Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

WEDNESDAY, 11 AUGUST 1881

Electronic reproduction of original hardcopy

LEGISLATIVE ASSEMBLY.

Thursday, 11 *August*, 1881.

Questions.—Formal Business.—Motion for Adjournment.—Legal Practitioners Bill—second reading.—Pharmacy Bill.—Burr Destruction Bill.—Adjournment.

The SPEAKER took the chair at half-past 3 o'clock.

QUESTIONS.

Mr. F. A. COOPER asked the Premier—

1. What amount has been paid to date for construction and repair of Wharves at Cooktown, exclusive of all sums expended under the Loan Vote of 1879?

2. What amounts have been received by way of Rent for the Wharves so constructed to date of this inquiry?

3. Is it the intention of the Government to hand over the control, management, and rents derivable from the said Wharves to the Corporation of Cooktown?

4. What sum of money has been expended out of the Loan Vote of 1879 (if any) on Wharf Extension at Cooktown?

5. What amount still remains (if any) of the Loan Vote of 1879 for expenditure on Wharf Construction at Cooktown?

6. What steps (if any) are being taken to Dredge the channel of the Endeavour River to admit of ocean-going steamers taking in and discharging their cargoes at the Cooktown wharves?

The PREMIER (Mr. McIlwraith) replied—

1. From returns ordered to be printed on the 12th June, 1879, the cost of wharves and sheds to the 31st March, 1879, was £4,975 4s. 9d.; and additional, to the 11th August, 1881, £6 12s.; making altogether £4,981 16s. 9d.

2. £6,859 2s.

3. The Government will intimate to the House, during the session, any arrangement that may be made.

4. A sum of about £2,500 is being spent out of Loan Vote of 1879 on wharf extension.

5. There will be about £7,500 left out of the Loan Vote of 1879 after the wharf extension now in progress is completed.

6. No dredging can be undertaken until a suitable dredge is provided, for the construction of which there are no funds available at present.

Mr. F. A. COOPER asked the Premier—

If Mr. Nesbit, the Engineer of Harbours and Rivers, has reported that the Dredge, Punts, and Appliances, now at work at Port Douglas, are worthless and utterly unfit for the purposes required of them; that the machinery is constantly breaking down, and that the continued use of the Dredge and Punts is a sheer waste of Public Money?

The PREMIER: No.

Mr. F. A. COOPER asked the Minister for Lands—

1. What action the Government intend to take in reference to throwing open the Lands for Selection on the McIvor River?

2. Will the original Selectors' Claims be entitled to priority in any subsequent selection of those lands?

The MINISTER FOR LANDS (Mr. Perkins) replied—

1. The lands on the McIvor River will be declared open for selection when the other lands in the Northern districts, recently withdrawn from selection, are re-proclaimed open.

2. No.

FORMAL BUSINESS.

On notice of motion No. 2, standing in the name of Mr. Black, who was absent, being called, and declared "not formal,"

The COLONIAL SECRETARY (Sir Arthur Palmer) asked who called out "not formal?" The Government did not intend it to be made so.

The SPEAKER: It was some gentleman on the cross-benches.

The PREMIER said if the motion could be moved by anybody else the Government had no objection.

The SPEAKER: The motion standing on the paper cannot be moved by anybody else; but, if it is the pleasure of the House, any member can move it without notice, by asking the permission of the House.

Mr. FEEZ, with the permission of the House, moved, without notice—

That there be laid on the table of the House all Papers and Correspondence in connection with the Suspension of the Licenses of Distillers at the end of last year.

Question put and passed.

On the motion of Mr. NORTON, it was resolved—

That there be laid on the table of the House a Return showing the expenditure incurred in Lights, Wharves, and Dredging at each of the different Ports of the Colony during the last ten years.

On the motion of Mr. FOOTE, it was resolved—

1. That the Gulland Tramway Bill be referred for the consideration and Report of a Select Committee.
2. That such Committee have power to send for persons and papers, and leave to sit during any adjournment of the House, and that it consist of the following members, viz.:—Messrs. Macrossan, Archer, Fraser, Black, Hamilton, and the Mover.

MOTION FOR ADJOURNMENT.

