



Speech by

**HARRY BLACK**

**MEMBER FOR WHITSUNDAY**

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Hansard 18 November 1998

**QUEENSLAND BUILDING SERVICES AUTHORITY AMENDMENT BILL**

**Mr BLACK** (Whitsunday—ONP) (10.20 a.m.): I move—

"That the Bill be now read a second time."

Security of payment in the building industry has always been a wretched and complex problem, with no apparent or simple solutions. Since 1974, with the introduction of the Subcontractors' Charges Act, successive Governments have attempted to solve this intractable problem, unfortunately with only limited success.

In 1991, the green paper on security of payment for subcontractors was produced followed by the Scurr report, which was never tabled in Parliament for some reason, followed by the implementation steering committee, which was intended to implement the findings of the Scurr report. I have seen the report of the implementation steering committee on Security of Payment in the Building and Construction Industry and, while I commend its effort, I do not think these recommendations will fix the core problem—that of builders avoiding their liabilities.

In spite of the large amount of time and money expended over the last 25 years or so, an unacceptably high number of business failures still occurs, with devastating consequences for subcontractors and suppliers, and their families. A major problem area continues to be in relation to domestic housing construction not covered by the Subcontractors' Charges Act. The biggest loser by far in the case of business failure in the building industry continues to be the subcontractor. The subcontractor has no influence over the operation of the builder's business and yet is completely dependent on the builder's business skills and integrity in order to get paid. In addition, the subcontractor has little effective recourse against a builder in the case of non-payment. Court action is generally expensive in terms of money and lost time and, in many cases, is simply ineffective.

Powerful builders' lobby groups have fiercely resisted change in the past. These groups do not want to see the existing status quo changed because the bulk of the financial burden caused by builder failure is primarily carried by subcontractors and suppliers, leaving their members relatively immune from their financial obligations. I applaud the recent actions of the Queensland Building Services Authority in shutting down numerous non-paying builders and recovering monies owed. This is a good start, but more still needs to be done. With this in mind, One Nation has developed this Bill to amend the Queensland Building Services Authority Act 1991 to further strengthen the ability of the QBSA to take action against builders who do not pay subcontractors.

This Bill amends section 3, Objects of Act, in order to read—

"... to achieve a reasonable balance between the interests of building contractors and subcontractors and consumers."

As a result, the QBSA will be formally empowered and, indeed, obligated to intercede on behalf of subcontractors to maintain a reasonable balance between the interests of subcontractors and builders. An amendment has also been added to section 36 specifically allowing the QBSA to impose a licence condition where a licensee has failed to pay, without reasonable excuse, an amount claimed under the Subcontractors' Charges Act or an amount payable under another court order. It is a reasonable excuse under this amendment if a licensee can demonstrate that he has not received payment for the work to which the charge or order relates.

The balance must be restored. Subcontractors have unfairly carried the burden and the pain in the case of defaulting builders for far too long. These amendments are simple, and they should be inexpensive to implement. There should pose very minimal cost to the industry and no cost to the builder and, therefore, no cost should be passed onto subcontractors or home buyers. These amendments will formalise and strengthen the role and recent activities of the QBSA in relation to security of payment for subcontractors in the building industry.

While this Bill cannot be expected to fix all of the problems, it nevertheless represents a significant step in restoring the balance between the interests of builders and subcontractors. I commend the Bill to the House and urge all members to carefully consider the positive benefits these amendments should deliver to subcontractors and their families, and the building industry in general.

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