$45 million in this year's budget estimate, up to \$165.3 million in 2004-05. That is the scale we are talking about.

We have seen the humiliating backflip of the Labor Government when it finally realised that with the premium property tax it had bought a lemon, because it was opposed so vehemently by sections of the community right across the board. It was not only the so-called western suburbs rich whom the Government thought it had targeted. The Leader of the House made some comments yesterday that indicated pretty clearly that the blame was the media's; that the media had somehow drummed up a campaign that had caused the Government to backflip. His comments demonstrated to me that he still vigorously and unambiguously supports and approves of the premium property tax. That can only pose the question for me: when will it be reintroduced? Obviously it is part of the Labor Party's psyche. It will also be part of its agenda to reintroduce it some time down the track.

The raw fact is that the premium property tax was withdrawn for political reasons, not for reasons of principle. We all know that we are in the middle of a federal election campaign. The premium property tax was starting to hurt Labor politically in Western Australia. The only reason it was withdrawn was to try to protect Mr Beazley and his campaign for The Lodge in Canberra.

Hon Ken Travers: According to that logic, does it mean the federal Liberal Party will reintroduce GST on food?

Hon BARRY HOUSE: No.

Several members interjected.

The DEPUTY PRESIDENT (Hon George Cash): Order! Five conversations are taking place in the Chamber at the moment. If members want to conduct meetings, they should conduct them, as is required, outside.

Hon BARRY HOUSE: I collected some newspaper articles on the premium property tax before it was withdrawn. Some of the headlines make for interesting reminders. I will keep them, because I am sure that if I am here for any length of time, they will appear again. In the *Sunday Times* of 7 October 2001 the headline of the editorial was "Ripper taxes people's aspirations". Under the headline "Your say", was an article written by Mrs Margaret O'Leary from Marmion. The headline for the article was "Immoral new tax ripping us off". In *The West Australian* of 8 October the headline of the editorial was "Ripper's tax plans still wrong". In the *Sunday Times* of 23 September Liam Bartlett wrote an article titled "New wealth tax is really a stealth tax". In the *Sunday Times* of the same day the editorial was headed "Luxury taxes unfair". *The West Australian* of 10 October had the headline "Property tax killed \$2.5m jobs: builder". The article was about Malaysian families reconsidering plans to move to Perth simply because of the premium property tax. That is the impact the tax had. In *The West Australian* on the day following the budget, Friday, 14 September, was the headline "Land tax will hurt the old - critics". That came to pass over the following weeks. In *The West Australian* of 9 October was a cartoon that showed Osama bin Laden reloading a ging with a pebble labelled "hate" and the premium property tax.

On the same page is a letter to the editor, which I want to read because the letter comes from two people my electorate, whom I do not know, incidentally, but who would not have been directly affected by the tax. The letter reads -

This is the politics of envy.

Thanks for the excellent editorials about Eric Ripper's rip-off land tax. I'm not affected by the tax, but I cannot recall being more politically cheesed off about an issue.

I own a farm near Witchcliffe that cost me nowhere near \$1 million. However, with escalating land prices in the South-West, it is now possibly worth close to that - as are most old farms in this part of the South-West. This and future unscrupulous governments should understand that selectively taxing people's land and homes is completely unacceptable.

This year it is \$1 million homes. If that works for them, how about \$900,000 homes? Then let's go for the rich farmers. After all, why should only the rich city folk get slugged? Who cares if they worked their guts out to build up their assets?

I read this letter because it summarises many of the issues involved in this little exercise on behalf of the Labor Government. It continues -

This smells like the politics of envy. No doubt Mr Ripper is thinking he can get away with this because it will upset only rich Liberals and Nationals. The Labor heartland will love watching the rich guys squirm. And we're making sure that country representation is so diluted, their vote hardly matters.

It's like winner-take-all socialism. Where have these people been for the past 20 years? Did they miss the part where communism and socialism fell in a heap and private enterprise with its freedom to work hard and build up assets is a better way to go? I'm stunned by the political stupidity of this stunt. Colin Barnett must be delighted with this because it has certainly taken the gloss off this new Government's integrity.