Mr. TYREL said he should conclude with a motion, but his object in rising was to draw the Colonial Secretary's attention to a fact which had been reported to himself, and which had also appeared in the public prints—namely, that a Chinese leper had crossed the border from New South Wales into this colony. He believed it was a fact that the unfortunate individual referred to had been arrested by the Customs officer on the border near Stanthorpe, and was requested in the ordinary course to pay his £10 admission fee, and, being unable to do so, was committed to gaol for two months; that in consequence of this the lockup at Stanthorpe had been fumigated; that the whole of the blankets and furniture had to be destroyed; and that the Railway authorities had since refused to allow this man to go on to Toowoomba to fulfil his sentence. He believed the man was now in the country, and he wished to draw the attention of the Colonial Secretary to the fact. He did not wish to occupy the time of the House, and he had no doubt the Colonial Secretary was in possession of more information upon the matter than he was himself. He moved the adjournment of the House.

The COLONIAL SECRETARY said he had little additional light to throw upon the subject. The matter had been reported to him by telegram that a leper had crossed the border, and had been brought before one of our sapient P.M.'s, who had committed him to the gaol at Toowoomba for two months. He (the Colonial Secretary) had instructed the police to carefully remove the man to the border of New South Wales, so that he might go back to the place he came from.

Mr. TYREL said, with the permission of the House, he might state that he was further informed that a subscription had been raised n New South Wales to take this man over the border. Whether that was the case or not he did not know, but he had been so informed on very good authority.

The COLONIAL SECRETARY said he could assure the hon. member that without any subscriptions he would take care the man went back.

Mr. DICKSON said he would take advantage of the motion for adjournment to ask the hon. gentleman at the head of the Government whether any steps had been taken for the reception of the Royal Princes?

The PREMIER said the hon. gentleman might rest assured that the Government would take the necessary steps, and would let the country know what arrangements were made.

Motion for adjournment put and negatived.

LEGAL PRACTITIONERS BILL—SECOND READING.

Mr. LUMLEY HILL said he had much diffidence in introducing the motion for the second reading of this Bill, knowing well the opposition he should have to encounter from the leading barristers in that House, who were also at the head of their profession outside. He must be content, however, to do the best he could, however poor that best might be; and he could console himself with the old adage which said—

"Thrice armed is he who hath his quarrel just."

There was no quarrel here, but there was a case which it was the interest of every citizen of this land to look into, and rectify if possible. He considered, seeing the abuses and hardships that many of the laymen of this country—and especially the poorer classes—were labouring under from the difficulty which existed of obtaining their legal rights and legal redress, he should fail in his duty if he were not to take this opportunity of bringing the matter before the House. He did not claim any originality in this Bill. It was simply one which was introduced some three years ago by Mr. Walsh; and some eight or nine years ago a similar Bill in effect was introduced by Mr. Thompson, which was defeated. This Bill passed the second reading in that House by a considerable majority, but it was subsequently defeated; the end and object of it was defeated by its being mangled in committee. Anyone who referred to *Hansard* of that date would be able to see that. The merits that he claimed for his Bill were its brevity, its simplicity, and its being most liberal in its principles. It was no party question; and he trusted each member of the House would give it the fullest and amplest consideration on its merits. He was aware that he would have the Attorney-General against him, and that did not look as if it was a party question; and he would also have the leader of the Opposition against him. He knew the odds that he would have to fight against would be frightful; but what he craved from those men was that, should they see that this Bill passed the second reading by an absolute majority of the House, and got into committee, then they would not try and take advantage of their legal acumen, cultivated by much reading and practice, to try to burk the Bill and introduce clauses into it which would render it nugatory. He hoped they would render him such assistance as was in their power, so as to make it, if possible, more liberal and more sweeping in its reform. For his own part, he did not see why the Bar should be a close borough at all. He believed that even laymen should be allowed to plead in the courts of this colony. He could instance one layman in that House—the Minister for Works—whose

