

**DEPARTMENT OF HOUSING AND WORKS, HOUSING AND CONSTRUCTION CONTRACTS  
POLICY**

*Urgency Motion*

**THE DEPUTY PRESIDENT** (Hon Kate Doust): I received the following letter this morning -

Dear Mr Marquet,

I give notice that at today's sitting I will move that the Council consider as a matter of urgency "That the Hon Tom Stephens, in his capacity as Minister for Housing and Works, be condemned for his irrational and potentially corrupt policy relating to the awarding of housing and construction contracts for the Department of Housing and Works".

Yours sincerely,

George Cash MLC

The member will require the support of four members in order to move the motion.

[At least four members rose in their places.]

**HON GEORGE CASH** (North Metropolitan) [2.36 pm]: I move the motion. I thank members for their support of this motion. I refer in the first instance to an undated memorandum from Hon Tom Stephens as Minister for Housing and Works to the Director General of the Department of Housing and Works in which he - I say "he" - sets out a proposed policy that he directs the Department of Housing and Works to put into place. That undated memorandum fell into the hands of various members of Parliament, members of the media and indeed members of the community in this State. From the reaction that I got, all those people were appalled at the direction that was being made to the department. It was obvious that the decision by the Minister for Housing and Works to restrict contract work to the favoured few at the expense of the many was WA Inc revisited.

Several members interjected.

Hon GEORGE CASH: Let me say clearly that this is all about WA Inc mark II. Members opposite can yell as much as they like, but this is the beginning of WA Inc mark II. Who else to lead the way but the Premier and the Minister for Housing and Works, Hon Tom Stephens? This policy is all about wasting public money. If members read the alleged policy clearly, they will see that it is nothing more than a contrived scheme of arrangement that is designed to effectively discriminate against the most competitive builders in the industry, those builders who have not submitted to union thuggery and extortion backed by Labor's industrial relations laws. Those firms that Hon Tom Stephens, Dr Geoff Gallop and Kevin Reynolds have an intensive dislike for are those that will not toe the union line and will not become puppets of militant unions.

I take members back a few years. Do members recall the 1980s when the unscrupulous activities of some ministers and public servants saw the community witness unsavoury government practices that cost WA taxpayers in excess of \$1.5 billion? A huge number of additional hospital beds, classrooms, police stations and other community facilities could have been provided with that \$1.5 billion; however, it all went down the drain because of the corrupt practices of some ministers and public servants.

Members will recall that in the early 1990s we had the Royal Commission into Commercial Activities of Government and Other Matters. Paragraph 1.1.1 of the introduction to the commission's report part II reads as follows -

The Commission has found conduct and practices on the part of certain persons involved in government in the period from 1983 to 1989 which were such as to place our governmental system at risk.

In paragraph 1.1.2, the royal commissioners stated -

Some ministers elevated personal and party advantage over their constitutional obligation to act in the public interest. The decision to lend Government support to the rescue of Rothwells in October 1987 was principally that of Mr Burke as Premier. Mr Burke's motives in supporting the rescue were not related solely to proper governmental concerns. They derived in part from his well-established relationship with Mr Connell, the chairman and major shareholder of Rothwells, and from his desire to preserve the standing of the Australian Labor Party in the eyes of those sections of the business community from which it had secured much financial support.

They are the first two paragraphs of the royal commissioners' report. The reason behind establishing this so-called construction policy is based on a scurrilous and unlawful system of payback that will see the mates of

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Geoff Gallop, Tom Stephens and Kevin Reynolds rewarded at the expense of the building and construction companies that do not toe the union line.

The sequence of events that led to the minister's announcing this unlawful policy direction makes interesting reading in itself. Members would be aware that in the 1990s, the Court Government amended state industrial laws, first, to allow workers freedom of association, and, second, to make union membership voluntary. Consequently, union membership in Western Australia plummeted and the union movement was devastated by a significant reduction in union fees. Not only the unions were angry, but the ALP was furious as the major beneficiary of union fees by way of political donations. Let us never forget that the Labor Party is the political arm of the union movement.

Prior to the 2001 election, Geoff Gallop and his ALP mates made a promise to the unions to rectify the industrial relations laws to favour the unions once they got back into government. They got back into government in February 2001. Once in government, Geoff Gallop was a little slow with the amendments to the industrial relations laws. Kevin Reynolds, the boss of the Construction, Forestry, Mining and Energy Union, or "Big Kev", started to sound off publicly against the ALP until it submitted to its earlier promise and delivered the changes. Once the changes to the IR laws were in force, Big Kev demanded that the big construction companies enter into an enterprise bargaining agreement with his union. Some companies caved in - some did not. At this time, I am advised that Broad Construction Services, Multiplex and Doric Constructions have succumbed to Big Kev's demands, but Universal Constructions, Consolidated Constructions, Cooper & Oxley Builders and BGC have not signed an EBA with the union. This is where the story gets interesting.

Let us face it - Big Kev has fairly significant clout in the ALP. He is able to get his demands met without question by Geoff Gallop, Tom Stevens and the ALP team. At a recent meeting of the WA Labour Relations Advisory Council, Kevin Reynolds complained to Geoff Gallop that BGC was getting too much government work, and that BGC had not signed an EBA with the CFMEU. I note that Geoff Gallop confirmed that the complaint was made to him by Kevin Reynolds; it was apparently stated in front of three ALP ministers.

Broad Construction, having signed the EBA, was concerned that certain non-EBA builders would have an advantage, and decided that BGC had to be brought into line. We know that Brian Burke is a consultant to the CFMEU and a close friend to Kevin Reynolds. Interestingly, Brian Burke, the well-known Labor lobbyist and the architect of WA Inc, is also a consultant to Broad Construction. So, a plan was hatched to kill off BGC. Those involved in the plan were Brian Burke acting for Broad Construction and the CFMEU, ably supported by his long-time friend and loyal supporter Norm Marlborough - who is parliamentary secretary to John Kobelke, the minister for industrial relations - and Anne Wood, who formerly worked for Kevin Reynolds, Mark McGowan and Norm Marlborough, and is now employed by Hon Tom Stephens in his very own ministerial office. That is the same minister who introduced the policy that discriminates against their sworn enemies, particularly BGC.

The plan that was outlined by Hon Tom Stephens was to limit the number of contracts of a value above \$1.5 million that could be awarded to any one company. Let us not forget that the minister has already grabbed the absolute discretion to hand out jobs that are worth over \$25 million, which is in complete contradiction to State Supply Commission policies developed to ensure transparency, open and competitive tender systems, to protect against corruption and to protect the interests of taxpayers. The silver bullet contained in the plan was the fact that the minister retained the discretion that he could award any contract to any chosen contractor, notwithstanding that the contractor may not have submitted the lowest tender price. It seems price and value do not matter if they do not suit the minister's political objectives. It is mates' rates for the favoured few. It is intended that the policy will be instituted, notwithstanding that if one pays more than necessary for a construction contract, fewer classrooms, hospital beds, police stations and other community facilities can be provided. Then again, Geoff Gallop and Tom Stephens would probably say, "What does it matter, as long as you're still able to favour some of your union mates?"

