

Mr McARDLE (12.43 pm): Attorney, this clause relates to the removal of the right of judicial review in relation to the Building and Construction Industry Payments Act 2004. I know that the Supreme Court recently advised that there is a right of review by way of judicial review in relation to matters brought pursuant to that act before the relevant tribunal. I would have thought that that is a critical issue in this state—that is, the right of an individual to take on appeal an administrative determination where someone is dissatisfied with it. Given that the Supreme Court has in fact ruled that it does exist—that is, the right—I ask the Attorney to explain the circumstances that warrant that right of review established by the Supreme Court being removed.

Mr SHINE: The purpose of the proposed amendment in clause 91 of the bill is to exclude adjudicators' decisions from statutory review under the Judicial Review Act given that this type of review would defeat the objective of the BCIPA to provide a quick and informal process for the interim resolution of payment disputes under building and construction work contracts. The proposed amendment will not, however, exclude adjudicators' decisions from any form of common law review under the inherent powers of the Supreme Court. This will ensure that adjudicators' decisions remain subject to judicial review on appropriate grounds and therefore ensure that the rights and interests of persons are sufficiently protected but at the same time achieving the desired end that disputes are resolved expeditiously.

Mr McARDLE: I understand the Attorney to be saying that if somebody is then dissatisfied they need to follow the common law path, so to speak, in making their case heard in the relevant court. The judicial review is in those circumstances removed and I would have thought that the process of judicial review would have been a speedier and more effective manner of dealing with the matter than going through the common law procedures facing an individual in this state.

Mr SHINE: I note the member's view.

Division: Question put—That clause 91, as read, stand part of the bill.

AYES, 48—Attwood, Barry, Bombolas, Boyle, Choi, Croft, Darling, English, Fenlon, Fraser, Gray, Hayward, Hinchliffe, Hoolihan, Jarratt, Jones, Keech, Lavarch, Lawlor, Lee, Lucas, McNamara, Mulherin, Palaszczuk, Pearce, Pitt, Purcell, Reeves, Reilly, Roberts, Schwarten, Scott, Shine, Smith, Spence, Stone, Struthers, Sullivan, van Litsenburg, Wallace, Weightman, Welford, Wells, Wendt, Wettenhall, Wilson. Tellers: Finn, Nolan

NOES, 27—Copeland, Cripps, Cunningham, Dempsey, Flegg, Foley, Gibson, Hobbs, Hopper, Horan, Johnson, Knuth, Langbroek, Lee Long, Lingard, McArdle, Malone, Menkens, Messenger, Nicholls, Seeney, Simpson, Springborg, Stuckey, Wellington. Tellers: Rickuss, Stevens

Resolved in the **affirmative**.