

BUILDING COMPANY INSOLVENCIES — SUBCONTRACTOR PAYMENTS

Matter of Public Interest

THE SPEAKER (Mr M.W. Sutherland) informed the Assembly that he was in receipt within the prescribed time of a letter from the Leader of the Opposition seeking to debate a matter of public interest.

[In compliance with standing orders, at least five members rose in their places.]

MR M. McGOWAN (Rockingham — Leader of the Opposition) [3.16 pm]: I move —

That this house condemns the Liberal–National government for its failure to resolve the ongoing issue of the non-payment of subcontractors on government projects, which has resulted in severe financial stress and health impacts on small business people and their families.

This is a very important issue, because it impacts on ordinary small business people across our community and their families. This is another example of failure, dysfunction and chaos on the part of the Barnett Liberal–National government. How many examples do we need? Earlier today, the Premier went out there and said that his government is not going to allow gaming machines or the like across Western Australia. The Leader of the National Party then stood up in question time and confirmed that the government is considering allowing those machines into TABs across Western Australia. He said that in question time.

Mr C.J. Barnett interjected.

Mr M. McGOWAN: What the Premier says does not count for anything, because the minister in question time confirmed that the government is considering putting these machines into TAB agencies, PubTABs and clubs across Western Australia. What more evidence do we need of a government in disarray and chaos when the minister himself has come into this house and confirmed it, and the Premier is saying something different? Who is in charge over there? Is this government now so bankrupt of leadership and defunct that the Premier himself has no control whatsoever over his ministers once again? I think the Leader of the National Party has belled the cat. This government is considering allowing those machines across Western Australia. As the Minister for Racing and Gaming said yesterday, the National Party, which is the tail wagging the Liberal Party dog, is out there confirming that gaming machines are being considered across Western Australia.

That brings us to the issue of subcontractors. We have been working on this issue for a time. We have asked questions of the Minister for Finance and we have asked questions in the upper house, because we have heard story after story of subcontractors on government projects being ripped off. Subcontractors, builders predominantly, who we would expect would receive payment, are being ripped off across Western Australia. We need no further evidence of this than today's front page of *The West Australian* that has the headline "Dudded Subbies" and its full two-page exposé on the issue. We have seen story after story and editorial after editorial about this issue in Western Australia. Indeed, in 2012, we rose in this place to raise this issue of subcontractors on government projects not being paid. We had a meeting in the caucus room with a large number of these subcontractors from across Western Australia. They came and told us shocking stories about doing work on government projects, investing their own money and spending their own money on products and often employing people to undertake the work, and then not receiving payment for that work. People were losing their homes and their businesses. In 2012, they came to us in droves to tell us these shocking stories about not being paid. These are people who need certainty. They are ordinary small businesspeople who need certainty because they spend money in order to undertake work, they have a line of credit with a bank, and they have a mortgage on the line for the work that they are undertaking. If they do not get paid, they lose their house and their business, and their workers do not get paid. I would have thought that it would be simple enough for the government to do something after four years of this issue being raised. After four years in which the government could have done something about it, this morning I heard the Minister for Finance say on radio that he has been aware of this issue for many years. I nearly choked on my coffee! The Minister for Finance has been aware of this issue for many years —

Mr W.R. Marmion: For decades!

Mr M. McGOWAN: He has been aware of it for decades. We raised this issue in this chamber in 2012, but the government has done bugga all in the period since to deal with this issue. Indeed, the former Minister for Commerce, Hon Simon O'Brien, put out a press release in October 2012 titled "Government moves to protect subcontractors". Look at all these words about what the government stated it would do to make sure subcontractors were protected across Western Australia; yet, four years later, we see that these shocking stories are still around.

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People are concerned about two areas within government that deal with this issue including Building Management and Works, which is under the Department of Finance. Time and again we have asked the government questions about the case of CPD Group. CPD Group has gone bankrupt and a range of subcontractors have not been paid. How is it that a government agency gave CPD Group a clean bill of health after doing due diligence and a few months later it went bust?

Mr W.R. Marmion: Eight months later.

Mr M. McGOWAN: It was eight months later. The minister is defending his government's performance of giving this company a clean bill of health, when, less than a year later, it went bankrupt with all sorts of subcontractors left out of pocket.

The other area of concern is the strategic projects division, which is under Treasury. We have seen cases at Perth Children's Hospital, and I think there is a lot to come out on that. We have seen a lot of cases at Perth Children's Hospital of subcontractors who are unhappy about performance in respect of their payments. The government put in place the Eaton inquiry four years ago—another government-run inquiry from this mob, Mr Speaker—and, according to the minister, 14 of the inquiry's 30 recommendations have been carried out. The minister claims that the recommendations for Building Management and Works have been carried out, yet we still saw the example of CPD Group. It appears that very few of the recommendations for strategic projects and Treasury have been carried out, and we have seen subcontractors going to the wall. Some of the cases reported in the press include Darren and Melissa Barnes, who are owed \$300 000 for work on primary schools and health centres for CPD; Max Hannah—it is the second time he has been through this process—is owed \$22 000 from the CPD collapse; James Harrison is owed \$53 000 for plumbing and gas work for CPD; Scott Bedford is owed \$334 000 for tiling work at Perth Children's Hospital; and Mr Jeremy Pash is owed \$1 million for work on the Eastern Goldfields Regional Prison. The most tragic case is that of Mr Ross McGinn, who, in June 2015, took his own life consequent to one of these issues whereby he was unable to make payments. But prior to his death he did his best to ensure that his suppliers and his workers were paid. I think that that is the tip of the iceberg, because there are many cases of this going on and there has been such a lazy, slack approach by the government to fixing this issue.