That was a letter to the editor from Richard and Niki Vos in Witchcliffe. That, for me, summarised the whole episode. Thankfully, that tax was withdrawn. I am sorry that I did not clip the cartoon by Alston of the Ripper backflip. In *The West Australian*, Dean Alston has a happy knack of capturing -

Hon G.T. Giffard: We have a few of you from the past few years.

Hon BARRY HOUSE: Sure. Dean Alston used to take off the former Premier, Richard Court, expertly. However, the Alston cartoon, with its little quip, summarised the situation superbly, and it will be a constant reminder for all of us who witnessed this sorry little episode.

Following the withdrawal of the premium property tax, the Labor Party, true to another theme that has emerged, because it had to find \$12 million from this year's budget, for a start, and into future forward estimates, about which we have heard nothing yet -

Hon N.D. Griffiths: I answered a question on that this afternoon.

Hon BARRY HOUSE: For this year, I said.

Hon N.D. Griffiths: I told you what we were doing in the forward estimates.

Hon BARRY HOUSE: Not for the following four years.

Hon N.D. Griffiths: I told you what we would do.

Hon BARRY HOUSE: Okay. The common theme is that the Government has elected to punish rural Western Australia again.

Hon Kim Chance: How?

Hon BARRY HOUSE: It turned its wrath on country Western Australia because it had to find the \$12 million. What did it do? In answer to a question today, it was stated that there has been a cut of \$5 million from the regional infrastructure fund.

Hon Kim Chance: That is just not true, and you know it is not true. You should be ashamed of yourself for saying that.

Hon BARRY HOUSE: Hang on. I will quote the answer to the question.

Hon Kim Chance: I addressed that matter in question time today very clearly.

Hon BARRY HOUSE: Is the Leader of the House denying that there is a cut of \$5 million?

Hon Kim Chance: Absolutely; and I denied it in question time. There is no cut.

Hon BARRY HOUSE: In the regional infrastructure fund?

Hon Kim Chance: No cut at all. It is \$75 million, as it has always been.

Hon BARRY HOUSE: Is that right?

Hon Kim Chance: I was very clear in question time in my answer to Hon Murray Criddle.

Hon BARRY HOUSE: I think the Leader of the House should check with the ministerial colleague next to him, because I think his answer refutes completely what the Leader of the House is saying. An amount of \$5 million has been taken from that fund.

Hon Kim Chance: No, it has not. It is still \$75 million.

Hon BARRY HOUSE: We will check that.

Hon Kim Chance: I am happy to. Read my answer.

Hon BARRY HOUSE: I know for a fact that there has been a cut in regional development commissions' funding.

Hon N.D. Griffiths: No. We are deferring for one year \$5 million expenditure.

Hon BARRY HOUSE: Varying for one year?

Hon Kim Chance: That is not a cut.

Hon BARRY HOUSE: Come on!

The DEPUTY PRESIDENT (Hon Kate Doust): Order, members! There is supposed to be only one speaker at the moment, not four or five.

Hon BARRY HOUSE: This theme must be added to the other themes evident since the change in government. The Government's one vote, one value electoral legislation, which deals with electoral representation, punishes country Western Australia. The Labor Party does not want this Parliament to reflect regional representation; it wants this Parliament to reflect ideologies.

Hon Kim Chance: What do you call \$75 million of real money into regional development?

Hon BARRY HOUSE: The Government has just cut that figure by \$5 million.

Hon Kim Chance: No; \$75 million remains, and it is new money. Even if we had cut it, that would be \$70 million of new money.

Hon BARRY HOUSE: The Government has just made a cut of \$5 million.

The theme continues with the Labor Party's treatment of school bus operators, who are so vital to the lifestyle, economy and educational make-up of country Western Australia. The Government has deliberately delayed the introduction of a new payment scale for country school bus operators.

Hon Kim Chance: You had better check your facts on this; you are heading into trouble again.

Hon BARRY HOUSE: I have checked my facts. Last week we saw school bus operators demonstrate outside Parliament House.

Hon Ken Travers: We will call you porky pie House.

Hon BARRY HOUSE: The member is wet.

