Speech by

Lawrence Springborg

MEMBER FOR SOUTHERN DOWNS

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LEGAL PROFESSION BILL

Mr SPRINGBORG (Southern Downs—NPA) (Leader of the Opposition) (3.42 p.m.): This bill repeals the Legal Profession Act 2003, which dealt with admission, national practice, conduct rules, complaints and discipline, financial arrangements and incorporated legal practices. This bill incorporates and updates, in accordance with national model laws developed by the Standing Committee of Attorneys-General, the provisions of the 2003 act and deals with the following additional matters: multidisciplinary partnerships, practice of foreign law by foreign lawyers in Queensland, a national framework for fidelity funds, external administration of legal practices, and statutory basis for the Queensland Law Society Inc.

The opposition in general terms will be supporting the bill, which has the broad support of both the Queensland Law Society and the Queensland Bar Association. However, in my speech in parliament on 26 November 2003 in relation to the 2003 act I did raise a number of concerns. I believe that a number of those concerns are still valid and have not necessarily been addressed in this bill.

I wish to turn my contribution generally to some aspects which do, I believe, require further explanation or further accord of reservation on the record of this parliament. One fundamental question not addressed is just exactly what is legal practice. I generally do not like referring to clauses and sections in the broad second reading speech, but this is one occasion where I will depart. It defines legal practice by referring to a definition in clause 531 for the purpose of proposed chapter 7, part 1, which refers to suitability reports and investigations. Part 2 of chapter 2 deals with the reservation of legal work and related matters and specifically provides in clause 24 that the making of a will by an authorised trustee company employee in the preparation of a contract by a real estate agent is not legal work. However, this begs the question as to what is legal work. Does assisting a person voluntarily to prepare a will, for example at your local church or community welfare group, by using a prepare your own will kit constitute legal practice that must be undertaken by a lawyer? Does assisting someone to settle the terms of a simple contract of sale of goods constitute legal practice? Where and how are the boundary lines to be drawn when one of the objectives of development of the law over the years has been to break down the mystique of the law and make it accessible to ordinary citizens? Are members of citizens advice bureaus and other groups which provide advice and assistance in relation to legal issues now at risk because of the failure of the bill to incorporate a comprehensive definition of what constitutes legal practice?

If anyone follows that convoluted process through, which is laid down in the bill as trying to define what is legal practice, you will see that certainly there are some questions that exist about what is defined as legal practice—and I would like to hear a definition from the Attorney when he summarises later on this evening.

This failure to adequately define legal practice raises real problems as a result of the facilitation by the bill of the incorporation of legal practices and the establishment of multidisciplinary partnerships where the boundaries of the practice of the law by a legal practitioner will undoubtedly come into conflict with the practice of other professional activities and the commercial imperatives of business. It is not clear how these conflicts will be resolved under this legislation and what objective and impartial processes will be in place to determine the boundaries of what constitutes legal practice.

Will it be up to the legal profession itself to determine the boundaries of its own operations and will we in future see a slow but steady expansion of these boundaries? After all, we have previously seen lawyers and the Law Society trying to justify the operation of mortgage lending schemes and other investment practices as part of legal practice.

Regarding the admission of legal practitioners, the schedule in this bill is supposed to relocate the Legal Practitioners Act to this bill by clause 630. However, schedule 3 regarding the relocation of section 58 is to expire one year after the commencement of the section.

There is also a section designed to facilitate the admission as a legal practitioner of persons who have provided service in vital government agencies such as Legal Aid, Parliamentary Counsel, the court registry and so on. The bill will therefore substantially diminish the existing rights of staff within the administrative organs of justice in this state. It will require that such staff who dedicate their career to advancing the interests of justice have to undergo the same admission procedures as those who are admitted as legal practitioners for purely economic objectives.

It thus favours the maintenance of the current monopoly on the process of admission to legal practice. The bill implements the principle that admission as a legal practitioner will only occur following training in university. This consigns to history the many fine lawyers who have practised the law following admission through the examination processes run by the Solicitors Board and the Barristers Board. Applicants for admission as legal practitioners will have to satisfy both the Legal Practitioners Admission Board and the Supreme Court as to their fitness before they are admitted.