The inquiry made recommendations about the statutory declaration system, which is something that the government relies upon. In his inquiry that reported in June 2016, the Auditor General found that the system is flawed. Although the Auditor General found that statutory declarations were being filled out, it turned out that they were inaccurate. The system that the government put in place is not working. The government has had four years to implement a project bank account concept. It has done a few test cases, but that is about the extent of what the government has done. The statutory declaration system is not working and a range of suggestions from the Eaton inquiry have not been implemented. Subcontractors have not been paid for a range of contracts across the state. I encourage those subcontractors to come forward. In coming forward, they will expose the issue, and by exposing the issue, they will get action. The government has been slack, lazy and indolent on this issue and ordinary people, small business people and their families, are paying the price for that slackness. It is time that the government is held to account to put in place some measures to deal with this important issue.

MS R. SAFFIOTI (West Swan) [3.27 pm]: Yet again we see the Liberal Party letting down small businesses in this state. Yet again we see Liberal Party members turning their backs on small businesses in this state. We see this when we look at private landowners, we see it in relation to small business and we see it for mum-and-dad investors. The government simply does not care about people whose livelihoods are on the line. The basic concept is if people work on a government project, they expect to be paid. That is pretty much it. The fact that the government cannot guarantee that is a fundamental problem. When people work on government projects, they expect to be paid. The money that is meant to go to these subcontractors is not the contractors' money; it is taxpayers' money. Surely, the government can have a process to make sure taxpayers' money goes where it should be going—that is, to the people who do the work. In many instances, these are small business people and contractors who rely on the payment from each job to get through their week, to pay for their kids' schooling or to pay their mortgage—it is as simple as that! If this was the first time it had happened, the government might have some excuses, but it is not the first time that it has happened. This is probably the third major round of issues that this government has faced. Remember, this issue started in 2012–13 and an inquiry was undertaken. In relation to that, we have seen that only some of those recommendations have been implemented. I heard the minister on the radio this morning. He said that of the 30 recommendations, the 14 for which Building Management and Works is responsible have been implemented, but he did not make reference to the 16 under the stewardship of the Treasurer, who has left the chamber. The government has not made sure that the processes are in place. As I said, this is the third round and people are still losing their homes and are not able to get paid for work on a government project. This should not be happening.

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I want to go through a couple of other key points, such as the project bank accounts. Remember, we raised this issue last week in this house. Hon Kate Doust has been raising the issue and asking questions in the other place for a number of years, but we have taken it straight to the minister in this place over the past week. What did he initially try to do? He tried to give us a lecture about what contractors and subcontractors are. Remember that? He tried to belittle the people on this side. Then he said that the government was doing a trial on the project bank accounts and that it was on someone's desk. He said there was some kickback from industry and that the government would not pursue it or that it was still thinking about it. That is simply not good enough. The process is there, so why the government has not adopted it I do not know. Is it because the Minister for Commerce, the Attorney General, has basically not looked into the issue enough and another report is sitting on his desk? Is that the reason?

Several members interjected.

The SPEAKER: Members!

Ms R. SAFFIOTI: Again and again, we see reports sitting on that desk that have not been acted upon. This one is impacting young families around the suburbs and around the state.

I want to again talk about the project bank accounts. Let us go through the issue. When they were announced in 2013, the now Treasurer said that project bank accounts were a significant initiative and that it was the first time they had been trialled in the nation. I understand they were similar to what has been adopted in New South Wales and the United Kingdom. The process is there. The fact that the government is unaware is not an excuse. The fact that this is the first time this has happened cannot be an excuse. The only answer is that the government has not done its job properly, because a government cannot let these things happen again and again. After eight years this is the test. When major policy issues such as this one confronted the government, did it fix them? Did the government protect families out there? Did the government protect small businesses out there? The answer is no, because people are losing their homes and facing financial hardship now. The government has sat back and allowed this to happen, because it absolutely did not implement the processes to prevent it from happening.

As I said, when we look at government projects, there is a problem. This government is taking a very hands-off approach. It gets a successful bidder and does not worry about key components. How much is locally produced? The government does not care. The government does not care about local content and a number of other key factors. It does not care about key factors such as where the components are being produced or whether local content and jobs are being derived from the project. The government has ignored the key issue of ensuring that subcontractors, the little people in that process, are looked after. As the Leader of the Opposition commented, in June this year the Auditor General released a report into the children's hospital. A key conclusion was as follows —

... the contract terms do not ensure that Treasury is fully informed on the status of payment disputes or that the Contractor's statutory declarations are supported by reliable information.

That was only in June this year. The Auditor General found significant issues still being faced in relation to projects being commissioned by Treasury.

We have also seen the recent collapse of CPD Group, which is the issue that sparked a lot of questions last week. Again, the minister tried to diminish the impact and his government's responsibility in this. As I said, there are no excuses here, because this has happened before under this government's watch. It has not ensured that small businesses are protected and that they get the money they deserve because they have worked on a job. Last week the minister said he was looking into it. We got a lecture about contracting versus subcontracting. But what we need now is better answers and better security. I know there are some people in the public gallery today who have been significantly impacted by what has happened recently. They need better answers and some certainty that they are going to recover the payments that they earned legitimately, going about their business, working on government projects.