advocacy he would far rather have than that of many lawyers. If that gentleman had a poor friend who had got a grievance in court, and who could not afford to retain solicitors and counsel, and all that sort of thing, why should he be debarred from assisting his poor friend, who under the present system had to remain out in the cold? He (Mr. Hill) had some advantage in bringing in this Bill in the fact that he was himself a layman, and that he was utterly disinterested as far as the profession was concerned. The only interest he had to consider was that of the people—a portion of whom he represented; and it was only after much consideration that he had been induced to bring in this Bill. Last session he was requested to bring it in, but declined, for he knew the worrying that he was likely to subject himself to. He would get the same worrying now; but it was only after mature deliberation and consideration that he consented to introduce the measure, knowing well from his own experience, and from what he had seen, the hardship and suffering that people had undergone at the hands of the law. He knew enough of law himself, though a layman, to keep pretty clear of it. That was his motto; and he would rather, in the words of one of the old English judges—suffer any insult, any indignity, put up with any loss—than go into the courts of justice constituted as they were at present. His principal reason for introducing this was the constant advocacy of the public for some reform of this character, not only during the last ten years in this colony, but in South Australia, in New Zealand, in Tasmania; and it was only lately that a measure somewhat similar to this had passed its second reading in New South Wales by a large majority. He thought, in a young and new colony like this, it was high time that they broke down the hereditary etiquette of the Bar. He considered the distinction between the two professions simply a barbarous relic of the dark ages—a relic of the old feudal ties. They were bound by none of these traditions. They came here for their own benefit and for the benefit of this country, and, so far, they had made it what it was. Was it not time that they should look out for the future, and simplify the laws when they knew the glaring absurdity of them? They were not bound by any ties to follow the example of the old country and imitate them in any way. Some of their own laws had already gone far beyond the English laws. Torrens' Act was a law which originated in South Australia, had been brought into use in all the other colonies, and found a very useful, simple measure, saving a great deal of time, trouble, and expense. He himself would be glad to see a far more sweeping reform than this, which would do away with such things as interpleaders, demurrers, interlocutory applications to judges in chambers, and such like proceedings, which he considered mere hindrances to justice and the legitimate administration of the law. Why should they debate in that House in one language, and then have their laws in a foreign and unknown tongue? He considered himself a fairly educated man, but he confessed that he did not know the meaning of these legal terms. What was the use of them? They were merely terms which sanctified and justified extravagant costs, and the more complete bleeding of the client. That was the interpretation of them from his point of view. He would quote to the House from a rider by Mr. Lilley, now Chief Justice, to be found in "Votes and Proceedings," vol. I., page 179. This was a rider which Mr. Lilley attached to a report of the Civil Procedure Reform Commission, and it embodied a great deal that he had to say:—

"The 5th raises the much vexed question of professional agency, or employment of counsel and attorney. I will assume it to be sound policy that a suitor, if unable or unwilling to conduct his own suit or defence, must employ a regularly qualified person authorised by the court to the exclusion of all persons not so qualified. Granting that the established monopoly saved time, is convenient, and tends to secure a sounder administration of the law by a body of cultivated men and trained lawyers, the question arises—Why the client should be compelled to employ, at great additional expense, two orders of lawyers, when one or either could do the work at less cost?"

The ATTORNEY-GENERAL: So he can.

Mr. LUMLEY HILL: Not before the full court. The Attorney-General did not appear to know the law. He would quote further still from the same rider, in another paragraph of which he (Mr. Lilley) appeared to lean somewhat to his (Mr. Hill's) view, with regard to laymen—that they might have a fair knowledge of common law which was merely common sense. He said:—

"The short time allowed the commissioners for their work does not suffice for the consideration and adoption of more complete changes, and there is always reluctance in the professional mind to depart too far from old landmarks, or to leave the track of English legislation. I may, perhaps, be permitted to express my opinion that a number of educated laymen might with advantage be added to the commission."

Now, in quoting that opinion of Mr. Lilley, he quoted it as the opinion of a lawyer who had passed through both grades of the profession himself, and excelled in both until he became Chief Justice of this colony; and who was not only attorney, barrister, and Chief Justice, but Queensland's ablest Liberal statesman. He would further use the time by quoting from a speech of Mr. Lilley reported in *Hansard* of 1872, page 99. He did not like to take up the time of the House by reading the whole speech, but would wish that hon. members would read it themselves. It embodied, in far more able and eloquent and forcible language than he could hope to express, the views he held, and the perusal of it would convey to their minds—and it was they who had to decide this question—the advantages of this Bill. Mr. Lilley said:—

"It was his conviction, after long reflection, that by making it the interest of one man to take the whole conduct of a case himself, and by putting a short, sharp, and effective weapon in his hand, it was possible to get a digest such as he had mentioned. But so long as there was an artificial division in the profession it would be to the interests of attorneys to maintain the present cumbrous and expensive system—such as the numerous interlocutory and other applications to judges in chambers, and similar proceedings, which one would almost imagine had been created for the sole purpose of wasting the substance of their client. Then there was the barrister's position. Now, why should an attorney, with that simple mode of procedure in his pocket or in his head—why should he be debarred from appearing as an advocate if he felt that he possessed the requisite ability to discharge the duties of that position? He had no hesitation in saying that it was not at all difficult for a man who had been an attorney to become an eminent barrister; and he could not see why, if a man was willing to give his time and attention, and to undergo the requisite amount of study, so as to be enabled to discharge both branches of the profession, he should not be at liberty to do so."