I will go back one step. In answer to a question asked by Hon Norman Moore today, the Minister for Racing and Gaming in part replied -

... deferring for one year \$4 million of expenditure from the \$6.53 million allocated to the Innovate WA fund this year,

Hon N.D. Griffiths: That is what I told you a few minutes ago. Weren't you listening?

Hon BARRY HOUSE: I might have got the name of the fund wrong, but the minister denied the Government was deferring any funding.

Hon N.D. Griffiths: You said we were "cutting" when we are deferring, but we are putting in \$75 million over the four-year period.

Hon BARRY HOUSE: The Government is cutting it from its commitment, so what is the difference?

The DEPUTY PRESIDENT (Hon Kate Doust): There is supposed to be only one speaker; please let him continue.

Hon BARRY HOUSE: The situation of school bus operators is another example. The Government broke its election promise on roads and health funding. It promised to provide \$20 million through a liquefied petroleum gas-autogas subsidy for regional WA. The Labor Party's pre-election promise on LPG was as clear as a bell. The Labor Party promised to -

... introduce a \$20 million incentive scheme to assist motorists and small businesses in regional WA to convert their cars to LPG autogas. The scheme would provide interest-free loans of up to \$1500, which would cover the cost of most vehicle conversions, to be repaid over three years;

That is pretty clear, and that election promise has been broken. It is another kick in the teeth for country WA.

We can add to that a list of redundancies in the Department of Agriculture. Over the past couple of weeks, an analysis of the budget estimates has shown that the number of full-time equivalents will be reduced across the department. In the industry and market development program, the number of FTEs is projected to reduce from

750 in 2000, to 684 in 2001. There will be a reduction of FTEs in the sustainable rural development and agricultural protection programs from 1 704 to 1 584. There will also be a reduction of FTEs in the regions. The number of staff in the central agriculture region will be reduced from 191 to 184, which contrasts with the metropolitan area, which will - surprise! surprise! - increase from 706 to 764. The number of staff in the northern rangelands area will be reduced from 68 to 62. In the south west agriculture area, there is a slight movement against the trend with an increase from 177 to 181. The number of FTEs in the southern agriculture area will be reduced from 222 to 208, and in the southern rangelands area from 54 to 44. The reduction in the number of casuals is 111 to 18 and the grand total of those figures is a reduction in the number of FTEs from 1 656 to 1 569. That is yet another example of the broken promises of this Government.

I will spend a bit of time on another element of change to land tax - its extension to private homes owned by small businesses through trusts or companies. Thousands of small business owners will have to pay tax on their family homes from 1 July next year. It is common practice for many small businesses to be structured so that family homes are part of the businesses, owned under a trust or company.

Hon Ken Travers: Why do they do that?

Hon BARRY HOUSE: In a moment I will quote from a letter from a place in the south west that encapsulates that point. Hon Ken Travers might then understand that point and the next one I will make about changes in the rate and scale of land tax. This has occurred through changes made by the Valuer General when calculating unimproved land values. This has caused such a stark increase in rates for parts of the Busselton and Margaret River area, and particularly along Geographe Bay, that I cannot believe it has not occurred without a deliberate change in policy. I will examine the effects of that change in the Valuer General's valuation for a series of properties in the Geographe Bay area.

Hon Ken Travers: Are you accusing the Valuer General of not being independent?

Hon BARRY HOUSE: Hon Ken Travers should listen to this; he might learn something. The 2000-01 land tax for the Four Seasons Holiday Resort was \$4 582. In 2001-02, it will increase under the new valuations to \$31 782. That is an increase of 594 per cent.

Hon Ken Travers interjected.