MR W.R. MARMION (Nedlands — Minister for Finance) [3.36 pm]: I will be speaking against the motion. I will direct my comments specifically —

Mr D.J. Kelly: You've got 40 years of experience in the job!

The SPEAKER: Member for Bassendean, I call you to order for the first time.

Mr W.R. MARMION: I will specifically direct my comments towards Building Management and Works. Indeed, I do have about 40 years of experience in contract management. The issue of subcontractors getting paid out when a contractor gets the money has been an issue for four decades. I will just give a bit of history. I do not want to bore members too much about contracts, but I have probably been involved in at least 40. Under the

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general conditions of contracts there is a provision to allow the superintendent's representative to withhold money, but there are some constraints around that.

I want to start off by saying that I understand where subcontractors are coming from. As a small business owner myself before I came to Parliament, we had one —

Dr A.D. Buti interjected.

The SPEAKER: Member for Armadale, I call you to order for the first time.

Mr W.R. MARMION: We had one outstanding invoice of \$100 000, and for a small company like ours with four to six people, it was a significant burden.

Mr P. Papalia: Was it a government contract?

Mr W.R. MARMION: It was not a government contract, but nevertheless it does not make any difference whether it is a government contract.

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro!

Mr W.R. MARMION: The point is that a subcontractor who does not get paid expects to get paid regardless of whether it is a government contract or a private contract.

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro, I call you to order for the first time.

Mr W.R. MARMION: A small business owner not only has to look out for their own financial position, they have to pay their staff. When a significant invoice is not paid, it impacts on other families as well, and I understand that.

There is greater expectation of course that with a government contract a contractor will get paid, because governments do pay, governments do not go bankrupt, so the actual contractor is guaranteed payment, provided they deliver. The issue then becomes how the subcontractor is looked after—that is the issue in question. In the whole time that the Labor government was in power—for two terms—it did not do anything. In 2013, as a result of a review by the Small Business Commissioner, I understand there were 30 recommendations made, 14 of which were related to my department, Building Management and Works, and were implemented. I will get to some of those recommendations in a minute. In those recommendations there was no specific recommendation on project bank accounts. Nevertheless, I have to take off my hat to the now Treasurer, who was then Minister for Finance. He thought of this innovative solution to try to protect subcontractors by having project bank accounts. That was recommended in 2013 and by November 2013 the first trial of project bank accounts was underway. Five have been completed and two are still in progress, so there are seven actual trial project bank accounts and they are quite complex. People only have to go to the Building Management and Works website to look up project management bank accounts, which those on the other side perhaps have not done, and go to the questions and answers.

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro!

Mr W.R. MARMION: The questions and answers highlight how complex it is to introduce project bank accounts. They introduce another layer of red tape, which in this case is worth pursuing. In introducing more layers of red tape, it is important that we make the process as efficient as possible, and that is where we are at the moment. Of the seven trials we are running at the moment, five have been completed and two are nearing completion. We are looking at tweaking the current process to make sure it does not introduce more red tape, because we want it to work.

The recommendations of the Small Business Commissioner are all around what can be done to improve the current process and make it more secure for subcontractors. Recommendation 8a called for a more robust approach by Building Management and Works in its requirement for provision of prequalification. This has been done; we have introduced a more robust financial information system. However, I draw the attention of members to what happens when we put in more security requirements and investigation of contractors before awarding contracts. The lowest tenderer usually expects to get the job. When we choose the lowest tenderer, Building Management and Works does a financial investigation, as much as it can, to obtain a risk profile of that contractor. If the risk profile is fine, it gets the nod.

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I will go back to the issue at hand, which is CPD Group, just to make sure all the facts are on the table. Of the last 17 contracts awarded to CPD that have been talked about, 14 have reached practical completion, two are near completion, and the Muresk homestead is at only 50 per cent completion. I will talk about those in a minute. The last assessment of CPD was made by Building Management and Works in August last year, and it was given a satisfactory bill of health to go ahead with the contract. Eight months ago, Building Management and Works found out that CPD was having trouble, and an administrator was appointed.

Mr B.S. Wyatt: Minister, you are talking about the risk profile. Is that done prior to the contract, or after the contract is awarded?

Mr W.R. MARMION: It is done prior to the awarding of the contract. Different categories were already in train, depending on the degree of difficulty of the work, so a contractor had to qualify based on its past performance.

Mr B.S. Wyatt: You said that CPD had a satisfactory risk profile. What are the levels of risk profile?

Mr W.R. MARMION: I do not get involved personally in that, but the Building Management and Works team makes an assessment. It did not happen in this case, but what has happened on some other jobs is that if the risk profile shows that we are concerned about the capability of the contractor to deliver the project, and the BMW people who are making the assessment, which is at arm's length from the minister, choose to go to the tenderer who was number 2, the lowest tenderer then rings the minister or the local member and grizzles that they had the lowest price, but the government has not selected them. There is a dilemma in reaching a balance on that matter.

Mr B.S. Wyatt: One final question: is that risk profile around capability to deliver the contract, or the potential solvency issues that pertain?

