



Speech by

Peter Lawlor

MEMBER FOR SOUTHPORT

Hansard Tuesday, 22 May 2007

LEGAL PROFESSION BILL

Mr LAWLOR (Southport—ALP) (7.55 pm): This bill certainly builds on the advances made in the Legal Profession Act 2003 which, in itself, was replaced by the Legal Profession Act 2004. The 2004 reforms followed those introduced by the government in the Legal Profession Act 2003 in the areas of admission, national practice, conduct rules, complaints and discipline, financial arrangements and incorporated legal practices. The reforms before the House today implement the final tranche of the national legal profession reforms.

The benefits of adopting nationally developed and nationally agreed reforms are immense. Those benefits are easily summarised as being nationally consistent standards for admission to the legal profession; a recognition of interstate practising certificates; the strengthening of complaints and disciplinary processes for lawyers, including local enforcement of interstate disciplinary action; nationally consistent trust account requirements; nationally consistent costs disclosure requirements; nationally consistent criteria for the assessment of costs; nationally agreed interjurisdictional fidelity fund arrangements; and new business structure options for legal practices, namely incorporated legal practices and multidisciplinary practices—and that is consistent with other professions, too, such as accountancy practices. Major accountancy firms have legal sections. These business structure options for legal practices are just keeping them up to speed with those other professions. Another benefit is nationally agreed regulatory arrangements for foreign lawyers. The implementation of these reforms in every state and territory will ensure that the Australian legal profession is truly a national legal profession.

If this is what can be achieved between Labor state and territory governments and the coalition federal government, imagine what progress could be made with a federal Labor government working with the states and territories. The coalition in Canberra hopes that its mantra of coast to coast Labor governments—if, as we hope, Kevin Rudd becomes Prime Minister by the end of this year—will persuade voters to vote for the coalition at the next federal election.

I believe that the coalition is misreading the mood of the Australian people. Certainly, I believe the Prime Minister is misreading the electorate. His appearance last week on the *7.30 Report* on the ABC confirmed just how out of touch he is. The presenter, Kerry O'Brien, asked the Prime Minister why his government is travelling so badly in the opinion polls. The Prime Minister's reply was—

Well ultimately, we'll all find out whether it's not all been a, you know, an interesting exercise by the Australian public with its innate sense of humour, and we'll find that out on election day won't we?

I hope the joke is on the Prime Minister. I hope the Australian people have a sense of humour and humour most of Australia by throwing out the government.

These national legal profession reforms are good reforms. They are good for Australia, good for consumers and good for the providers of legal services. They have been achieved with bipartisan support. The challenge in all areas of public policy is to implement reforms that will have a positive impact, which these legal profession reforms will have.

Will a re-elected Howard government want to make a positive impact in other areas of public policy—areas such as climate change, industrial relations and productivity? I think the answer is clearly no.

On a broad range of issues the states and the territories have demonstrated clearly their preparedness to work cooperatively with Canberra on reforms needed by Australia.

This bill will give legal practitioners until 1 January 2008 to comply with the new professional cost requirements, as has been mentioned by the opposition spokesman, and until 31 March 2008 to comply with the new trust account requirements. The situation relating to legal costs has been a continuing source of difficulty and aggravation for some time. The difficulties arise not only in relation to solicitor/client, party and party costs, but also, amazingly, for instance, between taxing officers and judges.

Several of my friends are legal cost assessors and I have been informed of a case that has, fortunately, resulted in a recent resignation. The particular court officer to whom I am referring caused a hell of a lot of legal work himself because some of the decisions that he as a taxing officer had made were so outrageous that they led to appeals. People do not appeal the decision of a taxing officer if the case involves a couple of thousand dollars. However, if you are talking about hundreds of thousands of dollars, in some cases, they have no option but to appeal what may be an unreasonable decision. Unfortunately for the legal profession generally, this particular person would not take any advice from the judgements of Supreme Court judges and other judges. I think he felt that he knew more than the judges and that he was a law unto himself. I understand that he has recently resigned. These reforms, together with the recent resignation of that officer, will alleviate many of the problems that we have had in the area of costs.

The new cost provisions will include the following important elements: cooperative arrangements among jurisdictions about how interjurisdictional issues are to operate; a cost disclosure regime that will benefit consumers of legal services; a provision for the setting aside of unfair cost agreements; exceptions for sophisticated clients, for instance, public companies; a requirement for disclosure updates; procedures whereby costs may be recovered; the regulation of uplift fees; the prohibition of contingency fees; refined billing practices, including requests for itemised bills and interim bills; a cost assessment process pursuant to the court rules; and transitional arrangements to allow the current regime to continue until 1 January 2008. All in all, this will make for a very much improved regime in relation to costs. I commend the bill to the House.