Why should this duplication potential occur? Before being able to practise as a solicitor, a person must obtain a practising certificate from the Law Society or, for a barrister, from the Bar Association. Before granting a practising certificate, these regulatory authorities also have the capacity to question whether a person is a suitable person to be granted a certificate. Are we going to have regulatory overkill if a person has to satisfy the Supreme Court, the Legal Practitioners Admission Board, the Law Society or the Bar Association before they can practise in Queensland? The bill entitles an Australian legal practitioner—that is, an Australian lawyer—holding an interstate practising certificate to engage in legal practice in Queensland. Government lawyers engaged in government legal work do not have to be Australian legal practitioners.

What about corporate legal advisers working for a corporation? Arguably, any corporate lawyer must have a practising certificate and meet all the costs associated therewith before they can provide legal services for their corporation. Is this another problem arising from the failure to properly define legal practice? It purports to relieve a corporate lawyer from having to have professional indemnity insurance when working solely for their corporation. Whether this will apply when services are provided to a series of corporations within the one corporate conglomeration is unclear. In-house legal services are provided to many organisations which are not necessarily corporations—for example, social welfare organisations, community groups, unincorporated associations et cetera. Are these lawyers obliged to obtain professional indemnity insurance as well as pay for a practising certificate?

Professional indemnity insurance is to be provided by the Bar Association or Law Society. Given the allegations made in the past about insurance schemes arranged by the Queensland Law Society and certain staff employed there, what guarantees do lawyers have that professional indemnity insurance schemes arranged and the levels of coverage thereunder are structured so as not to disadvantage small practitioners or result in benefits more directed towards the bureaucracy at the Law Society and the Bar Association and the controlling councils and not legal practitioners?

The bill allows any corporation that complies with the requirements of the legislation to establish an incorporated legal practice and thus deliver legal services. These provisions therefore open up the potentiality of large corporations such as banks and financial service providers or commercial enterprises like Woolworths and Coles, with well-developed infrastructure throughout Queensland, commencing to deliver legal services—for example, conveyancing on a mass market basis—to the detriment of small scale legal service providers in suburban areas and regional centres.

I am sure that members in this place who represent suburban areas and rural and regional areas will greatly appreciate the contribution which is made by legal practitioners in those areas. Often the issues with regards to legal profession reform which are important to the one- or two-solicitor firms—and their administrative support—are not the issues which are necessarily important or of paramount importance to the larger firms because there are different imperatives. There are some larger firms and larger entities that do not have the same interest in the maintenance of conveyancing as a province of the legal profession as do small legal practitioners.

There are a number of people in this parliament who were solicitors prior to entering this place and no doubt continue to maintain a practising certificate. If it was not for the presence of those small legal practitioners in some areas then quite frankly we would not have family law, we would not have commercial law, we would not have a range of other essential services such as conveyancing in those communities. I am concerned about the economies of scale and a range of other matters with the potential entry of these

larger entities into these multidisciplinary legal practices and where that might ultimately lead. I think it is very hard to define that at this stage. I think it is vitally important that we do value and understand the contribution of those small practices, particularly in the suburbs and the regional and rural centres throughout Queensland.

I do not believe the suggestions I have made are fanciful. Already government is proposing to legislate, notwithstanding national competition principles which have been signed up to, to ban Woolworths from establishing pharmacies in its stores. Woolworths is still proposing to proceed with the proposal if possible by applying the same principles as this bill applies to incorporated legal practices. It could have one qualified pharmacist present to keep the pharmacy element open in a store. I am concerned that the potential tentacles of that could spread into the legal area.

Has this legislation been prepared in the interests of the big national legal practices without taking into account the interests of the small one- or two-person practices? I have already expanded on that. Will we see in the future these people being forced to mount campaigns, such as in the pharmacy industry, to protect themselves from the depredations of large corporations? Remember that Sears legal, based on the department store chain, has been one of the largest providers of legal services in the United States of America.