Mr W.R. MARMION: It was probably more a judgement in the past on capability, on past experience. I will now read out what has happened as a result of the recommendations. According to the implementation plan —

- more robust financial information is now required for all contractors applying for prequalification and renewals;
- the frequency of renewal applications has been increased to annually, instead of the current two-yearly requirement; and
- a stricter approach is now taken when builders fail to provide sufficient information for prequalification, or tender-stage assessment within the required timeframes.

That has been beefed up. That was one of 14 recommendations. I am conscious of the time. The member for Victoria park might be interested in recommendation 8c, which reads —

I recommend that consideration be given to methods of obtaining better *real-time* financial assessment. This could, for example, include seeking credit references, conducting more detailed Dunn and Bradstreet searches, obtaining references in relation to technical expertise, past project completion and the number of projects on the books.

That is one of the recommendations from the Small Business Commissioner's report. The actions taken in relation to that recommendation are —

On 1 September 2013, BMW amended the Scheme to require contractors to submit management accounts that are no more than three months old when applying for prequalification when requested by the Department for due diligence assessment purposes prior to the award of a contract.

They have actually tightened that up and made sure that the information provided is more up to date. That is the prequalification. There are other recommendations around prequalification, but I will not go through them now.

Mr F.M. Logan: It's irrelevant.

Mr W.R. MARMION: No, it is very important. It is important that we do the best we can in due diligence before awarding a contract, and that is what BMW has been doing. Recommendations 9a to 9d are around the same thing, again looking at assessing risk. In fact, recommendation 9d states —

I recommend that a review of commercial best practice in relation to assessing risk and awarding contracts in the construction industry be conducted ...

BMW did a value-for-money assessment of their process and investigated the use of a two-stage tendering process for projects valued at more than \$5 million.

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Another recommendation was for more spot checks. I can inform the house that, since the implementation of this recommendation, 676 spot checks have been conducted on a total of 176 contracts involving 70 building contractors. Another recommendation was to have a complaints bureau, and this was implemented, so that contractors can now call Building Management and Works. I understand that, to date, the department has received and taken action on 197 complaints about subcontractor non-payment since implementation of the new centralised management system.

The Small Business Commissioner made a recommendation about use of Australian Standard 2124-1992, clause 43, which, as I mentioned before, is a clause under which we can hold back payments to the contractor. This was looked at with a view to beefing it up, but our legal advisor suggested that we could not do much about it.

Mr F.M. Logan interjected.

Mr W.R. MARMION: I am talking about this from my point of view as Minister for Finance. The Attorney General, in his portfolio as Minister for Commerce, is looking at a review of the Construction Contracts Act 2004. One of the speakers on this side of the house will be talking about what we are doing in that area.

Statutory declarations were raised in a negative way by the member for West Swan. The Auditor General suggested that more actual checks of statutory declarations should be done. A statutory declaration is a legal paper, and a person should not have to check it. Nevertheless, the Auditor General said checks should be done. If there is any indication that someone is breaking the law by putting in a false statutory declaration, obviously it is a jailable offence.

In the couple of minutes I have left, I wrap up on the benefits derived so far from project bank accounts. We are not writing off project bank accounts; indeed, it is a real trial, and we have seen some of the benefits derived from the trial as the accounts will enable subcontractors to better protect themselves in the event that a head contractor experiences financial difficulty. At the time that a project payment is paid, which will have to be assessed by the superintendents' representative, a payment is made simultaneously to the subcontractor. A bank account is set up so that that can occur. In implementing this, we have to ensure that we do not make the process of getting payment slower, but actually speed it up. The good news, Mr Speaker—I can see the opposition are pleased to hear this—is that we have been able to speed it up. We have ensured that the process allows the speeding up of payments. Of course, the main benefit of the project bank accounts is the increased transparency and accountability.

Just to wrap up, because my 15 minutes are drawing to a conclusion, I am concerned about the 13 subcontractors who have raised their concern and are claiming money owed to them by the CPD Group. We have had 13 subcontractors since 10 May. We will be reviewing the statutory declarations. If anyone has made a statutory declaration, we will be informing the Western Australia Police. So far we have not come up with any in that category. I look forward to the winter break and the release by the Minister for Commerce through tabling in Parliament the response to the Construction Contractors Act to see where that might end up.

MR P. PAPALIA (Warnbro) [3.52 pm]: The confused and confusing contribution by the minister —

Mr J.H.D. Day interjected.

The SPEAKER: Leader of the House.

Mr P. PAPALIA: — illustrated perfectly the extent of the betrayal of the small business sector by the Barnett government over its disgraceful treatment of subcontractors. Its knowing failure to respond when the damage that it has inflicted was brought to its attention is just inconceivable, in light of the fact that this is the very sector the government seeks to convince are its heartland—the people who would normally in the past have supported it. It is a great illustration of just how extensive its failures have been over these eight years.

I will speak about one of my constituents who is in the public gallery today and who was reported on extensively in *The West Australian* today. Max Hannah is a fine Western Australian. He serves not only in his business community and his local community as a longstanding supporter and member of the surf club, but also in GolfWA in an executive position, and has extensive contacts in all the Western Australian community. He has served for decades. He has been damaged terribly by this government and its poor behaviour on this issue. In 2012, when thousands of subcontractors were suffering, Max, of his own accord, sought out other people who were in the same situation and worked to give them a voice in this place. Had he not done that and approached the opposition, we may well not have ever heard about the true extent of the damage that the government has inflicted. Max and others came to this place and sought out our assistance. We gave it. We gave them a voice in this place and demanded some action from the government—and it did respond. As the minister indicated, there was a response and an inquiry and promises were made. Commitments were made to the people damaged at that time not only that they would receive some recompense—not anywhere near enough—but also that the same

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situation would be prevented from occurring again. Now we see that that was not true. It has been failure upon failure by this government to respond, and all the minister had to offer was some suggestion that the government is looking into it still.

