



Speech by
Lesley Clark

MEMBER FOR BARRON RIVER

Hansard 11 May 2004

BUILDING AND CONSTRUCTION INDUSTRY PAYMENTS BILL

Dr LESLEY CLARK (Barron River—ALP) (8.02 p.m.): I rise to make a brief contribution to this legislation in the House tonight because I sincerely hope that we are seeing a final stage in what has been a very long saga to bring to fruition legislation that will effectively provide security of payment for subcontractors. It has been a significant issue throughout the state but certainly in far-north Queensland nearly for as long as I have been a member of parliament. I well remember our first attempts in the early nineties to address this issue. Throughout that decade various attempts were made and reforms brought to this House. But I have still, as other members here tonight have indicated, witnessed small businesses and families being destroyed because of not getting paid by developers and builders.

As a local member of parliament when people come to you in severe financial distress through no fault of their own it is very hard to tell them, 'I am sorry, the legislation that we have in place is not sufficient to help you.' We have never said that any legislation can take away all the risks. There will always be some risk in this industry, but up until this point of time I believe subcontractors have been unfairly exposed, being at the bottom of the chain, and they have had to suffer increasing significant financial hardship as a result of this.

It is something that has been of concern to me, and I do commend the Building Services Authority and this minister for continuing to persevere with a solution. The research they did looking at legislation in Western Australia and New South Wales to bring something to this House that would work—that is, this rapid adjudication system in this legislation—is something that I am looking forward to.

I am encouraged, too, by the attitude of the Subcontractors Association. In my electorate we have Ron Crew, who has worked very hard on behalf of subcontractors in his role with the Subcontractors Association, and I am pleased that he supports the underlying principles in this legislation that will enable for the first time contractors to deal with their cash flow by having the ability with the rapid adjudication system to get the money that they deserve. I am pleased that it is rapid—they have to have provision within 10 days of bringing a claim for a progress payment—and that it will not be overly legalistic. They will be able to bring their case to the attention of the adjudicator. They simply have to seek payment. The person seeking payment simply has to make a payment claim. The person from whom payment is sought provides a payment schedule, and then there is a referral of the disputed claim to the adjudicator for decision. Then payment of that progress amount is so decided and paid.

That is something that subcontractors have been looking for for a long time so they can get some justice. It is also important to note the adjudicator's decision that pending final determination of a payment dispute the party with the most commendable case as determined by the adjudicator retains the moneys in dispute.

As I said, I want to commend the minister. This has been long overdue. I hope when we have a review of this legislation we will find it has worked. As I have said in this House on a number of occasions, I will keep coming back and I will continue to make representations until subcontractors get the justice they deserve and they get paid for the work that they do. I commend the bill to the House.