The bill fails to address one of the fundamental issues of conflict that arises between the increasing duties being imposed on a director of a corporation to act to maximise the economic outcome for the corporation and its shareholder and the duty that a legal practitioner has to their client and the law. Can both legal obligations always be met at the same time? That is an important question that this parliament has to resolve. Shareholder obligations or the obligations on directors under the Corporations Law are somewhat different to the obligations which have been traditional through centuries of convention and practice for lawyers to have as their primary responsibility their client. I think there is a potential nexus. There is a potential conflict that does need to be properly considered now and in the future.

As an organisation becomes more like a big corporation, who is the lawyer obligated to? Is he obligated to the shareholders or the directors in that multidisciplinary incorporated company or is it the base obligation that has always existed to the client of that lawyer? Another issue that will need exploration is the potential for conflict between the obligations of a lawyer to clients and the further expansion on the corporation to comply with legislation such as the Trade Practices Act and organisations like the Australian Competition and Consumer Commission.

I turn to legal practice by multidisciplinary partnerships. The need for these provisions is open in my mind to real doubt. Originally the development of the philosophy behind these provisions was driven by the major international financial service organisations such as KPMG, Deloittes, Ernst and Young et cetera, which sought to bring professional services together to offer a new one-stop shop to corporations. However, this move has now been reversed particularly since major corporate collapses such as Enron, WorldCom and HIH. Now these organisations are splitting. Even their financial services have separate organisations for auditing as opposed to taxation and other accounting.

They have separate organisations for auditing, taxation and other accounting, and IT consultancy. Many of those which have started legal practices have reduced, closed or spun them off. I believe we need to consider this and keep a watching brief on it. We need to be looking at and following the examples that have happened in other places around the world. Sometimes we do that and we seem destined to repeat the mistakes and the lessons of other places before we wake up to those issues in our own state and country.

These developments point to one of the fundamental problems of multidisciplinary partnerships—namely, the different conflicting professional and personal obligations that can arise. This bill contains only limited provisions as to how these conflicts are to be resolved. We already have a significant number of lawyers who are in jail as a result of their inability to resolve the conflicts posed by their actions as a lawyer and their actions as promoters and managers of various mortgage and other investment schemes.

Mr McNamara interjected.

Mr SPRINGBORG: I note the interjection from the honourable member for Hervey Bay. In no way am I casting aspersions on all lawyers, because I have said in this place in the past that the greatest majority of lawyers are very upstanding and dedicated members of their profession and dedicated to their local community. There is no doubt about that. In actual fact, in some areas of Queensland there may be a greater proportional representation of those areas through the complaints handling process than other areas around Queensland. But I can say that in my electorate I am aware that no complaints have been made against the lawyers who represent the people out there. There are not too many at all.

Mr McNamara interjected.

Mr SPRINGBORG: I am saying that, pound for pound, the job and the contribution that lawyers make to their profession and their community is absolutely outstanding. But there have been some pretty high profile examples. Some of them have been very unfortunate where some lawyers have been unable

to resolve the conflicts which have been posed by their actions as lawyers and their actions as promoters, and I talk particularly about the mortgage lending schemes. Fortunately, there have been mechanisms put in place both at a national jurisdiction level and a state jurisdiction level which will overcome and resolve those issues so that they should not happen in the future. There is nothing in the bill that would give any comfort to the general community that these fundamental conflicts have been or can be resolved.

Regarding the fidelity cover, the bill proposes to leave management of the fidelity fund with the Law Society. Given the history of defalcations by solicitors and the problem inherent in the failure of the Law Society to properly investigate and prosecute complaints against solicitors, which has led to much of this bill, is it appropriate that the Law Society continues to manage the fidelity fund? Why has not another body including, for example, community representatives or persons with financial and other skills been created to manage the fidelity fund at arm's length from the Law Society? It is not my conclusion that the Law Society has not handled matters well; it is its own conclusion. That is why past president of the society Mr Sullivan put in place a review process overseen by retired Chief Judge of the District Court Pat Shanahan to resolve those matters. I acknowledge the work that Mr Sullivan did, because I think that he realised that he had a significant issue that needed to be addressed. He did not bury his head in the sand. He is a person of real integrity and real tenacity in what he did. He took that matter forward and put in place an independent process for oversight. The dirty linen was aired as a consequence of former Judge Shanahan's report.