Max Hannah and his partner, Fran, worked hard. They established and built a successful business. They employed dozens of Western Australians. They had built themselves a good life. They had bought their own home and an investment property, which was in effect their superannuation, and then they were betrayed by a prime contractor who failed to make payments on a number of government contracts. As a consequence, rather than let their employees down and let their business close, they sold their investment property and their own home. They looked after the people they feel responsible for and have cared for them, but they have suffered deeply. Unlike this government, they have demonstrated a great degree of responsibility. It is time for this government to step up. The Minister for Commerce is undoubtedly the laziest minister in this government—and that is saying something, because there is a cricket team of lazy ministers in this government. What does that person do—because it looks very much as though he is the one who is the biggest blockage in this case, and he has failed dismally? It is time he was sacked. It is time the Premier made someone in this government responsible, because there are Western Australians hurting. Good people are hurting as a result of the minister's failure. He needs to step up to the mark. The small business community in Western Australia know the minister has let them down and he is continuing to let them down. He can no longer take them for granted. He can no longer assume that they will support the minister just because he is in the Liberal Party. The WA Labor Party are standing up for them and have done now for years, far more effectively than the government has, and I believe the small business community knows what it needs to do at the next election. The government has only nine months to try to make amends. I would suggest that they get off their backsides and do something about it in the near term.

MR S.K. L'ESTRANGE (Churchlands — Minister for Small Business) [3.57 pm]: We on this side of the chamber are concerned for the small business community and the subcontractors of Western Australia. When the Leader of the Opposition talks about the tip of the iceberg, I think that the people of Western Australia, in particular the small businesses and the subcontractors of Western Australia, are on the *Titanic*. If Western Australians are not careful, they are heading towards the iceberg that is the Labor Party of Western Australia at the March 2017 election. I will tell members why.

Several members interjected.

The SPEAKER: Members! Member for Armadale!

Mr S.K. L'ESTRANGE: Labor Party members continue to operate like wolves in sheep's clothing. They profess to be listening to small business; they profess to be listening to the subcontractors. They want to suck up to them and sell them the world, but mark my words: if Labor Party members were to get into power, it would be a terrible outcome for the subcontractors and small businesses of this great state of ours—a terrible outcome.

My concern for small business and subcontractors is much the same as that of my colleagues on this side of the chamber, and I have to admit that some of the concerns espoused by members opposite reside with me. I am concerned because we are dealing with the supply chain that these subcontractors are a part of. When a primary contractor goes insolvent, the subcontractors who are reliant upon that primary contractor to give them their payments so that they can continue their own businesses lose their payments. We saw that on the front page of today's *The West Australian*. That should concern all of us; it concerns me. We heard the Minister for Finance give an outstanding explanation of how this government is trying to step through the difficult and challenging task of working through how it can get involved with what is, ostensibly, a contract between one business and another business. He stepped us through the recommendations that were offered up by the Small Business Commissioner back in 2013 —

Mr P.B. Watson interjected.

The SPEAKER: Member for Albany, I call you to order for the first time.

Mr S.K. L'ESTRANGE: He stepped us through how this government has made a start on the 14 recommendations made to the Minister for Finance on how we can tighten up those contracts with the primary contractor so these situations do not occur often.

Mr D.J. Kelly: "Often"?

Mr S.K. L'ESTRANGE: I do not want to have to say "often" either, member, because it has happened; the reality is that it has happened. We, as a government, need to sit down and look more carefully at whether there are answers to how we can tighten up these contracts with primary contractors to make it a more stable and safe environment for the subcontractors.

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Several members interjected.

The SPEAKER: Member for Cockburn, I call you to order for the first time. If you want, I will call you to order for the second time.

Mr S.K. L'ESTRANGE: The member for Cockburn interjects about taking more control, and that is exactly the tip of the iceberg that the people of Western Australia and the subcontractors need to be aware of, and I will tell members why. It is the tip of the iceberg because we see a pattern of Labor leadership across this great country of ours extending itself back into the hands of the union movement. I can tell members now that the union movement is no friend of small business and no friend of subcontractors—no friend whatsoever.

I refer to an article from *The Australian* —

Several members interjected.

Mr S.K. L'ESTRANGE: Let me make my point and then members opposite can debate whether I have made a point or not.

The SPEAKER: You might not like what the minister is saying, but give him a chance to say it.

Mr S.K. L'ESTRANGE: I refer to an article from *The Australian* dated 16 March 2016, titled “Labor hands unions veto power over who gets work in the ACT”. This article cuts to the chase of how the Labor Party wants to control subcontractor arrangements in this state.

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen, I call you to order for the first time.

Mr F.M. Logan interjected.

The SPEAKER: Member for Cockburn, I call you to order for the second time.

Mr S.K. L'ESTRANGE: The article reads, in part —

All ACT government agencies have been told to “decline to award a tender proposal for ACT government works or services” —

Dr A.D. Buti interjected.

The SPEAKER: Member for Armadale, I call you to order for the second time.