That is the background to the undated memorandum signed by Hon Tom Stephens and sent as an instruction to the Department of Housing and Works. This policy is all about payback. There was no consultation with industry, and it was only announced publicly because a copy of the undated memorandum was leaked to members of Parliament, the building industry and the media. That caused Hon Tom Stephens to respond. He rang BGC's general manager to get him up here as quickly as he possible could to try to work through their alleged differences. I am told that they did not work through those differences and that a huge chasm still exists.

It is also interesting that when Hon Tom Stephens made a statement to the House on Tuesday, he prefaced it by saying -

A policy framework has been introduced by the Department of Housing and Works to ensure better risk management and best practice contracting.

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He did not preface it by saying that he was the architect of the policy and that he had directed that it be implemented. If he had said that he would have given away the game that he was one of the puppets that the puppeteers of the 1980s are using to institute the next scenario, which will be WA Inc mark 2.

Clearly BGC (Australia) Pty Ltd is not in Kevin Reynolds' pocket. He complained to Geoff Gallop and demanded action, and that enabled Brian Burke and his team to hatch a plan to kill off BGC. The policy is supported by Geoff Gallop, but apparently it has not been endorsed by Cabinet to this date. Who would be the beneficiaries if BGC were wiped out? Firstly, Broad Construction Services Pty Ltd would win. Geoff Gallop would win because he would appease the unions. Kevin Reynolds and the Construction, Mining, Forestry and Energy Union and Brian Burke, as a consultant to the CMFEU and Broad Construction Services, would also be winners.

What are some of the issues not considered by Geoff Gallop and Hon Tom Stephens in their haste to satisfy their mates? I ask: firstly, what did the board of commissioners say, and was it consulted on the policy? After all, the commissioners are likely to be implicated if any of this policy is found to be corrupt. The commissioners are prominent people who are likely to be smeared by this scandalous ministerial action. Has the board of commissioners sought legal advice? Has the department sought independent legal advice? Did the minister seek legal advice? If so, in seeking that legal advice, did he admit that the policy he had enunciated was borne out of malice designed to sabotage and unlawfully discriminate against the economic interests of his and Geoff Gallop's political enemies? That is an important element in determining whether something has been done in good faith. The Opposition knows that this policy was not borne out of good faith. It was borne out of absolute malice and contempt for certain political enemies.

Has the minister examined his conscience given the potential conflict of interest that could arise based on the history and development of the policy? Did the minister breach the ministerial code, which sets out the high standards to be observed by ministers when dealing with public moneys? Does the minister have a copy of the ministerial code? The opening paragraphs of the code read -

Ministers have significant discretionary power and make decisions that can greatly affect individuals in the community. Consequently, it is necessary to set higher standards of conduct for them than for other categories of elected office holders.

Being a Minister of the Crown demands the highest standards of probity, accountability, honesty, integrity and diligence in the exercise of their public duties and functions. They must ensure that their conduct does not bring discredit upon the Government or the State.

Hon Peter Foss: There is also the ministerial oath.

Hon GEORGE CASH: Indeed there is. I am sure Hon Peter Foss will raise that in due course. Paragraph 4 of the Ministerial Code of Conduct, headed "Official Conduct", reads in part -

The inclusion of Ministers in the definition of "public officer" in section 1 of the Criminal Code ensures there is an overarching framework for scrutiny of Ministerial conduct.

They are to act with integrity in the performance of official duties, and are to be scrupulous in the use of official information, equipment and facilities.

Does the policy contravene the Commonwealth-State Housing Agreement, which is currently being renegotiated? Will we find that Western Australia is penalised because of this scandalous policy? I am advised that it is in breach of the Commonwealth-State Housing Agreement. The question must be asked: does the policy deliver best value for money or is value expendable if one must satisfy one's mates? Does the policy refer to one organisation or to each of the separate entities that comprise an organisation? For example, John Holland Pty Ltd, Transfield Pty Ltd, Thiess Pty Ltd and Broad Construction Services Pty Ltd are owned by a single organisation. They are therefore out of the picture now, yet one of them was one of the prime motivators for the introduction of this policy.

Let the people of Western Australia be under no illusions whatsoever: this is the beginning of WA Inc mark 2. The winners will be Geoff Gallop and Hon Tom Stephens and their mates and the losers will be the people of Western Australia. The puppeteers are the same as those who were around during WA Inc mark 1 in the 1980s; the only difference is that some of the puppets have changed.

I refer to Hon Tom Stephen's Minister for Housing and Works web site. Under the State Supply Commission certain policies and guidelines are set out which relate to value for money, open and effective competition, integrity and ethics, support for other government policies and initiatives, risk management and some associated areas. I do not have time to go through those elements of the policies and guidelines separately. However, the introductory comments on integrity and ethics read -

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As all government expenditure involves the use of public monies, public authorities and their suppliers must ensure the highest standards of integrity and ethics.

In this case, the minister has not met the expectation that he must meet as a minister.

**HON TOM STEPHENS** (Mining and Pastoral - Minister for Housing and Works) [2.57 pm]: I reject absolutely the false claims of the Opposition articulated in the House by Hon George Cash and in the various other forums in which the Opposition has made its false claims and displayed crocodile tears on this policy. In particular, I take great offence at the suggestion that I have in any way produced a policy that will do damage to Western Australia, particularly to access to federal funding, bearing in mind that the federal coalition - the Liberal and National Parties - has been stripping away from Western Australia significant funds for public housing, health and education and doing great damage to the infrastructure of Western Australia as a result. I am especially sensitive about ensuring that Western Australia has a policy framework that meets the ambitions of the community of Western Australia. Indeed, in some ways the policy is a mirror image of the federal Government's policy on contracting. Since its inception it has been preoccupied with policy themes that are consistent with government themes across Western Australia.

I refer to the great furphy articulated by the Opposition in a number of forums that in every circumstance the tendering process must favour the lowest bidder. That does not happen in government; it never has. Other considerations have been consistently taken into account. They have been regularly identified in the policy frameworks that Governments of all persuasions have operated under for a long time.

I refer to the claim that Anne Wood worked for Kevin Reynolds. To my knowledge that claim is not true.

Hon Peter Foss: To your knowledge it is not true or you do not know?

Hon TOM STEPHENS: I am convinced that she never worked for Kevin Reynolds, but I have not received formal advice of that.

Hon Peter Foss: You understand she didn't work for him, but you don't know that she did.

Hon TOM STEPHENS: No, but I hope to have that information here in the Chamber in a moment or two. As soon as I have that, I expect that opposition members will apologise for making the false claim.

I will now deal with whether there was consultation. There was consultation. However, as I have said to the House, that consultation was limited. I would have liked that consultation to be longer. There is now the opportunity to further refine that. I was the exclusive architect of this policy. I articulated what I wanted to happen. Following consultation, it was necessary to adjust the policy. Meetings were held with the industry. The Building and Construction Advisory Council met and worked on the policy that I delivered to the department on 24 April. The council objected to aspects of it. It was refined and took a different form from the original architecture that I put in place, as contained in that memo that has been well and truly canvassed.

I have learnt of additional information today for the first time. I was not aware of any relationship between Board and Brian Burke. Today was the first time that I had any knowledge of that. To the best of my knowledge, I have never had any dealings with Board about legal advice on this policy.

Hon Peter Foss: It is Broad.

Hon TOM STEPHENS: Is it? There we go.

Hon Peter Foss: You might have been made a patsy without realising it.