We really have to be concerned about this notion that has historically existed—and the Attorney has used the term as well—of Caesar judging Caesar and the lack of confidence that may exist in the community about the extent to which the Law Society may continue to be involved in some of these areas. I am not saying that there is not a role, but there at least needs to be a greater engagement or involvement from lay people in this process.

Whilst the fidelity fund is designed to protect the loss of trust moneys placed with a lawyer, why are barristers automatically excluded from being caught by this bill? Whilst it is true that at present barristers do not normally handle trust moneys, what is to say that they may not in the future as rules of practice change? They may have a greater role with regard to handling money than they have at the moment. At the moment they do not have a role; I understand that. But what is to say that at some future time there might not necessarily be a role? That is all I am saying. With the potential changing of roles and the way this legislation has been formulated to put in place this brave new world, should that not be facilitated at this stage? That is all I am saying. Perhaps it should be facilitated to include that particular potentiality.

The bill specifically excludes recovery from the fidelity fund of trust moneys received by a lawyer under a financial service licence, a managed investment scheme, mortgage financing or other investment purpose. To recover the money, it must be received in the ordinary course of legal practice and in connection with the provision of legal services. How does the ordinary client, who is unused to the capacity of lawyers to find distinctions in law, separate the provision of legal services from an urging by the lawyer to invest in a particular investment scheme, particularly where it is run by a lawyer? What protections are consumers to get from the actions of unscrupulous lawyers? The numbers who have been jailed over the years, as I have said, prove that not all lawyers are honest and honourable persons, even though I will restate that I believe the greatest majority have been and will always be honest and honourable.

The time limit for bringing claims, which is six months from being aware of the default, is too short for an unsophisticated client who has relied on their lawyer. By 'unsophisticated' I do not mean that these people are dumb. It is just that they are dealing with an element of service delivery which they do not deal with on a day-to-day basis. In my job I come across, as most members do no doubt, new things every day. We engage with professional people with particular knowledge and we rely on them to do the right thing. Unless someone is a specialist in a field, they do not necessarily know what is going on. They are often bamboozled by what is going on, and that can happen at the highest level. When a person is engaging and interacting with a solicitor for whatever reason and something happens, how do they know what to do? One only has to look at the number of people who come to us as members of parliament to make a complaint about a solicitor and we refer them to the Law Society or wherever the case may be. People trying to find their way through the mire and going in the right direction is an extremely difficult thing.

Why should this particular period for bringing claims not be at least three years to reflect time limits in the limitation of action legislation? The capacity for extensions of time is very limited, for the provisions are directed not at whether there is any merit in the claim but merely at whether the funding is going to be sufficient to meet the claim. Obviously the bill gives the image of the Law Society having greater weight than the claims of persons who have lost moneys through the criminal or negligent actions of lawyers. The provision which gives the Law Society virtually absolute power to determine claims and the amount to be repaid places, in my opinion, too much power in the hands of a body which is more likely to be concerned about issues such as the image of the legal profession, the future financial viability of the fund and reduction of financial claims on lawyers than about the merits of the claim of a person who has lost money as a result of a lawyer's defalcations.

In order to exercise rights of appeal, the client who has lost money will have to not only fund the appeal but also get another firm of lawyers who are prepared to bring an action against the decision of the Law Society. Experience indicates that many firms will not act for clients who seek to challenge the actions of the Law Society. The power of the Law Society to approve payments made from the fidelity fund and consider the financial viability of the fund in determining whether to make payments establishes that the protection provided to consumers of legal services by the fidelity fund and the Law Society is of limited benefit. The bill establishes legal practitioner interest on trust accounts in the accounts of the Department of Justice into which will be paid interest earned on sums deposited in solicitors' trust accounts.

The bill continues the principle of refusing to facilitate the payment of interest earned on these deposits to the persons entitled to them—namely, the owners of the funds held on trust. This can be achieved by appropriate computer programming by the banks. No longer can it be claimed that technology or the onerousness of the task is too great to deny the real owners of that interest moneys the right to it. The bill enhances the capacity of the minister to make payments from this fund to suit the political purposes of the minister of the day. This opens payments from the fund to potential abuse.