Mr S.K. L'ESTRANGE: The article continues —

if the tenderer does not undertake to meet a list of union demands, including examination of company records, the names and addresses of workers and the right of entry for unions to recruit members.

Unions are also to be supplied with the names of companies and contractors tendering for business before any contract is let, to “advise the government” if the tenderer fails the union test and can ask for a contract to be cancelled if the company breaches the union requirements.

That is the tip of the iceberg. That is how members opposite will deal with small business subcontractors in the state of Western Australia. They will promise the world in opposition and they will say that this government has let the subcontractors down. I will put it on the record that, yes, this government could have done better, but we will continue to work in this space, but, mark my words, handing power to that mob opposite —

Mr D.J. Kelly interjected.

The SPEAKER: Member for Bassendean!

Mr S.K. L'ESTRANGE: Particularly the member for Bassendean; the member for Bassendean would love nothing more than to dress up in his mankini, get on his union wrecking ball, and swing down like Miley Cyrus, bowling over all the subcontractors and small businesses in this great state. He would love nothing more than that. He is a disgrace; we know it. He is all about the union movement; that is all he is interested in. He would not give one iota of care about or genuine interest in the welfare of small businesses and subcontractors in this state, but this government will. I will tell the member for Bassendean what —

Several members interjected.

The SPEAKER: We are not going into a discussion of fashion trends, member for Bassendean! Come back to the point, please, minister.

Mr S.K. L'ESTRANGE: I am making the point to demonstrate that we must vote this nonsense down today, because it is nothing but a fraud. It is a fraud that is exposed in this document, the “WA Labor 2015 Platform”, and I refer members to paragraphs 252 and 253. It is the frightening tip of the iceberg, which is what all these people opposite are about.

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Mr P.B. Watson interjected.

The SPEAKER: Member for Albany, I call you to order for the second time.

Mr S.K. L'ESTRANGE: I quote from paragraph 252 of the Labor Party platform.

Mr P.B. Watson interjected.

The SPEAKER: I have given you two calls; I am going to give you some leeway. Do not shout out again.

Mr S.K. L'ESTRANGE: It reads —

252. A WA Labor Government will review all procurement policies and practices to ensure the following:

- a) That preference in awarding contracts is given to those companies that are prepared to work within the Labor Governments industrial relations framework; that is, which have a positive approach towards the rights of trade unions ...

That is the tip of the iceberg. When the Leader of the Opposition —

Several members interjected.

Mr S.K. L'ESTRANGE: Oh, cry voodoo now, members; cry voodoo in opposition. I will tell members who is going to be frightened: the fantastic small businesses —

Mr J.R. Quigley interjected.

The SPEAKER: Member for Butler, I call you to order for the first time. Member for Girrawheen, I will pretend I never heard you.

Mr S.K. L'ESTRANGE: The member for West Swan in her speech today at least agreed with a fair bit of the good work that the Minister for Finance has been doing; she understood the construct of the work he is doing, and it is good to see that she did her research. She asked a question of this government: "Did you fix it?" Yes, we are; we are fixing it. Do members know what the real question is? The real question is: how would she fix it? I can tell members how she would fix it; she would fix it so that there are no subcontractors out there because the Labor Party would want the unions and the government to take over those big contracts so that small businesses and the contractors would not have any work. The Labor Party is not the friend of small business; it is the enemy of small business. It is promising small businesses in the community the world; it is promising them everything, but it is not referring the small businesses and subcontractors of Western Australia to its doctrine. It is hiding that document from the people of Western Australia, and do members know why? Because it is the tip of the iceberg of what it stands for in the 2017 election, and every subcontractor and every small business in this great state of ours should be scared.

Several members interjected.

The SPEAKER: Members!

MR P.T. MILES (Wanneroo — Parliamentary Secretary) [4.07 pm]: As the Parliamentary Secretary to the Minister for Commerce, I want to put a couple of things on record that are being done through the Department of Commerce and in reference to the Building Commission, which has carriage of some of the things we are dealing with. In June 2014, not long after the government was elected in 2013, we asked Professor Evans from Notre Dame to carry out a statutory review of the Construction Contracts Act 2004. After a year, the professor tabled the review with the minister and the Building Commissioner. The review contained some 28 recommendations aimed at improving the awareness of operations for subcontractors to be able to get funding, and all the stuff that the Minister for Finance has been talking about. That review is currently in cabinet, so cabinet is dealing with the review on the Construction Contracts Act. Some of the recommendations are clearly to make sure that subcontractors get their payments in a timely fashion, not in 90 days or in 120 days, as has happened in some cases. We are looking at all those issues and making sure that subcontractors will be dealt with.

Finally, the other part of the building commissions act —

Ms J.M. Freeman interjected.

The SPEAKER: Member for Mirrabooka.

Mr P.T. MILES: The other part of the building commissions act is that all building contractors obviously have to be licensed. We are also looking at the fact that if a contractor is not operating with due diligence—if the contractors are not operating in an appropriate manner with other subcontractors within the industry—we will start to look at their building licences. When that comes up for review —

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Several members interjected.

The SPEAKER: Members!

Mr P.T. MILES: When that comes up for review, the Building Commissioner can currently stop contractors having a licence if they are not acting in good faith. If need be —

Several members interjected.

The SPEAKER: Members!

