



Speech by

Paul Hoolihan

MEMBER FOR KEPPEL

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LEGAL PROFESSION BILL

Mr HOOLIHAN (Keppel—ALP) (5.11 p.m.): It is with pleasure that I rise to speak to the Legal Profession Bill although, as a lawyer, I have some concerns about the final effects of certain of these changes. I congratulate the Attorney-General and his officers on the bill, which is a major plank in the reform of the profession. In common with those other speakers who are, in fact, lawyers I realise that consumerism has caught up with our profession.

From the first time I had any input into the law—and I commenced work in the courts system—I acknowledged the practise of law as a profession. Practising lawyers have now been reduced to the level of being a seller of legal services. I believe that some of the concerns expressed by the member for Southern Downs, particularly about large corporations, including national legal firms, are valid, particularly in relation to incorporation of practices. Regrettably, the rights given to interstate lawyers under mutual recognition rules and a national scheme may cause the same difficulties for small practices. I have some difficulties with mutual recognition and the issue of a practising certificate to interstate lawyers, which I will deal with later.

In relation to the training and admission of legal practitioners, there is no justification for concerns for persons working in government service not having a career path. The member for Southport mentioned training under the Solicitors Board. I undertook my training under that board as well, but that method of training disappeared, I think, some time at around about 1985 and now all persons to be trained in the law are required to undertake a university degree, whether full time, part-time or externally.

It may surprise some persons inside and outside this House that the procedures of concern to the Opposition Leader for admission as a lawyer have existed for many years. Although undergoing full-time study, a qualified person still needs the approval of the Solicitors Board before admission as a solicitor by the Supreme Court. Even that admission does not give the person the right to practise law in their own right. They still have to undertake two years articles and undergo a legal practice course before they can obtain a practising certificate. Hopefully, they are finally then able to provide good legal advice after all that study and review.

This procedure for Queensland lawyers is the basis for my concerns about mutual recognition. Any lawyer from interstate who holds a practising certificate in their own state can apply for a certificate in Queensland and secure that certificate. This can put people who have no training or knowledge of Queensland legislation in practise in Queensland, although they will have training in those areas of law which are the preserve of the Commonwealth. Some requirement for study of Queensland legislation should be a prerequisite for a practising certificate in Queensland.

It has always been of annoyance to me as a practising lawyer that we, as a profession, were unable to utilise the benefits of incorporation in the operation of a practice. We get no benefits of using a business structure that would allow superannuation benefits to be provided through that structure. The profession has never received the benefits of limited liability. In reality, incorporation does not now grant any lawyer that benefit, as they attract liability for not only their own action but also any other person who is involved

with a multidisciplinary partnership or an incorporated entity. This bill overcomes that annoyance in relation to the operation of a business structure.

Most reputable lawyers have never had any difficulties with the disciplinary procedures undertaken by their society. If they were a bad egg, they were ousted from the profession. When the complaints procedure was expanded to include a lay observer, it was noted by the observer that the profession was substantially more harsh than what a court would impose on any other malefactor.

Most clients of lawyers have never been aware that banks have paid a rate of interest on moneys in trust accounts in any event. That interest is now paid to, and controlled by, the Queensland Law Society. This bill will formalise that arrangement and give control of those moneys to an independent entity and the value of those moneys will go to legal aid and public defence. No-one would certainly argue with that course of action.

I have some difficulties with the investigative powers set out in clauses 540 to 578 as they do not seem prescriptive enough of the inspectors. The concerns that I have relate to the confidentiality of any documents or detail held in files and, more specifically, files that may not be part of the investigation but could be caught up in it. The inspector can seize any items and there is no procedure that can protect the confidentiality of those innocent parties, which has always existed between solicitor and client. I commend to the Attorney-General some review of the investigative powers granted under those clauses.

Many of the members of the Queensland Law Society will realise that the changes made to their council will give a recognition of the reduced oversight that will result from the changes secured under this bill. It should become a more effective society on behalf of its members without the other obligations of disciplining the profession. The appearance of Caesar appealing to Caesar will disappear.

I have no major concerns about the bill. Once again, I congratulate the Attorney-General on its overall thrust. Maybe to be dragged kicking and screaming into the 21st century will cause some heartache for those who appreciated the professionalism of the law, but we all realise that at least some national standards need to be achieved. The national model rules in this bill will certainly go a long way to achieving those standards. I commend the bill to the House.