Hon BARRY HOUSE: Hang on, I will make the point. The land tax for the place next door to that resort will increase by 355 per cent, from \$1 229 to \$5 592. Land tax payable by the Lazy Days Caravan Park will increase by 235 per cent, from \$2 311 to \$7 743. The amount paid by Busselton Beach Resort will increase by 153 per cent, from \$8 519 to \$21 517. The amount for Siesta Park Holiday Resort will increase by 151 per cent, from \$31 822 to \$80 102, and for Acacia Caravan Park by 121 per cent, from \$27 230 to \$60 093. The increase for the Geographe Bayview Resort will be by 99 per cent, from \$88 782 to \$176 329. Land tax for the Port Geographe Marina will increase by 86 per cent, from \$3 863 to \$7 170, and for the Mandalay Holiday Resort by 50 per cent, from \$41 675 to \$62 464. I am aware of the situation facing one other property - the site of the Vasse Hotel in Busselton. The former owner of that hotel contacted me and said that the unimproved land component was revalued from \$1.2 million to \$1.9 million. He had been trying to sell that property for four years and had finally sold it for an unimproved land component value of \$1.725 million. The result of the land tax -

Hon N.D. Griffiths: Who did the valuation and when was it carried out?

Hon BARRY HOUSE: The valuation would have been carried out earlier this year. The land tax has doubled from around \$12 500 to about \$25 000.

Hon Ken Travers: When did he sell it for \$1.725 million?

Hon BARRY HOUSE: He sold it earlier this year. That is the value of the land component.

Hon Ken Travers: Are they now saying it is valued at \$1.9 million?

Hon BARRY HOUSE: The point, which the member has obviously missed, is that although the land has been revalued at \$1.9 million, the owner had been trying to sell it for four years, and his final price was \$1.725 million earlier this year. It is now being redeveloped into a Woolworths complex. It seems that the valuations have been based solely on one or two transactions. The obvious transaction on which everything seems to have been based is the Green Acres Beachfront Caravan Park in Dunsborough.

Hon N.D. Griffiths: Is that in your seat?

Hon BARRY HOUSE: Yes.

Hon N.D. Griffiths: Have you taken up this matter with the Valuer General on behalf of your constituents?

Hon BARRY HOUSE: I intend to.

Hon N.D. Griffiths: You haven't done it yet? Goodness me.

Hon BARRY HOUSE: The members opposite are the Government.

Hon Ken Travers: You accused the Valuer General -

Hon BARRY HOUSE: I am not accusing the Valuer General of anything.

Hon Ken Travers interjected.

Hon BARRY HOUSE: The member should listen, because he might learn something. The land tax assessment is based on an incorrect policy.

Hon N.D. Griffiths: When did the land tax assessment take place?

Hon BARRY HOUSE: Why does the member not shut up and listen?

I refer to a letter from the owners of the Siesta Park Holiday Resort to the Treasurer, Mr Ripper. This letter might help members understand the impact of the two issues about which I am talking. It reads -

We have a family company that runs Siesta Park Holiday Resort in Busselton. Under current Land Tax rules our land tax bill has gone from \$31822 last year to \$80102 this year. This tax has gone from 6.2% of gross income last year to 15.4% of our gross income this year.

Our family company currently receives a partial 14% residential exemption as we live on the property - as the only managers of our small business. As well as the effect of top land tax rates lifting to 2.3% and 2.5%, **the proposed budget will see our partial residential exemption taken away.** Next year the loss of the partial residential exemption alone will cost us \$12303 at this years land tax rates (or an extra \$14148 at next years proposed increased rates).

Do members understand that issue? That relates solely to the Government's budget.

Hon Ken Travers: What is your solution?

Hon BARRY HOUSE: I would not do anything that involves taxing the family home, which is what this proposed change will do. It is a premium property tax in disguise.

Hon Ken Travers: You are talking about a caravan park.

Hon BARRY HOUSE: It is also their family home. The member does not understand that concept.

Hon Ken Travers: Are you saying that they should not have to pay land tax on the caravan park?

Hon BARRY HOUSE: They pay land tax.

Hon Ken Travers: You have been complaining about the increase. What would you do about it?