Hon TOM STEPHENS: I know neither the company by its correct name nor its consultants. I now have the familiar purple slip from my senior policy officer, Anne Wood. She has never worked for Kevin Reynolds. If Hon George Cash is an honourable man, I hope that at some stage he will apologise for making that false claim.

Hon George Cash: You expect me to take your word? I have known you for nearly 20 years.

Hon TOM STEPHENS: False claim after false claim has been made by that man on the question of legal advice.

The DEPUTY PRESIDENT (Hon Kate Doust): When Hon George Cash was on his feet, members on both sides remained fairly silent. I ask that members afford the same courtesy to Hon Tom Stephens and listen quietly so that he can continue his speech.

Hon TOM STEPHENS: I understand that the department sought legal advice from Crown Law about the policy framework, and has been advised that nothing in the policy represents a legal problem of any sort.

The framework that I have introduced deliberately aims at ensuring that we have good risk management of the Government's building contracts - that is its preoccupation - as well as improving industry competitiveness. It is aimed at promoting wider adoption of industry best practice, particularly in the construction industry. The

framework builds on the longstanding pre-qualification system for construction companies that deal with the Department of Housing and Works and the Government of Western Australia. Under that pre-qualification system, the capacity and capability of firms wishing to tender for departmental contracts are assessed. That system was reviewed two years ago, and this new policy framework is a further enhancement.

Under the department's tender processes, contractors' workloads are already assessed. Under the enhanced policy framework, the workloads of contractors are considered at the pre-qualification stage, which avoids the possibility of contractors going to the expense of tendering and having their tenders rejected because of their existing departmental workload. Under the policy framework, the department will limit the number of construction contracts that a builder can hold at any one time. From 1 July it will also put in place a ceiling on the total value of contracts that can be held by any individual builder in a financial year. This will limit individual companies to holding no more than five contracts valued at more than \$1.5 million each at any one time and, as from 1 July, no more than 25 per cent of the total expenditure by the Department of Housing and Works on contracts between \$1.5 million to \$25 million in a financial year.

That policy flows from my concerns that too much government work was falling into the hands of one or two major corporations in Western Australia. I asked myself whether I should simply rely upon the informal mechanisms that I was told and assured were on offer under previous Governments whereby at some point when the percentage grew too large, someone from the Government would ring the offending corporation and advise it that it had its share and should not bid any further. I do not accept that that policy framework is transparent, open and accountable. Rather than have that framework in operation, I chose instead to direct my department to develop a policy formulation that embodied and reflected what I was told was informally in place, and to put that in place in a transparent, open and accountable manner, so that there would be no discreet ringing of corporations to tell them that it was time to butt out because their percentage was too large, as I am assured had happened in the past. I do not find that that past practice is acceptable. Instead, I have put in place a transparent policy that I believe is eminently suitable for responding to the challenges with which the community of Western Australia is faced.

The policy framework is designed to better manage the Government's contracting risks. I asked myself whether it would be acceptable in a post-Ansett, post-HIH collapse environment, with the difficulties that corporations around Australia and around the globe are experiencing from time to time, to have all the housing and works portfolio, or a disproportionate share of it, in the hands of one or two players. I answered that question by saying no, it would not be acceptable. Therefore, in deliverance of the meaning and the substance of my oath to the people of Western Australia to serve their interests without fear or favour, I adopted a policy that is in their interests. Secondly, the framework uses the leverage of government building programs to encourage contractors to adopt industry best practice.

I have learnt an enormous amount in government in the past two years about finding good ideas. I have watched how they have been incorporated into the building industry, for instance, which employs its own risk management strategies as well. I note that major construction companies use a number of subcontractors from the same trade on the same job. They do not always rely on the lowest tenderer. I have noticed, for instance, and I have been assured, that BGC is one of those companies that does not always accept the lowest tenderer on every job. Sometimes it will deliver the work around a number of subcontractors, irrespective of the fact that they were not the lowest tenderers. I am adopting that philosophy. I am adopting BGC's philosophy by not putting all our eggs in one basket. On a major construction project, the builder will typically use more than one plumbing company, more than one electrical subcontractor and so on.

This appears to be a highly refined, longstanding policy of the industry to minimise the risk of losing money because of unexpected market outcomes. If a subcontractor falls over, under the industry policy the principal contractor limits the damage to the bottom line. If it is a good enough strategy for the private building industry to adopt to prevent cost blow-outs, why should not the taxpayers, the people of Western Australia, be protected in the same way? The only difference is that the Government has a commitment to being open, transparent and accountable, and I am making sure that the building and construction industry knows the criteria on which contracts will be awarded and does not have to expect a quiet phone call or separate advice. Instead, a policy is in place.

It would indeed be poor risk management for government to contract with only a few builders, because if one of those builders collapsed, it would have a disastrous effect. This is not targeted at any building company in particular. I look forward to the 56 contractors that should be able to bid for our work continuing to bid for that work and participating in the market share. They will have those opportunities with government building programs as well. I am sure that this will lead to great opportunities. If it were otherwise, and there was a different set of policies, I fear major delays could be involved in providing much-needed community facilities.

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Only a few major players are in the industry. The risk is that if they were to dominate the housing and works portfolio, it could have the long-term effect of reducing competition and result in a perceived monopoly or duopoly situation operating in Western Australia. I was already privy to the fact that a number of the major building companies are no longer prepared to tender for government work because they are no longer getting access to that work. In the face of that situation, we were running the risk that the number of bidders would reduce even further until there were only one, two or three. For instance, I am advised that, by and large, only one or two builders have in recent times built our schools in Western Australia. That is an unacceptable situation to have developed. We need a greater spread of builders. Other builders may not even be bothering to tender because of the perception that one or two companies will get all the work. There could be a long-term cost implication for the taxpayers were that situation allowed to continue.

The Government already requires contractors to comply with high standards of workplace training and safety. The policy framework means that more pre-qualified contractors should be able to win jobs with the Government, provided they comply with best practice on skills training and safety. This will assist in further raising the standard across a wider section of the industry. Discussions are currently taking place with industry representatives on how the new framework will be applied. Under the new framework, limits will apply to reduce the reliance on only a few contractors, thereby minimising the potential for a small number of firms to dominate the Government's building construction market.

The Government is also eager to promote industry best practice throughout its contracts. We want to raise industry standards in areas such as health and safety, and training, as a fundamental objective of the Government of Western Australia, thereby delivering on the legitimate ambitions of the community that we have the privilege and honour to serve. Spreading the workload of my department across a reasonably large number of contractors will make the most of that leverage and will ensure that the Government's construction program can do a lot in spreading that policy message. In applying the policy principles, a contracts committee chaired by the executive director, commercial operations, will oversee the application of contract policy within DHW. The most effective time for application of contract policy, including consideration of the use of short lists, is prior to tender. These guidelines are intended to ensure a deep pool of qualified resources upon which DHW is able to call. It is beneficial to all parties for a large number of contractors to have the skills, experience and qualifications to gain DHW contracts, thereby also reducing the risks inherent in dealing with a limited number of contractors. When a contractor gains a sufficient number or value of contracts to indicate that these policy objectives would not be served by additional work being awarded, the contractor will be informed to ensure that it does not expend time and resources on tendering for further work until the criteria have again been met.

The DEPUTY PRESIDENT (Hon Kate Doust): Order! I am sorry, minister, but the acoustics in this Chamber are not as good as those in the old Chamber. I ask those members who are chatting to lower the tone of their conversation so that I can hear what the minister has to say.