Mr P.T. MILES: We are putting the building industry on notice that, if we need to, we will give the Building Commissioner further powers to take a building licence off them. I think that goes a long way to shoring up the stability of our contractors and our subcontractors to make sure that the industry they work in runs at an affirmative and definitely runs to strengthen rights throughout that industry. This government has been dealing with contractors. It has listened to what contractors need. The ministers who spoke prior to me very clearly laid out what we have done. Also, with the support of the Treasurer, these subcontractors will be looked after and, where possible—especially working on government business—they will be able to rest assured that we will be able to keep the industry running on track in the future.

MR P.C. TINLEY (Willagee) [4.11 pm]: I have never heard anything like it in my entire life. What a bunch of gutless, spineless jellyfish!

Opposition members: Hear, hear!

Mr P.C. TINLEY: What a bunch of gutless, spineless jellyfish!

Mr J.H.D. Day: Who are you referring to?

Mr P.C. TINLEY: I am referring to the Liberal–National Party. I am referring to each and every one of you! You are jelly backs! You are oxygen thieves! You are ration thieves! All we have from you —

Point of Order

Mr J.M. FRANCIS: I am an expert on the precedent for calling people jelly backs and I can assure members that every single ruling from every Speaker has ruled it as unparliamentary.

The SPEAKER: I am not an expert on jelly backs, but do me a favour and just temper your language to a degree. Thank you.

Debate Resumed

Mr P.C. TINLEY: I do not resile from any of those comments. I do not resile from the fact that members opposite have absolutely no credentials. They have been at this helm for eight years and all they have done is steer the ship into the reef! Members opposite have trashed our finances. They have trashed the AAA. All we get —

Mr F.A. Alban interjected.

The SPEAKER: Member for Swan Hills.

Mr P.C. TINLEY: — from members opposite when we bring very serious issues to this chamber are platitudes and absolute flippancy to the people who are sitting in the gallery who have lost their homes and businesses, and who cannot afford to put food on the table! All we get from the member for Churchlands is some bizarre imagery about an unnatural obsession for the member for Bassendean! He cannot take his eyes off the ideological bent he has against the Labor Party and the Labor movement. I want it to be recorded right here and now that the Labor Party is absolutely proud to stand with the industrial wing of the Labor movement—the union movement—for the rights of ordinary Western Australians to earn a living and expect to be paid for the work that they do on a daily basis. We are proud of our 135 years of history. We are proud that we have stood up for ordinary people since our inception. I will not ever step back from the concept that they deserve as fair a go as small businesses in this state.

Where is the Minister for Small Business? Where has he been? Why has he not been out in the media? Why has he not met with the subcontractors? Why has he not taken seriously, with a fair dose of compassion, the requirements of those small businesses to earn a living? He is meant to be the champion of small businesses! He is meant to be the one voice in cabinet, in the party room, in the Parliament and in the public who stands up for small businesses. All we get from him is flippant nonsense. It is complete and utter prevarication and nonsense to talk about the things that the government has done for eight years. There is a complete absence of leadership from anyone across that side of the chamber. Members opposite should all hang their heads in shame. They call themselves the party of business; it is the party of big business. It is the party of vested interest. Where is the other person who is responsible for the financial stewardship of this state? Where is the other person who is responsible for the good reputation of this state being able to do business? Where is the other person who is missing in action today, who is responsible for the financial welfare and the business welfare of nearly 214 000 small businesses in Western Australia? Is he gutless or is he the Treasurer of the state? One of these two

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people needs to stand up and make themselves accountable for not only their departments, but also the reputational risk that the Liberal Party and its friends the National Party are putting this state into. It is an absolute outrage that the Minister for Small Business should stand here and talk about some processes, or the Premier talking about how it is only a dispute between two private companies. Members opposite are walking away and completely spineless. What do those members say to Darren and Melissa Barnes who are owed \$300 000 by CPD Group? What do they say to Max Hannah who, this time around, is owed \$22 000 by CPD? James Harrison is owed \$53 000 by CPD. Scott Bedforth is owed \$334 000 for tiling work at Perth Children's Hospital. That is not a private project. If you write the cheques, you hold the whip. Where is the leadership? Members opposite had eight years to do something about this, and they have failed for eight years. I will tell members what the biggest project in Building Management and Works might be; it is having to reinforce the Minister for Commerce's desk. He has the biggest in-tray of reviews he has sat on for the last eight years. It defies logic. Does the man go to work? Is he on some sort of job share? What does he do? He sits on reviews and he will not release them. The Minister for Finance talked about the Construction Contracts Act review and said, "We're going to release it during the winter; don't you worry about it! It's ready to go." It has been sitting on the minister's desk for 12 months! What is the Minister for Finance doing? What is the Minister for Small Business doing?

Ms M.M. Quirk: What is the Premier doing?

Mr P.C. TINLEY: What is the Premier doing? What is the financial steward of the state doing? Why did the review sit on his desk for 12 months when the government has had one problem after another? The government has also got form.

I remind members of the Department of Housing's decision in 2010, under the minister, to outsource all the maintenance of its 36 000 dwellings in Western Australia. It gave all the metro area houses—the lion's share of that—to Transfield Services! It should have seen the warning signs then. We have brought into this place time and again the pyramid of failure that is the head contractor model. Members opposite morally own the outcomes because they want public good from the works but they will not accept the moral responsibility that they have to the people of Western Australia and the people who have made the time to come to the Speaker's gallery to show members opposite their own shame. Wake up!