Hon BARRY HOUSE: The assessment is skewed. I will tell the House about the impact of that and what should be done to correct it. The member should listen. The letter continues -

Our residences are located on our family company's property, along with the self-contained accommodation of our resort. **It is impractical and not likely that the Busselton Shire planners would allow us to subdivide off the land that contains our residences - to enable the land to be transferred to our own personal name and thereby claim the residential exemption that all Western Australians are entitled to. This would be the situation with many other tourism operators (and other businesses) in our state who currently receive a partial residential exemption.**

That is something the Government has not grasped. To continue -

In our case the additional cost of \$12303 (for this year) will be added on to the cost of the family holiday accommodation that we provide. The Tourism industry is under extreme pressure currently with many problems making it hard to maintain viability. Most tourism operators in our area have prices set to 2003 and with massive increases in land tax this year plus the proposed budget changes next year, operators will not be able to recoup these extra cost until the time when they have the ability to alter their pricing. At that stage the price of holiday accommodation for Western Australian families will go up dramatically. In short, I ask you to -

1: Scrap your budget plans to take away the residential exemption provisions that are currently available to companies and trusts. If necessary, a lesser demand that would satisfy situations like ours would be - **"that partial residential exemption provisions be continued to companies and trusts".**

2: Scrap your budget plans to raise land tax rates from 2% to 2.3% and 2.5 %. From the point of view of the tourism industry your plan could not have come at a worst time. I am sure this could be said in many other business sectors as well.

If you feel your proposals are justified I would like to know your reasoning - especially when you consider the reality of how the existing land tax system (without your proposed changes) is punishing us already. Please realise that the proposed changes are making people in our industry very insecure and many fear for their businesses survival.

That gives the picture of the Siesta Park Holiday Resort. It illustrates the effect on a family-operated business in that part of the world.

The net effect will be that this will curtail family holiday venues, it will result in restrictions to jobs in that tourist industry and it will see the disappearance of low-cost accommodation for Western Australia. Here is the party who says it is interested in the battlers. That party is just pricing a tourism resort out of the reach of the battlers in Western Australia.

Hon Ken Travers: I share your concerns about this issue, but you have to be honest about it - the difficulty is finding an equitable solution. I want to hear your suggestions.

Hon BARRY HOUSE: I am coming to that. The net effect will be to dramatically change the tourism mix in that part of the world. At present we have accommodation catering for people with tents right through to five-star accommodation. The sort of venues I am talking about, in case members have not grasped the fact yet, are those along Geographe Bay where there are prime pieces of real estate -

Hon Ken Travers: I share your concerns about this issue -

Hon BARRY HOUSE: Why does the member not dry up and listen? They cater for family holiday accommodation from basic camping sites through to very neat and tidy chalets.

Hon Ken Travers: They are five-star resorts.

Hon BARRY HOUSE: They are not five-star resorts. If the member wants to go to a five-star resort, he should go down the road a little further to Radisson Beach Resort, or go through to Margaret River and stay at the Margaret River Resort. The member does not even know the area, so he should listen.

This place has been severely impacted three times; firstly, by the Valuer General's increase; secondly, by the rise in the land tax rates up to 2.5 per cent; and, thirdly, by the removal of the exemption for properties owned in trusts or by companies.

Pre-election we saw the Labor Party, through the now Premier, Dr Gallop, and the now Minister for Planning and Infrastructure, making expansive pledges in that part of the world about coastal development and how they wanted to retain coastal venues for the people. Ninety-nine per cent of the people share in that concern and that wish. Members opposite were talking about places such as Cervantes, places along Geographe Bay, Smiths Beach, Gracetown, Injidup and Gnarabup, where the trend has been towards higher priced and higher density developments, usually strata title developments. Some of the caravan parks and low-cost accommodation places on the Geographe Bay sweep have resorted to those sorts of developments, and that is where the valuations have become distorted. Since then we have seen many of these places getting out of the economic reach of the people who want to retain them as family resorts. The Labor Party said it would address that issue, but we have seen precious little evidence of that at this stage. A committee on Smiths Beach has been formed. The Minister for Planning has reneged on a commitment to Gracetown and now, through the land tax, the Government is driving owners towards the goal that it says it wants to avoid. If the trend continues, the owners will have no option but to sell to a developer or to develop their properties by way of up-market, strata-titled accommodation. That is the only way that they will be able to get an economic return on the land that is taxed in this way.