*Points of Order*

Hon PETER FOSS: Madam Deputy President, I think we would all hear better if rather than gabble a prepared speech the minister were to speak to the Chamber, and then we might listen. We all know that we can read the speech afterwards.

Hon TOM STEPHENS: I thank members for the opportunity to allow me to do back to the Chamber what was just done to me by Hon George Cash.

Hon DERRICK TOMLINSON: I ask the minister to identify the document from which he is reading.

Hon TOM STEPHENS: I have in front of me copious notes, on which I am drawing extensively for this speech. They effectively represent the speech notes that I have prepared.

*Debate Resumed*

Hon TOM STEPHENS: The financial capacity of a contractor is initially considered at the builder pre-qualification stage, but it is dynamic and could change substantially in a short time. Therefore, the financial capacity of the preferred tenderer is to be reconsidered in each and every tender above \$1.5 million. Such consideration will determine the ability of the contractor to meet all of its financial obligations while under contract to the Department of Housing and Works. Consideration should be given to the following: whether the contractor is under any form of restrictive financial arrangement, such as a deed of company arrangement; the contractor's total current financial commitment, including the contract being assessed, and how this compares with the contractor's normal level of activity; the level of support provided by the contractor's bank, and whether the contractor is able to raise the required level of security; and whether the contractor has an adverse financial record, and, if so, what the contractor has done to ensure that those events are not repeated.

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In addition to existing consideration of the capacity of a contractor to take on additional workload, contractors will be assessed under the new criteria at the pre-qualification stage. If a contractor is close to the point at which the above policy principles would not be served by additional work being awarded, the contractor will be informed. This will ensure that each contractor is kept informed of his or her pre-qualification status at all times to ensure that time and resources are not wasted. A contractor would not be pre-qualified for a contract if success in winning it would put the contractor over either of the specified limits. Level 3, 4 and 5 contractors are to have no more than five current contracts with DHW at any one time above \$1.5 million in value. "Current contracts" are considered to be those between contract award and practical completion. After 1 July, the total value of contracts awarded by DHW to a single contractor in any one financial year is not to exceed 25 per cent of the estimated program of DHW public works and housing contracts valued at between \$1.5 million and \$25 million for that financial year. The application of this policy to level 6 contracts above \$25 million will be subject to individual consideration by the minister, who will have regard to these policy principles in addition to other factors.

The department's program of works is not static but varies from year to year in number, value and location. Therefore, the Minister for Housing and Works must always have the opportunity of retaining sufficient flexibility to cater for these variables and deliver the program in the most effective manner for the State. As it has always done, the Government will continue to monitor the effectiveness of its works program, including this policy framework. I will be seeking some comments from key industry players on this policy and ways in which it may benefit from being further refined. I have already said much about this matter in the media. I have indicated that I am interested in learning more about the way in which this policy can be better framed. Many people within industry support this policy. Some of those people have expressed that support in the media. Mr Harvey McLeod, the chief executive officer of the Construction Contractors Association of Western Australia, has said that his association supports the thrust of the new government policy of ensuring a spread of DHW construction contracts throughout the industry, and that the Government's objectives in promoting best practice, particularly in health and safety, and training, are commendable. This policy did not come out of thin air. It has been based on many verbal complaints that I have received from potential tenderers in the industry, who have indicated that unless the policy framework is changed to prevent industry dominance, they will consider not tendering for government work. If that were to happen, it would not be the best outcome for the taxpayers of Western Australia, and it would place us at risk of increased prices, because only a few firms would tender. I look forward to receiving additional suggestions on how the policy can be improved.

I will conclude with some comments on the antics of those federal Liberal members of Parliament whose criticism of the State Government's policies have been echoed in the Chamber today. We do not need those crocodile tears. The federal Government has already done enough damage to the people of Western Australia. In public housing, for example, our funding from the Commonwealth has been significantly diminished. I will make one point about the Commonwealth Government's policy. Do members appreciate that the Commonwealth Government also does not always choose the lowest tender? The "Commonwealth Procurement Guidelines and Best Practice Guidance", the most recent edition of which was published by Senator Nick Minchin in February 2002, states that value for money is the core principle governing commonwealth procurement; accepting the lowest price is not necessarily an indicator of best value for money. It states also that government policies on such things as foreign exchange, innovation, industrial relations, the information technology infrastructure initiative, environmental construction and indigenous matters are part of the framework within which agencies need to achieve value for money.

[Leave granted for the member's time to be extended.]

Hon TOM STEPHENS: It states also that agencies and their officials have an obligation to conduct procurement in accordance with relevant government policy in the way they do business. This is on offer as the policy framework of the federal Government. However, the federal Government has an ideological blinker in awarding government contracts and in disbursing commonwealth funds to State Governments for urgently needed capital works. Two examples are Australia Post and Victorian Government contracts. Had the rationale for the awarding of those contracts been value for money, a couple of corporations would have been selected for the delivery of some major contracts. However, that did not happen. When Tony Abbot was recently in this State he announced that instead of doing that, the Commonwealth Government was withdrawing from major corporations the opportunity of doing business with the Commonwealth in the construction field. Essentially it was about ideology and not about delivering for the people of either our State or our nation. That is unacceptable and it is not what I am on about. I am on about making sure that we have a competitive industry - an industry that adds value and is developed through best practice. I make no apology that we want to promote that concept as part of the Government's work contracting policy. The policy is designed to ensure long-term value for money. It will ensure that there will be a larger pool of pre-qualified contractors to maintain long-term competitiveness. The domination of the Government's building program by a small number of contractors will

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open the door to monopolistic practices. If allowed to go unchecked, that policy would increase costs and risks to the Government and to taxpayers.

I say to members opposite that I am interested in this discussion and I am interested in ensuring that the policy framework is robust and beyond criticism and reproach. I have established a new policy framework that will apply until I am persuaded that a new framework within which the policy can be refined will deliver better opportunities to the people of Western Australia.

I accept that I am not the fount of all wisdom when it comes to these issues. In particular I look forward to input from the construction industry, from companies and from contractors with whom I will have discussions. I am looking forward to what I am sure will be robust discussions next week with the Master Builders Association. I am looking forward to hearing from the union movement, from which I am yet to hear, about the impact of this policy as far as it is concerned. One of the inadequacies of the speed with which I delivered this policy in the best interests of the community of Western Australians was my failure to take the union movement into my confidence and to explain to it what I believe is an important direction in which to go. Regrettably, I have yet to discuss this policy with the union movement and to seek its advice on whether I could have implemented it in a better way.

It is important that the Government has policies in this area that will bring home the goods to the people of Western Australia. It is important that this purchasing policy for the procurement of major infrastructure for the people of Western Australia takes on board some of the legitimate questions that have been asked in this Chamber. Hon George Cash, among many of the wrong claims he made, asked some questions that I wish to further consider. It is true that I had an opportunity to meet for the first time with BGC (Australia) Pty Ltd to discuss the policy. I will take advice from wherever I can get it to refine a policy that works for all Western Australians. I serve all Western Australians. I am not available to assist one or two companies that want to get themselves into a situation of marketplace dominance. If those companies are looking for a defender of a monopoly in me, they have the wrong man. For instance, I do not believe that the marketplace fixes everything; it clearly does not. The marketplace regularly fails the people of our nation and it regularly needs a resetting of policy. Just as the federal Government has delivered policies that it believes are necessary for ensuring the marketplace is sound and able to respond to the needs of the Australian community, likewise, as Minister for Housing and Works in this State, I do not believe the marketplace, by itself, can solve all the challenges that we have as a community. I believe policy settings that build on the body of available policies will do the job.