Now they had the power in their hands, and now, he said, was the time to introduce that reform. He could give numerous instances of the hardships which had occurred, and of the waste of estates which had taken place, through the malversation of the laws—for it was nothing else—which took place between the two professions, but he would content himself by quoting one example quoted by Mr. Lilley:—

"A man died in this colony, leaving property to the extent of £700 or £800, and owing one debt of £50 to a bank; the estate was administered in the same cumbrous and wasteful manner, until there was not £10 left to pay the debt, and the children were left without

anything. All the property was scattered to the winds, and the children were left penniless."

Then he went on to say:—

"Such, at any rate, was his horror of dying, and leaving his estate to be squandered in that way, that he would, if it was possible, sign a deed with his last gasp and give it away."

He might be referred by the opposers of this Bill to a speech which the same gentleman (Mr. Lilley) made in the previous session, and he might be asked if he had read that. He had read it, and hoped that hon. members had also read it. He could not tell whether the interpretation of that speech would go the same way with them, but to him it seemed to be this: That in his first speech Mr. Lilley was struggling with a feeling of loyalty to the profession he had so long adorned, and that he did not speak from the bottom of his heart with the force and eloquence and sound logical reason which, look where they would, they found in every line and every word of the speech he had quoted. There was another point to which he would like to call the attention of the House. The present law made the solicitor responsible for gross negligence in conducting a case; but, under existing circumstances, he was able to shirk that responsibility entirely by the intervention of the barrister, who was absolutely irresponsible through some pleasing fiction of his not being obliged to be paid. They knew they were paid, and very well paid, but were supposed not to be. He (Mr. Hill) was not ashamed to take money from any man in a legitimate business way, and why should there be this shallow and hollow mockery in the legal profession? Further than that, suppose a case went into court. A barrister was retained, and supposing he was incapable, from some fault of his own—to give a somewhat strained illustration, suppose he was drunk in bed—and the client lost his case, there was no remedy whatever. Again, if the barrister had two briefs at the same time in different courts, he could elect to appear for one and discard the other. That was not likely to occur here at present, but they were legislating for posterity as well as for themselves. He knew a case where a barrister had seven briefs in different courts, while he was only able to appear in one, the brief marked with the highest figure retaining his services, and the others were put into the hands of other members of the profession utterly regardless as to whether they were competent or equal to the occasion. The professional reputation of the barrister retained in all those cases was not at stake in the slightest degree, but he pocketed the fee. One objection that might be taken to this Bill was that the education of the young barrister was not sufficiently provided for; but if they looked at clause 3 they would find that it was provided for, and that the judges had power to reject at any time any candidate they did not think fit to intrust the interests of the public to. But the highest point was that in which the man had his whole character at stake; and, having the whole of the responsibility, if he went into court once and made a fool of himself he was not likely to do it again, as he could do now when there was no responsibility. The public would be pretty well able to protect themselves in these matters; and if a man made a gross, lamentable failure once, he would not get many more opportunities of repeating it. Under existing circumstances, how were they to detect where the fault came from? If they went to a solicitor he would say, "The barrister, Mr. A., neglected my instructions;" and if they went to the barrister he would say, "The solicitor did not instruct me properly." There was no responsibility at all. He would be told that this Act would not make the law cheaper, because leading barristers and leading solicitors would enter into unholy alliances and keep the scale of charges as high as ever; and it might be so. He was quite willing to admit that there were plenty of people and corporations, such as the Government, who were very good subjects for legal plunder, and were able and willing to pay the highest members of the profession for the best legal advice; but in those cases he maintained that even if the work was not more cheaply done, it would be better done. The reason he said that it would be better done was that a barrister would have a more intimate acquaintance with a case got up in his own office than if the solicitor simply trotted off with the brief to the barrister's chamber, and the poor man could always get outside of a combination of the kind that at present existed. There would always be some junior, perhaps able enough, who would be glad to take work at a much lower rate than was extorted by the most able lawyers. At all events, what he said was—and he appealed earnestly to the House—give the public an opportunity of testing it. At present they might have good cases, but under existing circumstances how could they go to a lawyer? He was a firm believer in the American system of contracting for cases, and he believed it answered well, both as far as the profession and the public were concerned. It had produced not only good solicitors and good advocates, but most able jurists, some of whom were regarded as authorities even in Westminster Hall, such as Kent, Parsons, and Storey. He believed there were no law writers with whom those men would not compare favourably. One good result from the system of contracts would be that there would be no inducement to prolong suits, and it would do away with the abominations commonly called "refreshers." A man would thus know what to expect, and would not go into court with a suspicion that an endless bill might be hanging over him. If a young and rising barrister, who had not had an opportunity of large practice in a solicitor's office, undertook a case such as this, he could easily work himself up in any of the technical points by going to a solicitor and paying him for advice. It would be outside his contract, and that was the position he ought to take up. He believed that the time of the judges would be saved very much by this Bill; there would be no indefinite prolongation of cases. They would get through them in much quicker time. At the present time a Bill similar to this was before the House of Commons, called the "Barristers Extortion Prevention Bill," which did not speak very well for the integrity of the profession at all. He did not blame the profession here. Their scale of charges, however high, was perfectly legitimate, and they would be great fools if they did not get as much as they could, when they had license to do it. He had made out a sort of schedule of preliminary payments demanded from a person bringing an action under the present system. In the first place he went to a solicitor and laid his case before him; he paid for that. The case was written out by the clerk; he paid for that. He paid also for the obtaining of the opinion of counsel, for law pleadings, for advise on evidence—when both solicitor and barrister had to be paid—and for the conference of barrister, solicitor and client, when again both had to be paid. Thus there were eight preliminary payments. Now, why on earth should the public be subjected to this, when one payment would amply suffice? He could quote the instance of a member of this House—whose absence he regretted—the member for Moreton, who had been a solicitor, and a very able solicitor too. He went to the higher branch of the profession, and he even went on higher than that and became a Queen's Counsel. They all knew that he was a most able advocate, as well as being a shrewd