The making of the legal profession rules is the responsibility of the Governor in Council. Thus at the end of the day, the legal profession in Queensland is now the creature of the government of the day. If the legal profession offends the government or disagrees with its policy position or any subject, it runs the risk of being the subject of an adverse legal practice rule put through by the government. This changes the psychological balance between a legal profession that traditionally described itself as independent of government and thus free to criticise government decisions and those who control the government from time to time. Whilst the Law Society and the Bar Association may recommend rules, the minister is under no obligation to accept such recommendations.

The bill is designed to facilitate the exchange of information between Queensland regulatory authorities and their counterparts in other Australian jurisdictions and in foreign jurisdictions in relation to the admission and discipline of legal practitioners. The bill gives a very wide ambit as to what can constitute professional misconduct or unsatisfactory professional conduct. Presumably, whether particular actions constitute professional misconduct will be determined by the appropriate decision-making body provided to hear disciplinary complaints.

Complaints are made to the Legal Services Commission using an approved form. The bill regulates complaints to the commission more than three years after the conduct complained about. The commission is given power to dismiss the complaint or refer it to mediation. Matters can be investigated only if the commission considers that it is just and fair to do so or that the action complained about amounts to professional misconduct. There is a real problem with the provisions that empower the commission to dismiss a matter that has been the subject of a previous complaint that has been dealt with. Given that there are numerous people who are deeply disturbed by the cavalier way in which their complaints have been dismissed by the Law Society over the past few years—and I hope that is probably in the past tense following the Shanahan review—and who are hoping that the establishment of the commission will at least provide them with an objective and effective mechanism to resolve what they believe are legitimate complaints against lawyers, this provision will act as a real wet blanket and cause great disappointment. What is the government going to do to provide satisfaction to those people?

There is a real problem with the options available for handling complaints about lawyers by consumers of legal services. The clause that, in effect, applies to all complaints other than those constituting unsatisfactory professional conduct or professional misconduct forces consumers into a mediation process. Given that consumers of legal services are generally less knowledgeable than their legal advisers and without the resources that their legal advisers possess, any mediation process automatically places the complaining client at a real disadvantage when compared to the lawyer complained about.

Mediation provides no independent process for investigation of the complaint by any impartial body, nor can lawyers be forced by that process to disclose any information that they cannot or do not wish to disclose. Mediation can work only when both parties to a dispute are willing to negotiate to resolve the dispute. The negotiation process provided in this bill will inevitably lead to dissatisfaction by the complainants as it is likely that any complaint would ever be lodged with the commission in the first place if the legal practitioner had previously indicated a willingness to negotiate a satisfactory outcome with the client.

It empowers the commissioner to refer complaints to the Law Society or Bar Association for investigation. This perpetuates one of the fundamental complaints about the existing complaint handling methodology, that is, that there is no independent and impartial investigation of a complaint. That leads to the Caesar judging Caesar claim. I believe that that will certainly continue to some extent. The commissioner investigates matters personally only when it is in the public interest to do so. However, given that the commissioner is to be given only limited support resources, the capacity—and thus the willingness—to conduct any form of independent investigation will be limited.

The bill sets out the role of the Law Society and the Bar Association in conducting an investigation of a matter referred to them. The bill contains nothing about providing the complainant with any assistance in presenting the complaint or the capacity to necessarily make any submission to the investigator. The commissioner is empowered to dismiss a complaint following a report from the Law Society or Bar Association. However, there is no right for the complainant to be advised of the intention to make that decision or to make a submission to the commissioner prior to the decision being made.

The benefits of compensation orders are reduced by providing that a compensation order cannot be made if a complainant is entitled to receive compensation under a court order or from the fidelity fund. However, working out whether such entitlements actually exist will take such a long time to determine that the disciplinary action will often be completed before relevant decisions are made. Appeals to the Court of Appeal about a disciplinary body's decision are unlikely to be of any assistance to a complainant due to their usual lack of resources to pursue litigation.

Why will previous disciplinary proceedings against legal practitioners who currently practise in Queensland not be listed on the Internet disciplinary record? Does the Queensland community not have the right to know the history of people who are holding themselves out to the general populace as offering legal services?

The bill also facilitates cooperation between jurisdictions in investigating complaints about lawyers. The bill contains comprehensive provisions to enable intervention in the conduct of a lawyer's practice by appointment of a supervisor of trust moneys, a manager or receiver. However, it does not apply to a barrister.