*Point of Order*

Hon DERRICK TOMLINSON: I request that the minister table the document he identified as copious notes to which he referred.

The DEPUTY PRESIDENT (Hon Kate Doust): I do not believe there is a point of order. I understand they are notes that have been used as a guide. I do not believe it was a typewritten speech that was being read from word for word.

Hon Norman Moore: It sure sounded like that to me.

The DEPUTY PRESIDENT: Under Standing Order No 83, notes can be used as a guide. I note that other speakers do that from time to time.

Hon DERRICK TOMLINSON: Will the minister indicate whether he claims confidentiality for those documents?

Hon TOM STEPHENS: I seek leave to table my speech notes for the edification of members. I hope members will take the opportunity of receiving them on the Table, study them comprehensively and exhaustively, and ensure -

Hon Ray Halligan: We have heard you; we don't want to read them.

Hon TOM STEPHENS: No, I am seeking leave to table -

The DEPUTY PRESIDENT: The minister seeks leave to table the documents.

Hon TOM STEPHENS: I have not quite finished.

Hon Peter Foss: You have sought leave, and we have given it, not to give a speech but to table the documents.

Hon TOM STEPHENS: I want to make sure that members read them, study them and desist from telling lies about this good policy.



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Hon DERRICK TOMLINSON: A prior ruling has been made in this place that when a request is made to table documents read by a member, they are all the documents the member holds in his hand at the time of identification. The minister has offered to table his speech notes. What I requested were the documents that the minister was reading. I am very happy to receive the documents that he was reading, which were the documents he held in his right hand at the time I asked for them to be identified.

Hon TOM STEPHENS: The honourable member asked me to identify a document. I knew exactly where his question was leading. I identified that document as the speech notes from which I was drawing and from which I was quoting. It is true that in my hand at the same time was another set of documents from which I was not drawing or quoting or to which I was not referring. It is correct that I have not tabled those documents. I have, in fact, tabled the document from which I was speaking and from which I was drawing strong and substantial support in defence of a good policy that those guys opposite should accept.

Hon DERRICK TOMLINSON: Does the minister now claim confidentiality of the documents to which he referred in his explanation, but to which he claims he did not refer during his speech and which were in his hand at the time I requested their identification?

Hon TOM STEPHENS: I am making no such claim and no such claim is necessary. I was not intending, and still do not intend, to table anything else that was in my hand at that time because they had nothing to do with the standing orders of this place.

Hon Barry House: What was it; the Bible?

Hon GEORGE CASH: Madam Deputy President, as long as it is now understood in the Chamber that that precedent has been set, I will not dissent from your ruling.

The DEPUTY PRESIDENT: I have sought advice and have been told that there is no point of order, based on Standing Order No 47, which states -

A document relating to public affairs quoted from by a Minister, unless stated to be of a confidential nature, or such as should more properly be obtained by Address, may be called for and made a public document.

I understand the minister to have said that the papers he was quoting from were only speech notes. I accept that he was not quoting from any other document. I therefore do not believe there is a point of order.

Hon DERRICK TOMLINSON: Madam Deputy President, it was because of the standing order referring to confidentiality that I asked whether the minister wished to claim that the documents were confidential. He failed to do so; therefore, they are not confidential documents. I requested his decision on that. They are not confidential documents. They were in his hand at the time of identification. I still believe they should be tabled.

Hon TOM STEPHENS: I have been around for a long time and I know as well as anyone the standing orders of this place.

Hon Derrick Tomlinson: Yes, I know; you caught out one of our ministers.

Hon TOM STEPHENS: It is true that I quoted from another document. This is the only other document from which I quoted. I quoted from two documents. I have already tabled the first document and if members would like me to table the second document, I will. I was not holding any other document from which I quoted. Therefore, no other document is covered by the standing orders.

Hon PETER FOSS: The difficulty we currently have, which Hon George Cash outlined, is that whatever the standing orders might say literally, a previous ruling meant that in practice if a member held documents in his hand and was asked to identify them, that identification applied to everything in the member's hand at the time.

Hon Tom Stephens: I was asked what I was quoting from, and I identified it.

Hon Derrick Tomlinson: You held it in your hand, as you know darn well.

The DEPUTY PRESIDENT (Hon Kate Doust): I am trying to hear Hon Peter Foss. If members have something to add, they will have an opportunity to speak later.

Hon PETER FOSS: Whether that was a correct or appropriate ruling at the time it was made is no longer open to question. I understand that that is the ruling that was made in this House and that the ruling still stands. If the Deputy President wishes to rule that that ruling no longer applies, I am sure we would be happy to accept that. The point we would like clarified is whether that ruling still stands or whether you, Deputy President, are no longer following that ruling and are making a different ruling.

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The DEPUTY PRESIDENT: Hon Tom Stephens tabled documents that he said he was using as speech notes. He has offered to table the only other document that he said he quoted from. I understand that Standing Order No 48 is the relevant ruling, and it states -

A document quoted from by a Member not a Minister shall,

- (i) at the time such quotation was made be identified; and
- (ii) on request from any Member, immediately upon the conclusion of the speech of the Member who has quoted therefrom, be tabled.

I believe that the member has dealt with that. He was asked to table the documents he used as his speech notes and he tabled them. That is the end of the matter. I do not accept that there is a point of order.

Hon DERRICK TOMLINSON: Does that mean that a ruling of a previous President of this Chamber that the documents identified include all the documents in the hand of the speaker at the time the document is asked to be identified no longer applies? In other words, is the Deputy President changing the ruling?

The DEPUTY PRESIDENT: I am not aware of the previous ruling from a previous President. If the member would like, I am happy to seek advice on the previous ruling and to report back to members on this matter at later stage.

Hon DERRICK TOMLINSON: I request that the Deputy President seek advice.

The DEPUTY PRESIDENT: Thank you, I will now do so.

*Debate Resumed*

**HON GIZ WATSON** (North Metropolitan) [3.36 pm]: The motion moved by Hon George Cash states that the Council consider as a matter of urgency that Hon Tom Stephens, in his capacity as Minister for Housing and Works, be condemned for his irrational and potentially corrupt policy relating to the awarding of housing and construction contracts for the Department of Housing and Works. The way I read this motion, we are being asked to decide whether we would assess that the minister's policy is both irrational and corrupt.

I have had some time this morning to consider the motion. It is the view of the Greens (WA) that although it could easily be argued that the minister could have handled this matter in a better way, we do not believe that the policy relating to the awarding of housing and construction contracts is irrational and potentially corrupt. I will explain the reasons for that.

Hon George Cash: The motion says potentially corrupt.

Hon GIZ WATSON: Yes, that is right. As I understand it, the motion arose from a document that was leaked from the minister's office and then received some attention in the media. I understand that the document originated from the minister's office. The memorandum states in part -

As you are aware I have been concerned for some time about ensuring that the government is not exposed to undue risk when contracting. This risk could occur from a company with many government jobs ceasing operations. It could also occur if a small group of contractors dominated the industry thereby reducing the amount of competition present in the industry.