A couple of things should be done. First, an urgent withdrawal and reassessment is needed of the unimproved values. That may happen because all of the places that I quoted earlier will be appealing to the Valuer General. I hope the Valuer General assesses this situation for what it is and realises that the unimproved values have been over the top and are not a fair reflection of the movements in prices for most of the properties in that area. One or two properties have reflected the values, but it is not fair to base the movements on just one or two properties. Second, the withdrawal of the proposed increases and changes proposed to the exemptions for trusts, companies and private homes is needed. If land tax in this form is left in place, it is a premium property tax in another guise.

Hon N.D. Griffiths: No it is not. That is rubbish.

Hon BARRY HOUSE: Yes, it is. A comprehensive look at and a revamping of the planning schemes are needed to allow for different zonings within that tourism precinct so that different tax regimes can exist in the future.

Hon Ken Travers interjected.

Hon BARRY HOUSE: The member is laughing at that. Does he think that is a joke?

Hon Ken Travers: No. Will you tell all the people who own that land that you will rezone it in perpetuity for a caravan park so that they can then develop it for a higher value use? You go and sell that to your constituents; I would like to see you try.

Hon BARRY HOUSE: Some of them are asking for it.

Hon Ken Travers: It is a genuine attempt at a solution but it will not work. I can assure you of that.

Hon BARRY HOUSE: Well, Hon Ken Travers would know. He seems to know everything around here.

The next vehicle by which the Labor Party has shown its true colours is through changes to the payroll tax. In this current economic climate, a \$147 million payroll tax increase has been mooted, which I can only describe as crazy. The members opposite scoff when I say that the Labor Government is antibusiness. If they cannot deduce that from this policy measure, I give up. This measure will threaten jobs and Western Australia will be less competitive. It will be achieved through two things: first, a rise in the rate of payroll tax from 5.56 per cent to six per cent for employers with over 100 workers; and, second, it will broaden the base of payroll tax taking into account the full range of fringe benefits and employee-like contractors when assessing the employer's wages bill.

Hon N.D. Griffiths: Do you disagree with that?

Hon BARRY HOUSE: Yes, I do, primarily because of the major effect it will have on the home building industry of Western Australia. It will raise the price of a new home by at least one per cent across the board. These costs will be passed on and new home owners will eventually have to fork out the dough at the end of the line. A new home owner will have to cough up an estimated average of \$2 000 to \$3 000 extra. The budget figures estimate that \$20 million will be raised in revenue. The building industry and the housing industry players in Western Australia consider that to be a gross underestimation because this impact will go further than anticipated. Another point is the timing. It will chip in on 1 July next year. That is about the same time as the first home owners grant will have been reduced from \$14 000 to \$10 000 to \$7 000. That will have a significant effect on the home building industry. This on top of it could send the industry back into some sort of chaos.

Hon N.D. Griffiths: Not back to where it was when the GST was brought in?

Hon BARRY HOUSE: The home building industry has been rescued in the past six months by the federal Government's first home owners grant increase to \$14 000. Of course, the major impact has been the low interest rates across the board for the past five or six years. The net effect will be that many small builders in the housing sector, which build five to 10 homes a year, will be caught in this net. They will be pushed into the top bracket because they will have to include the subcontractors' labour force on their books.

Hon N.D. Griffiths: Only if they are not genuine subcontractors.

Hon BARRY HOUSE: The net effect will be heavy on the bigger project builders.

Hon N.D. Griffiths: It will be heavy on tax dodgers.

Hon BARRY HOUSE: Is the member saying that Dale Alcock Homes Pty Ltd and J-Corp Pty Ltd are tax dodgers? By interjection, he was -

Hon N.D. Griffiths: We will be bringing into the net tax dodgers and no-one else.

Hon BARRY HOUSE: Is that right?

The DEPUTY PRESIDENT (Hon Kate Doust): Perhaps the minister will let the speaker continue without interruption.

Hon G.T. Giffard: How many bone fide subcontractors does J-Corp have?

The DEPUTY PRESIDENT: Order!

Hon BARRY HOUSE: It will impact heavily on the bigger project builders who will be paying payroll tax at the rate of six per cent. The net effect will be that it will be passed on to first home owners. They will be the ones who pay at the end of the day.