The bill outlines the circumstances when external intervention is warranted. Primarily, this is a decision for the Law Society. One issue not addressed in the bill is the issue of the application of the principles of legal professional privilege, which is a privilege possessed by the client of a lawyer in relation to information passed to a legal adviser for the purposes of litigation. When such information comes to the attention of a supervisor of trust moneys who is appointed to a particular practice, is the supervisor bound by principles of confidentiality in relation to information that comes into their possession? If not, why not? Supervisors will not necessarily be lawyers and, therefore, are not necessarily subject to the ethical principles that bind lawyers.

The bill purports to impose a confidentiality requirement on an external intervener in a legal practice, for example, a supervisor/manager or receiver, but does not address any issues relating to legal professional privilege and, indeed, authorises disclosures to a whole range of people and institutions without addressing the issue. Managers step into the shoes of the legal practitioner according to the provision of the bill. I believe that that is inadequate. The provisions relating to receivers appear to be adequate. The bill is also designed to facilitate the practise of foreign law within Queensland by a foreign lawyer, that is, a lawyer registered in and controlled from a foreign jurisdiction. Whilst such provisions can be arguably designed to promote the international trade in services, the bill as drafted does not clearly address issues of potential conflict between the practise of foreign law and the practise of Australian law within one legal firm. Similarly, it is not clear as to how the application of practice standards, that is, ethical obligations, trust accounting, legal professional privilege et cetera, are to apply to a person who is an Australian registered foreign lawyer, a foreign lawyer and an Australian lawyer in relation to matters involving complex foreign and Australian law matters. Not all foreign legal regimes proceed from the same fundamental ethical and legal principles that underpin Australian law. So the potential for conflict is very, very real between Australian law and potentially sharia law.

This may turn out to be a problem only if there is a growth in attempts to practise foreign law in Queensland. These proposals are arguably being introduced in Queensland more from the desire to maintain uniformity with the rest of Australia than from any demonstrated market that is currently unfilled.

Applications have already been called for appointment to the position of Legal Services Commissioner following the passage of the 2003 act. The Attorney-General has announced that he is to make an appointment shortly, probably following the passage of the 2004 bill—in a yet-to-be-determined time frame. Whoever is appointed to the position and the resources provided to them will determine whether the new complaint handling mechanism will in fact work in practice to the satisfaction of consumers of legal services. It is to be noted that the government is continuing its practice of making significant appointments to major positions without consulting the opposition, as recommended by Commissioner Fitzgerald. Accordingly, whoever is appointed will potentially suffer from a lack of bipartisan support for their appointment.

The bill empowers the chief executive of the Justice Department to determine the level of resources provided to the Legal Services Commission, ensuring that the commission remains susceptible to pressure from the government. This raises real doubts about its capacity to act impartially in all circumstances.

The provisions relating to the disciplinary tribunal parallel provisions of the 2003 act. The disciplinary tribunal is comprised of a Supreme Court judge. The question needs to be asked why Supreme Court judges are being forced to adopt the guise of members of a tribunal when it is the Supreme Court which

has always exercised the jurisdiction to control legal practitioners. Is the Attorney-General attempting to downgrade the inherent jurisdiction of the Supreme Court in favour of the lower status of a tribunal? After all, it is the Governor in Council—the government—which is going to tell the Supreme Court judges as a tribunal how they are to conduct themselves through the rules. Normally rules of court governing court practice and procedure are determined by the judiciary themselves.

The concept of helping a Supreme Court judge in hearing and deciding a discipline application is also detrimental to the status of the Supreme Court, in my opinion. Is a Supreme Court judge to vary their view of both the law and the facts in a particular case in accord with the views of either the lay member or a practitioner? As Attorney-General Welford has already called for applications for persons to be appointed to the lay and practitioners panel, it is presumed that they will be created at around the same time as the Legal Services Commissioner is appointed.