I have some sympathy for that argument. Obviously, the issue of letting contracts, particularly contracts that expend public money, is a matter of concern and has a public interest over and above the letting of contracts that involve private money.

The building industry - I worked in the building industry in the past - is a highly competitive business. The tendering processes for contracts are vigorous. I have let contracts to subcontractors and other such matters. The policy that is already in operation that has not been called into question states that the person responsible is not required to take the lowest tender; other matters can be taken into consideration.

Hon Peter Foss: I don't think Hon George Cash suggested that.

Hon GIZ WATSON: I understand that. I am developing an argument. I am not saying that is in question. If members accept the principle that the person who accepts a contract or decides to whom the contract is let is not required to award the contract on the price only, that is an area of common ground.

Hon Frank Hough interjected.

Hon GIZ WATSON: The issue about how to manage an industry from being dominated by one or two contractors is difficult. In principle, I do not have a problem with prescribing a limit on the amount of contracts a company can be awarded. The minister has made the point - I have not had time to check this independently -

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that it would seem that an informal process was in place to distribute the contracts. The intention to provide a more transparent and understandable policy for all contractors is not unreasonable.

Hon Ray Halligan: Where's the transparency as to who receives the contract?

Hon GIZ WATSON: The limit on the number of contracts let could be argued.

Hon Ray Halligan: It is about transparency and accountability.

Hon GIZ WATSON: That is part of it. The same argument can be made for market domination in retail trading, for example, where two major players own an enormous portion of the retail trade. That can become a problem. We will have that debate shortly when we debate retail trading hours. The bigger players are likely to win out in that scenario and cut out the smaller retailers from the market. This is the same scenario -

Hon Ray Halligan: No, it is not.

Hon GIZ WATSON: It is a similar scenario.

Hon Ray Halligan: You said it was the same.

Hon GIZ WATSON: It is similar; it is obviously not the same.

There is no problem in principle with the policy of the Government having a role by being able to decide criteria for tendering other than the price, but we must ask what mechanisms can be used. The minister probably acted in haste without sufficient consultation with all the players in the industry. If we want to see the allocation of public moneys for public housing reflect policies - for example, we might want local employment content, best practices and the environmental records of companies to be part of the process - I can see no reason that a minister could not decide to put in place other criteria to adjust the tendering process. Having a cut-off point at a certain number of projects or a certain value for projects is contentious. That is one of the reasons we are having this debate. The issue should be more thoroughly aired and debated in the sector because the document has been leaked. There is always a problem when documents are leaked from departments or ministers' offices.

Hon Murray Criddle: Consultation is important.

Hon GIZ WATSON: Absolutely, and I am not quibbling with that. I would be critical of the minister because, for whatever reason, this matter has not been handled in a way that would provide for adequate consultation. However, I cannot accept a motion that says that the policy is irrational. I believe there are rational arguments for the policy's objective, but it has come to the public attention in a mishandled and negative way.

There is a good argument on economic grounds for spreading the risk through a greater number of contractors. From my experience of the building sector, it is very volatile because of the number of companies that go broke. One might argue that larger companies are less likely to go broke, but that is not necessarily the case. When I was contracting subcontractors in the industry, I would work with a range of them because there were advantages and disadvantages when employing certain contractors. It was not necessarily a question of who would do the job for the least money. The danger is that if that is used as the absolute benchmark, the best job is not necessarily obtained. I do not think that we are arguing today about the lowest bid being necessarily the only criterion to be considered.

Another reason that this matter has become so heated and topical is that the building sector is an incredibly important sector in the economy and an enormous amount of money and power is involved in the building industry. The debate is as much about power dynamics with one side of the House being very critical of the union movement and the other side questioning the role of some of the bigger players in the industry. The issue of coercion and power is distributed equally through most of the players in this arena. My experience is that a fair amount of pressure and bullying is applied throughout the industry.

We support the minister's attempts to look at this area, but we would like the process to be a little more open and transparent so that we might have a better consensus of changes that might be needed. We want to see the best use of public money and the best outcome for the public - the consumers of public housing - and have policies that encourage best work practices for health and safety. If that means looking at the tendering process, I believe that is appropriate.

Hon Ray Halligan: There are 56 contractors. How many more do you want to develop an open, honest and accountable tendering system?

Hon GIZ WATSON: Some of those 56 contractors might like to have a better chance at winning some of the contracts.

Hon Ray Halligan: How would they have a better chance if the more efficient and more cost-effective contractors were to be left out?

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Hon GIZ WATSON: That comes back to the one criterion, which is cost efficiency. Other criteria need to be considered.

Hon Ray Halligan: Surely all other things are equal.

Hon GIZ WATSON: They are not.

I understand that the initiative of setting a percentage of contracts to be let to a certain player or company is something that the previous Government did. I refer members to school cleaning contracts. As I understand it, the previous Government said that any one player could have only 20 per cent of those contracts. It is not as though this is something that has never been done by that side of the House. I was particularly offended, which I think would be the right word, by the threatening intervention of Liberal Senator Graeme Campbell. I found it particularly offensive in the light of the policies that were being played out. We talk about bullying in this sector, but that was a very fine example of people saying that if they do not like what we are doing, they will take away commonwealth funding.

Several members interjected.

Hon GIZ WATSON: The member will know that bullying is not restricted to the union movement but occurs in many sectors.

Hon Paddy Embry: It never happens anywhere else.

Hon GIZ WATSON: It never happens anywhere else! Perhaps the member should work in the building industry and then he might have some idea.

We will not be supporting this motion. We have some concern that this matter could have been dealt with much more appropriately and more consultatively. We would encourage the minister to continue in his endeavours with his policy intentions in this area, which we support.

**HON PETER FOSS** (East Metropolitan) [3.49 pm]: I was a bit surprised when Hon Tom Stephens leapt to his feet to make the second speech, because I would have thought that he might like to hear what the other speakers had to say. Of course, it became very clear early on in his speech why. It was because he intended not to answer anything that was said by other speakers but to anticipate what they might be going to say by reading from a prepared speech. The problem with that, of course, is that his prepared speech did not deal with what had been said by the previous speaker. He insisted all the way through his prepared speech in saying that Hon George Cash was complaining about the fact that the tender would not be the lowest price in each case, whereas in fact Hon George Cash did not mention that once. One of the problems in making a prepared speech is that a person cannot deal with the substance of the allegations against him. It was probably quite a sensible move because we know how much trouble Hon Tom Stephens gets into when he speaks without a prepared speech. I suspect that in this case the prepared speech was very prepared. I noticed that during the prepared speech, Mr Norm Marlborough was in the Chamber watching proceedings. We all know that Norm Marlborough is virtually the mouthpiece for Mr Brian Burke, who was mentioned earlier in debate. I would like to know whether Norm Marlborough assisted Hon Tom Stephens with his copious speech notes. I would find that answer interesting.

Another interesting matter is that when a censure motion is moved against a minister, members normally show solidarity with their colleague. Interestingly, only three of the minister's colleagues are in the Chamber with him. I have never known a situation in which a person under criticism and subject to a censure motion has not had colleagues shoulder by shoulder in the Chamber showing solidarity with their minister. The fact his colleagues are not here to support him is almost a criticism of the minister.

One of the fascinating things Hon Tom Stephens said was that he would have liked a longer time for consultation, and now there will be more consultation. He would have liked to have more consultation!

Hon George Cash: What prevented him?