Returning to 27 September, shortly after the budget was brought down in this place, I asked the Minister for Housing and Works whether he had made any attempt to quantify the negative effects on the residential housing sector. Perhaps I should sit down and let other members go for it.

The DEPUTY PRESIDENT: No. I am finding it very difficult to hear Hon Barry House. I would like him to continue. If members want to continue chatting, perhaps they should go outside and do so.

Hon BARRY HOUSE: The Minister for Housing and Works was asked whether he had made any attempt to quantify the negative effect on the residential housing sector of the new budget provisions that will widen the net of payroll tax collection to subcontractors and whether he was concerned about the proposed changes. The minister did not know anything about it. He said -

I will seek the advice of the Office of Housing Policy, which regularly makes advice available to me through industry representatives.

If industry representatives are to advise the Office of Housing Policy, their advice will be exactly as I described to members tonight. The minister went on to say -

I have not received that advice as yet.

He continues -

I will seek the advice of industry. It will have the opportunity to provide that advice to me, and I will relay it to the member.

Surprise, surprise, I have not heard a thing from the minister, who seems very concerned - probably rightly so - about aspects of public housing, but does not give a fig about private housing.

Hon N.D. Griffiths: I beg your pardon!

Hon BARRY HOUSE: That is a common expression.

That will come to bear on the building industry on top of the HIH Insurance collapse and the indemnity insurance situation.

Hon N.D. Griffiths: That is John Howard's failure.

Hon BARRY HOUSE: This is not John Howard's failure; this is John Kobelke's and Hon Tom Stephens' failure. They have sat by and done nothing and have seen the housing industry in Western Australia severely retarded by the onerous and unreasonable conditions that insurance companies require of builders - not big builders, but ordinary builders who build perhaps three or four homes per year - who must jump through ridiculous hoops to get indemnity insurance.

Hon N.D. Griffiths: What would you do?

Hon BARRY HOUSE: Under the current system it is a waste of time to have indemnity insurance because effectively the builders are responsible for their insurance. It is worse than a waste of time as it puts builders through a process that is unreasonable because of the conditions placed on them by the insurance companies. The insurance companies determine who can build - not the Builders Registration Board. The builders who try to do the right thing and get indemnity insurance, which is their ticket to build, can usually get insurance only to the value of one home at a time. That indemnity insurance covers only the first \$100 000.

Builders are skirting the issue. If they have more than one home to build, they go to three insurance companies. I am interested to see what happens if and when a claim arises when builders have insurance through three different companies. That will be an interesting scenario. I am not sure that it is legal, but people are doing it in order to get a ticket to build their homes. Worse still, we know that owner builders do not require indemnity insurance. Many home owners are going to their local authorities and submitting their plans so that they can then employ a builder to do the work; therefore, no indemnity insurance is required. That is against the spirit of the legislation, which is being eroded completely, seemingly without acknowledgment, understanding or response from Mr Kobelke or Mr Stephens.

I have been provided with some information from a typical builder in Perth. He is not a big-time builder. On average, he builds three or four homes per annum. He is required to sign an indemnity certificate. That deed of guarantee and indemnity is a huge 20-page legal document. The builder took that document to his solicitor for a legal opinion. The bottom line - I will not go through the whole exercise - is that the solicitor advised him not to sign it because the builder would be fully responsible for any claims that arose. One sentence in the legal opinion sums up the solicitor's attitude. It states -

It goes without saying that if you do have an insurance claim against you AHW will be able to sue you for all money that they pay out and this means that they could end up taking everything you own including your house, car, stocks shares etc etc.

The builders' indemnity certificate is not worth the paper on which it is written. That is why builders in this State are unhappy with the current situation and that is why they are unhappy that no action has been taken by the Government to address it.