The provisions relating to the Legal Practice Committee seem to parallel provisions in the 2003 act and provide for the creation of a practitioner controlled, lower level disciplinary body and some lay representation. They also seem to parallel provisions of the 2003 act which set out the procedures to be followed by both of the disciplinary tribunals. Both tribunals are not bound by the rules of evidence in conducting hearings. The parties to disciplinary hearings are the Legal Services Commissioner and the lawyer complained against. The legal client who has complained has no right to appear before the disciplinary tribunal. There is thus no guarantee that the matters complained of by the original complainant will be fairly or accurately considered by either disciplinary tribunal. It is likely, therefore, that those persons with complaints against lawyers will continue to be dissatisfied by a process which involves only lawyers, apart from lay members of the tribunals, in considering and determining complaints. The granting of leave for a third party to appear should be converted into an entitlement for the original complainant to appear before the tribunals and make such submissions as they think fit to the tribunals in relation to their matter of complaint.

The provisions regarding the Legal Practitioners Admissions Board seem to parallel similar provisions in the 2003 act, which provide for a body to consider issues relating to the admission of legal practitioners. The bill also provides for the continued incorporation of the Queensland Law Society by state legislation. The question must be asked why no such similar provision has been deemed necessary for the Queensland Bar Association, which is incorporated under the Associations Incorporation Act. Given that both the Law Society and the Bar Association are now the bodies that will issue practising certificates, this will make membership of both bodies compulsory for all solicitors and barristers respectively. This in effect creates a closed union shop for solicitors and barristers, who will now find enhanced difficulty in practising their profession if they fall foul of the controllers of both bodies. Given also that both bodies seemingly will have an ability to set whatever fees they like for membership, it seems strange that the Law Society is a body subject to the Financial Administration and Audit Act 1977 and the Statutory Bodies Financial Arrangements Act 1982 and thus audit by the Auditor-General but the Bar Association is not.

The bill provides mechanisms for the obtaining of police reports and health assessment for the purposes of administration of the bill. Clarification is needed, however, as to who can obtain such reports. Relevant authorities for obtaining such reports are the Legal Practitioners Admissions Board in relation to admission to practise and the relevant regulatory authority, that is, the Law Society or Bar Association, in relation to grants and renewals of certificates to practise. It seems to forbid the obtaining of any suitability report in relation to an applicant for grant or renewal of a local practising certificate. There appears, in my opinion, to be a conflict here.

The bill sets out provisions for the appointment of inspectors under the act and their powers to enter and seize material necessary for investigations. No significant problem appears to exist with these provisions. The bill seems to maintain the inherent powers of the Supreme Court in relation to legal practitioners. This seems to sit strangely with the provisions of in effect converting the Supreme Court into a tribunal for disciplinary purposes. I raise that again because I raised it with regard to other matters earlier in my contribution. The suspected offences chapter also contains a series of offences designed to facilitate administration of the act. These do not seem to raise any problem.

Even though I have raised a number of issues, these are not matters which give the opposition cause for concern to the extent that we would oppose the bill before the parliament. However, I think they are matters that deserve to be put on the record of this place, because there is the potential for them to raise their heads as issues in the future. I think we are going into what is relatively uncharted territory here, even though—I am sure the Attorney-General appreciates it—the bill he put through at the end of 2003 is one that had been under consideration for some considerable period of time, with consultation. That was still relatively uncharted territory. We have to wait and see how that in fact will work as all of the various bodies are established. We have the complaints handling process being effectively put in place and the Legal Services Commissioner. We also have all of these new national consistency principles which are going to be placed in this bill. I believe that at some future time there will be cause to amend the bill we are debating, which will undoubtedly pass through this parliament later this evening.

I would like some assurances and some individual and specific comment from the Attorney-General in his reply to the second reading debate. I have previously raised with him—he has written back some letters of assurance—some matters and complaints that have been outstanding. I would like some comment on those complaints, which have previously been raised but have not necessarily received carriage or serious consideration by the Law Society. How are they going to be dealt with by the new process? I note that the minister has given some assurances with regard to that, but I think there is a very real concern that potential restriction on resources, whether deliberate or otherwise, is going to impede the capacity of those legitimate complainants to successfully have a matter heard and resolved, particularly when it is proven that there has been a deficiency in the complaints handling process in the past. Again, we are generally supportive of this bill and look forward to seeing how it can and will be implemented at some time in the future.