Hon PETER FOSS: Exactly. What prevented him from having more consultation? He is a free agent. He told us that he, unassisted by anyone else, on his own motion, introduced this policy.

Hon Ray Halligan: And he has unfettered rights.

Hon PETER FOSS: Yes. What did he say? He said he was the one who did all this. He would have liked more time for consultation, but he did not have more time. It begs the question - why? What forced the minister to issue the policy so urgently that did not allow him to consult? It seems that whenever the minister strays into revealing his heart, he also reveals the truth. I will speak to another revelation later. I will take the minister at his word that he would like more advice.

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Some members in this Chamber have experience in tendering on building contracts - I happen to be one of them. I draw members' attention to something people say in the building industry when tendering. I am very pleased to see that somebody was listening to debate outside the Chamber and has decided to raise the number of the minister's colleagues in the Chamber to four!

Hon Nick Griffiths: I want to talk on water policy.

Several members interjected.

Hon PETER FOSS: It was by accident. I apologise. I should not malign the Minister for Racing and Gaming by suggesting that he voluntarily supported the Minister for Housing and Works! I apologise and withdraw that suggestion!

A term used in the building industry when tendering is "sharpening the pencil". That means one goes through the tender and tries to cut down the fill of quantities to see whether the tender price can be improved on that first worked out. Sharpening the pencil is an important part of tendering. One knows when sharpening the pencil that other builders will do the same thing. That process leads to the lowest possible price being tendered. Knowing competition is involved causes a builder to drop the price. What will happen with this policy? Some organisation like BGC will not need to sharpen the pencil. BGC can put in any old offer that is reasonably competitive and know at the end of process it will end up with five contracts. All other companies will know that BGC will not be sharpening the pencil, so they will not bother either. The reality is that the minister has taken out of the equation something that brings lower prices. Nobody suggests in every instance that price is the sole measure of value. One goes for the best contract value - the Liberal Party has always believed that. One need not always take the lowest price. However, a competitive atmosphere is needed to obtain the lowest price possible. One then achieves value for money. The minister's policy removes that competitive edge.

The minister faces a difficulty in his justification of the policy. He knows full well that this policy is for a different purpose than that suggested. He gave away that purpose when speaking in answer to a question from Hon Murray Criddle. Being the minister that he is, Hon Tom Stephens cannot bear not to perform. I could see when he gave the answer, everybody on his side of the House suggested that it was time for him to sit down. They know when Hon Tom Stephens starts to get expansive, he says something idiotic that gives him away and finally gets the truth out. He did so. The question starts on page 13 of the daily *Hansard* of Tuesday, 6 May and the answer extends to page 15, where we get the nitty-gritty and finally get the truth. After having put forward all the highfalutin and beautiful words, he said what he really meant.

Hon Tom Stephens: I said something about the federal Government - is that the bit?

Hon PETER FOSS: Yes. Listen to this -

There is no issue. The Opposition is beating up a storm when there is no problem. I understand that the federal Government operates on the same basis. Do members know that Australia Post recently let a contract for which it did not accept the lowest tender either?

We never suggested that one must accept the lowest tender. The answer continues -

Do members know why? The reason was that the federal Government said that the company that submitted the lowest bid was too close to the union movement and was not to get the job.

I do not know whether that was the case, and I would not suggest it was a good reason for refusing a bid. However, it shows that this minister believes that he is allowed to act in this way because the feds did not accept a tender because people involved are associated with the unions. The minister believes he can then pay back -

Hon Tom Stephens: I said no such thing.

Hon PETER FOSS: The minister said it; I did not say it. We always know that if the minister goes on for long enough, he opens his big mouth and finally tells the truth. The minister reveals his nature perfectly well in the final words of that answer. He sat down at that stage. Even though the minister is not too bright at times, he worked out that he said one sentence too many. The minister revealed his hand and his motives.

Hon Barry House: That's why he read the speech before.

Hon PETER FOSS: Yes, they said to him, "Tom, don't do that again. This is what you read. Don't depart from the script under any circumstances because we know what you do when you adlib." I can imagine the riding orders before he came into the House: "Stick to the script. Get it all in. Don't miss a bit even if you go on for five minutes more. Make sure it all gets in." Probably the only document the minister did not table was the one that said, "Shut up, Tom! Don't say anything else. Stick to the script!" That is the other document.

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I draw members' attention to a very serious matter. I do not think the minister has thought of the clear perceptions of this policy. I have no idea why he did not consult people. Merely saying today that he would like more time is not an excuse. He still has not explained why he put this policy in place despite wanting more time to consult and knowing that he should consult. I can tell members the reason. He was under pressure to implement this policy.

Hon Tom Stephens: No I wasn't.

Hon PETER FOSS: Why did he not take more time?

Hon Tom Stephens: I have already explained.

Hon PETER FOSS: He has not explained; he just said that he would like more time. He indicated that he appeared to be under some sort of constraint that he did not reveal to the House. He felt he had to do it.

Hon Tom Stephens: Would you like me to explain?

Hon PETER FOSS: The minister can seek leave to do that. He has already had an extension of five minutes, so he can keep quiet, otherwise I will have to ask for five minutes more.

I will address a fundamental matter that we must understand. I came into politics with no desire to come into politics.

Hon Tom Stephens: You said you would go after six years and you are still here.

Hon Derrick Tomlinson: Four, get your facts right.

Hon PETER FOSS: I did not say either of those things. I did not intend to enter politics.

Several members interjected

The DEPUTY PRESIDENT (Hon Kate Doust): Order! Hon Peter Foss has the floor and I encourage him to speak to the Chair.

Hon Nick Griffiths: You don't have to shout.

Hon PETER FOSS: I must shout over the unruly interjections. Madam Deputy President has indicated that Hon Tom Stephens was heard in silence, so I suspect that I am entitled to the same.

I did not intend to be a member of Parliament. I did so because over a number of years as a lawyer I saw corruption of the system. That corruption ultimately led to what is now known as WA Inc. Many people refer to WA Inc as something that resulted from a corruption of process. However, it became clear from the inception of the Burke Government that it played favourites. I can remember everyone around town saying, "Look at the way X is sucking up to the Government and doing things we would regard as improper and making lots of money." I saw many of those people, one by one, end up with their hand out to do the bidding of the Government.

Hon Derrick Tomlinson: And the Government paying for it.

Hon PETER FOSS: They were very well paid for it. Huge amounts of money were to be made if people were prepared to be friends of the Government. If someone wanted to be an independent adviser and was not prepared to do as he was bid but stuck to his professional ethics, he did not get a job. It was interesting to see that that was a perfect way to corrupt people. People must be corrupt before a system can be corrupted. The sad thing is that perhaps it was not what we finally saw in WA Inc. However, for years the system under Brian Burke was persistently and thoroughly corrupted by rewards and favours on the one side and punishment and difficulties on the other.