The last issue I will address relates to expenditure in the budget on a country health scheme. The Government has made great play of the increased funding it has provided to country health schemes. Let us consider closely what the supposed increase in funding means to the Vasse-Leeuwin Health Service, which in a sense is typical of many country health services, but in another sense is atypical because it is situated in a growth area. It stretches across Busselton, Margaret River and the Augusta area, which is serviced by three hospitals as well as a variety of other health services that must be funded. It was difficult to get information in the estimates hearing last week because none of the indicative offers have yet been signed off by the health services. I do not blame them for not signing off on them, because they will be signing off on situations in which they know they cannot deliver the level of services required. The indicative budget health services allocation for the Vasse-Leeuwin Health Service is \$17.93 million. On the surface that appears to be an increase of about \$1.2 million. However, on closer analysis -

Hon N.D. Griffiths: They want to get paid more. They are greedy.

Hon BARRY HOUSE: No. On closer analysis the base purchasing level for that health service is \$14.6 million. The difference between that figure and the \$17.93 million includes, first, an anticipated \$1 million for wage increases that have been granted to health professionals across the board.

Hon N.D. Griffiths: Ah!

Hon BARRY HOUSE: Nobody is complaining; I am just explaining. There is about \$1 million for the wages of health professionals.

Hon N.D. Griffiths: Which health professionals are you talking about?

Hon BARRY HOUSE: Nurses primarily.

Hon N.D. Griffiths: Who else - doctors?

Hon BARRY HOUSE: No, I do not believe it includes doctors. It includes administrative elements. I believe the doctors' situation has not been settled. Included in that health service's budget is a capital funding allocation of \$617 000. Nobody in the Vasse-Leeuwin Health Service knows what that figure is for, as it appears to have been plucked out of the air. The people there know that it cannot be used for service delivery. There is also a figure in the budget of \$300 000 for the south west plan. The south west plan basically appears to have been put together to recommend the abolition of these health services and the restructuring of country health services along the lines of regional development commissions. If that is to happen, so be it; however, the call being made on these individual health services currently is unreasonable. It also includes an item for election commitments of \$326 000. The people there are not exactly sure what that means but, once again, they know it does not include service delivery.

The removal of amounts from the total figure of \$17.93 million leaves a base figure of \$14.6 million, which is a real decrease of \$1.3 million for that health service. These are not imaginary figures. They relate to a real situation happening in an area that is under enormous strain because it is a growth area that requires -

Hon B.K. Donaldson: I can add two more health service areas that are capped at \$1 million.

Hon BARRY HOUSE: I am sure that scenario has been repeated across the State; that is the general picture that is emerging.

I have a couple of minutes left and I will deal with another issue. When Governments change, inevitably adjustments are made to the structure of government. I accept that as part and parcel of this business. Dramatic changes have occurred through the Machinery of Government Taskforce in this State to the system of government and the working of departments in many areas of the public service of Western Australia. Some members of Parliament can get closer to, have a better understanding of and get involved with some elements of the public service more so than others. One area that I became closely involved with during the Court Government era was the development of a unit within the Department of Sport and Recreation called Trailswest. Trailswest was created out of a ministerial task force that I chaired. It was a small unit comprising a couple of people; it operated with an advisory committee and an interagency coordination panel; and the then Ministry for Sport and Recreation provided the administrative back-up. That unit was established in 1997, and over the past three to four years it has become enormously successful in attracting funding to develop a trails network in

Western Australia. Trailswest attracted that funding primarily through the Lotteries Commission of Western Australia, which has put \$2 million into the program to date. That funding is usually added to by the local authorities or other agencies in the area, and by fundraising and support in kind; so for every \$1 that the community puts in, it gets back about \$4.

Trailswest has been recognised as a leader both in Australia and internationally. I have attended two international trails conferences; and this year a third conference was held in St Louis in the United States that I did not attend. One of the officers who is still involved with Trailswest did attend that conference, but he had to pay for half of his way, which I think was a bit rude considering that he was representing the public sector of Western Australia.

The machinery of government changes have done away with the advisory committee and interagency coordination panel for Trailswest, and some elements within the public sector are also trying to do away with the name. However, I sincerely hope that in the wash-up, a proven good idea that is operating in a totally apolitical way is not completely thrown out the window, because it has added a huge positive dimension to the lifestyle of many Western Australians.

Debate adjourned, on motion by Hon B.K. Donaldson.