MR R.F. JOHNSON (Hillarys) [4.18 pm]: I was not going to say too much on this debate, but I feel that I have to say something. The only people who I care about in this debate are the small business people who have lost hundreds of thousands of dollars. Some of those people are in my electorate and I feel for them. I have been a small business person all my life. I think the government has made a lot of mistakes—both governments. I am not interested in the hyperbole that we are hearing about what is on the Australian Labor Party website about unions or what policies the Liberal Party will have. The problem is that there are very few small business people in this Parliament who have run a successful business.

A government member interjected.

Mr R.F. JOHNSON: The minister lost a few bob from the sounds of it. At the end of the day, I must remind members of the Westminster system. If there is a huge problem and people have been devastated, the minister should take responsibility—but he is not going to. I think the problem dates back quite a while. I used to be the minister responsible for contract and management services under Richard Court's government; he was an excellent Premier, I must say. I did everything I could to make sure that all the contracts and all the tenders were done properly and honestly, and I tried to ensure that the people who did the work for government got paid because everybody in this state thinks that if they do work for this government, they will be paid. We now see something like a pyramid or Ponzi scheme, from the top down—that is, from the government down. The government is not doing what it should be doing. In the old days—in my old days—inspectors would go out to ensure that the work people were supposed to be doing, that they were contracted to do for government services, was actually being done and that people were getting paid. A system was brought in to have statutory declarations signed by main contractors to say that everybody who had done the work had been paid by them. We know that they are absolutely false—we have found that. To me, it borders on corruption and there needs to be more than just an inquiry or investigation into this matter. This is the tip of the iceberg. Over the next few years, we will see things are getting worse, not better. We are going to suffer more recessions and thousands and thousands more people will be out of work and we will need the ones who have a little business to employ people. But they are not going to be able to do that if they are not getting paid by the number one employer in this state—that is, the government. It is essential that people have faith in this government, and they do not have that at the moment.

I am not interested in how loudly people shout. We have heard it from both sides of the chamber. A person does not win an argument by shouting and shouting. They might try to, but they will not win an argument that way.

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I am not interested in what the member for Churchlands has found on the ALP website; it does not interest me in the slightest. I am interested in trying to ensure that small business people in not only my electorate but also everybody else's electorate are paid for the work that they do. It is only fair, right and proper that they are. It is not right for families to suffer, because it is families who will suffer. When a subcontractor goes bankrupt, it is not only he who suffers; it creates a ripple effect. The whole family suffers because, as has already been said in this debate, people have to pay school fees, pay for clothing, put food on the table and pay a mortgage or rent at the end of the day. If they do not have money to do that, they will be in dire straits. I do not want to see people in my electorate or any member's electorate in those dire straits.

At the end of the day, the minister has to take responsibility. I am sorry to say that, because I like him; he is a nice bloke. However, he has to take responsibility. I think we have seen a lack of Westminster responsibility by this government. I think he lives a charmed life, my friend; he really does. He was the minister who was in charge of the Department of Environment and Conservation when it lit seven fires that caused devastation in Margaret River. When the Premier went out and announced that we were going to have an inquiry, it was me who lost my job, not the member for Nedlands because he is a neighbour and a friend of the Premier. That is the sort of system that we see now under this Premier. He picks and chooses who will be a minister and who should be sacked. I am more than happy to not be in the cabinet now. I would not want to be in this cabinet. Somebody has already mentioned the *Titanic*; we know who the captain is, and it will go down. It is a great shame because it is not the Liberal Party that is at fault here; it is the government and the person who heads that government. The government has a responsibility to everybody in Western Australia to make sure that if they do work for this government, they get paid.

Division

Question put and a division taken, the Acting Speaker (Mr N.W. Morton) casting his vote with the noes, with the following result —

Ayes (19)

Dr A.D. Buti	Mr D.J. Kelly	Mr J.R. Quigley	Mr P.C. Tinley
Mr R.H. Cook	Mr F.M. Logan	Ms M.M. Quirk	Mr P.B. Watson
Ms J.M. Freeman	Mr M. McGowan	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr R.F. Johnson	Mr M.P. Murray	Ms R. Saffioti	Ms S.F. McGurk (<i>Teller</i>)
Mr W.J. Johnston	Mr P. Papalia	Mr C.J. Tallentire	

Noes (32)

Mr P. Abetz	Ms M.J. Davies	Mr S.K. L'Estrange	Dr M.D. Nahan
Mr F.A. Alban	Mr J.H.D. Day	Mr R.S. Love	Mr D.C. Nalder
Mr C.J. Barnett	Mr J.M. Francis	Mr W.R. Marmion	Mr J. Norberger
Mr I.C. Blayney	Mr B.J. Grylls	Mr J.E. McGrath	Mr D.T. Redman
Mr I.M. Britza	Dr K.D. Hames	Ms L. Mettam	Mr A.J. Simpson
Mr G.M. Castrilli	Mrs L.M. Harvey	Mr P.T. Miles	Mr M.H. Taylor
Mr V.A. Catania	Mr A.P. Jacob	Ms A.R. Mitchell	Mr T.K. Waldron
Mr M.J. Cowper	Dr G.G. Jacobs	Mr N.W. Morton	Mr A. Krsticevic (<i>Teller</i>)

Pairs

Ms J. Farrer	Ms W.M. Duncan
Ms L.L. Baker	Mr C.D. Hatton
Mr D.A. Templeman	Mrs G.J. Godfrey

Question thus negatived.