I will recount a small example. I have not been able to have this matter prosecuted because of client confidentiality. One of my clients who had substantial contracts with the Government ended up in a dispute with one of Brian Burke's constituents. It was a legitimate dispute. The person said that the client had behaved wrongly in supplying him with a piece of equipment and the client denied that was the problem. It was a straight commercial dispute, the like of which occurs every day when a customer is unhappy and accuses the seller of the fault and the seller denies it. Brian Burke rang my client and asked if he had a dispute with his constituent. He replied that he did and explained the reason for not agreeing to paying for the damages. Brian Burke said, "You have a choice; you either pay him out or you will no longer get government contracts." That is corruption. My client refused to buckle under. Brian Burke might have been trying to benefit a constituent. It was not even for his own benefit. It was very early on in the Burke Government's term. It was corrupt. Once people in society understand that the Government plays favourites with people who do the right thing and kicks those in the backside who do not play favourites, people's faith in government and the whole basis of government is undermined. WA Inc finally was a grab for money by all the worst people. I saw it. That is one of the reasons I

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stood for Parliament. I saw deals to rearrange Rothwells money in which \$5 million and \$50 million commissions were taken by every crook in town. The same money was circulating in the various deals and with every deal one of those crooks got \$5 million or \$50 million. It was disgraceful. The Government went along with it because it had no alternative given the extent of the corruption. It rescued Rothwells on the basis it would cost only \$150 million because Brian Burke had persuaded the Roman Catholic Church to put a lot of its money into that company. Then the Government thought that it had not given Rothwells enough money because the Government thought Laurie Connell had syphoned off \$350 million, so it paid him that amount for the Petrochemical Industries Co Ltd. The amount of \$50 million was paid to Dallas Dempster for exactly the same property. That was not enough; he had taken \$550 million and it was still hundreds of millions of dollars short. At that stage, the rug was pulled out from under Rothwells and it fell in a heap. The start of that was the belief that government could be used for self-interest.

The ministerial oath is that ministers will deal without fear or favour. Ministers must not give favours to one group or, as part of the Government, use their ability to pursue other people to punish them. My concern is that not only has the minister set this up with the obvious capacity to carry out a vendetta against BGC but also he has made the most minuscule of inquiries. The fact that he did not know that Brian Burke was employed by Broad Construction Services is a matter of concern. He has established a policy that does not take into account a person's financial capacity. It could apply to Joe Bloggs Pty Ltd as much as it could apply to BGC. Why should Joe Bloggs, who may have no financial worth whatsoever, be allowed to have five contracts when the same rule applies to one of the largest companies? The problem with the minister's rule is that it does not deal with the very point the minister claims. It does not deal with companies' financial capacity; it deals with the fact that he knows that complaints are made against BGC because it is not part of the enterprise bargaining agreement and it will have an advantage over everyone else. It is intended to bring BGC to heel. The minister knows that and I know that. As revealed in his answer to Hon Murray Criddle, he has started on the rocky road of choosing his friends and favourites and who will cop it. Once he does that he will become beholden to those people and he will not be able to resist the problems that happened with WA Inc.

**HON NORMAN MOORE** (Mining and Pastoral - Leader of the Opposition) [4.08 pm]: I wish to raise a couple of issues in this debate and to remind the minister that he has a bit of a record already in respect of the tendering process, as does his colleague. We have had to ask a number of questions in the past about the tendering process in which the Government has been engaged. Putting Hon Tom Stephens in charge of the tendering process is like putting Dracula in charge of the blood bank, just as letting people like Hon Nick Griffiths and Hon Allanah MacTiernan become involved in the tendering process has the same connotations. I remind the Minister for Government Enterprises of the \$69 million contract that the Water Corporation let on his approval without going to tender. The second one I mention is a decision by the Minister for Planning and Infrastructure, who let a \$4 million contract for the Clarkson railway line without going to tender - she said she would save the Government some money - after having spent the previous eight years complaining about Governments not going to tender on every project. As soon as the first one turned up for her - a \$4 million contract for the Clarkson railway line - it was awarded without going to tender.

There was the situation with the high school at Mindarie. Does Hon Tom Stephens recall that? The contract was not let but was delayed because Hon Tom Stephens had correspondence from a very good friend of his, Kevin Reynolds. Does Hon Tom Stephens remember that? Doric Constructions Pty Ltd had in fact been awarded the tender, but Hon Tom Stephens decided not to award it because Mr Reynolds thought that Doric Constructions was the wrong company to get it. Hon Tom Stephens has forgotten that, has he?

Hon Tom Stephens: Who got that contract?

Hon NORMAN MOORE: Doric Constructions, if my memory serves me right.

Hon Tom Stephens: So Doric Constructions got the contract?

Hon NORMAN MOORE: Yes, and it was delayed because Mr Reynolds had complained to Hon Tom Stephens about it. Therefore, Hon Tom Stephens sent off a complaint and said that he wanted it investigated to make absolutely sure that Mr Reynolds would get his own way. This minister is in a faction in the Labor Party that includes Mr Reynolds. This minister is in charge of tendering, and when he feels the need, he denies responsibility for some tenders. He has ignored legal advice on certain tenders that are his responsibility, but he says they are not - I am talking about some government trading enterprises. This minister has brought out a policy that is potentially corrupt. He has adopted an arbitrary position in respect of five contracts. How did he decide that it would be five contracts? Is that how many BGC already has? Why did the minister not decide on three or 17?

Hon Tom Stephens: Twenty-five per cent, roughly.

Deputy President; Hon George Cash; Mr Tom Stephens; Hon Peter Foss; Hon Derrick Tomlinson; Hon Giz Watson; Hon Norman Moore; The Deputy President (hon Kate Doust)

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Hon NORMAN MOORE: Why 25 per cent? Why not 33 or 75 per cent? Everything is totally arbitrary. An article in *The West Australian* the other day listed the amount of money that taxpayers would be losing if this policy had been put in place before, because the cheapest tenderer would not have been given the job. That is what will happen in the future. An arbitrary decision of 25 per cent or five contracts has been made by the minister. It probably relates to the number of contracts that are let at present. The minister is now saying that beyond those five contracts, the taxpayer will pay more money.

Hon Tom Stephens: Why did you choose 20 per cent for school cleaners?

Hon NORMAN MOORE: My policy was that all schools would be cleaned by private contractors.

Hon Tom Stephens: Why did you -

Hon NORMAN MOORE: By way of interjection on the honourable member's interjection, the reason for doing that was that we would save \$10 million a year for the education system. I will not get into that argument.

Hon Graham Giffard: It is a pity about the schools.

Hon NORMAN MOORE: It is a pity about the schools?

Hon Graham Giffard: Yes. A lot of the schools have had bad experiences.

Hon NORMAN MOORE: Is that right? A lot of people in the construction industry have also had bad experiences. The Opposition is concerned about this policy because of the bad experiences with the Government's friends in the Construction, Forestry, Mining and Energy Union. When the minister read out his statement the other day, it was interesting that the two members on the other side who yelled out the loudest in support were the two parliamentary secretaries sitting in the Chamber now who owe their allegiance to the CFMEU. That is why they are so enthusiastic about this policy, and that is why I asked the minister yesterday whether he had discussed this matter with any of his backbenchers. Did Mr Stephens discuss it with Mr Marlborough? His answer was that he could not remember. Can the minister remember now? Did he discuss it with the member for Peel - yes or no?

Hon Tom Stephens: Let me tell you this -

Hon NORMAN MOORE: Did Hon Tom Stephens discuss it with Mr Marlborough - yes or no? No answer means no.

The DEPUTY PRESIDENT (Hon Kate Doust): Order! Members, I have the time correct on this occasion. I am required to leave the Chair until the ringing of the bells.

Debate interrupted, pursuant to sessional orders.

[Continued on page 7316.]

*Sitting suspended from 4.15 to 4.30 pm*