lawyer; but if he (Mr. Hill) wished to approach him now he would have to pay a solicitor, and if he appeared in court he would have to have a junior with him, and all through this wretched etiquette of the Bar. Why, he would like to know, should the public be debarred from the services of the member for Moreton through this iniquitous system of etiquette? The client would give the barrister the work to do for the payment of a certain sum, if he could approach him direct; but if he had to approach him by the intervention of a solicitor and a junior, he could not stand it, and so a man gave up his just rights and suffered loss rather than have money extorted from him in that way. It was nothing more than obtaining money under false pretences. His object in bringing in this Bill—and he maintained that it should be the object of modern civilisation—was to make law cheap, quick, and good, and so bring justice within the reach of the humblest individual. Through a system which very much resembled that of a trades-union, to keep up the price of law, we now found ourselves in the position of having granted a monopoly of the pleading and advocacy of the laws to the profession, and the House was the only guardian between the public and the abuse of that monopoly. He maintained that the intervention of the House was the only safeguard the public had, and he considered it high time that they began to put a stop to this thing, before it was handed down to posterity as a hereditary piece of etiquette or humbug utterly opposed to all common sense. The present leader of the Opposition—at that time the Attorney-General—as far back as 1874, introduced some concession or some protection to the public; and if hon. members referred to clause 22 of the Supreme Court Act, 1874, they would find that—

"Every attorney, solicitor, and proctor of the Supreme Court of Queensland shall hereafter have and be entitled to an audience before any circuit court, or assize court, or any other court held before a single judge of the Supreme Court."

This was a small modicum of protection offered to the public, and he maintained that it was very one-sided and unjust, more especially to the junior members of the Bar, who had lost a lot of valuable practice, which it was to our interest to see divided amongst them.

The ATTORNEY-GENERAL: No.

Mr. LUMLEY HILL: The Attorney-General said "No;" but he repeated that it ought to be to our interest. How were these men, if they got no practice, to rise and become shining luminaries such as the Attorney-General had become? Who was to succeed the hon. gentleman? or who was to succeed the hon. the leader of the Opposition? This question was beyond all consideration of the interests of the profession on either side, either solicitors or barristers. Their interests should not be considered for a moment as against the public interests. At the same time, he maintained that the profesional interests would not suffer if this Bill were carried: there would be more law, and infinitely more justice. More cases would come into court, and they would be more speedily disposed of, while in some instances they would be conducted at a much lower rate. Why should junior members of the Bar be debarred by this etiquette from accepting a lower price than that which one of the leaders of the profession would have required to have marked on his brief? Now, in the matter of chamber applications to a judge: there was for this a regular fixed fee, and a leading barrister got just about the same price as a junior barrister. If all were to be obtainable at the same price, the solicitor would select the best he could get, and the junior barrister would be shut out from all that kind of little pickings which might bring grist to his mill, and enable him to read on and advance in his profession. He saw that in a late debate in the Legislature of New South Wales the Attorney-General there had laid it down as a sort of maxim that in the most civilised States the law was most complex. If that was the case, the only reason he could give for it was that the lawyers always got ahead of civilisation; they never allowed civilisation to get ahead of them. But he maintained that it was a disgrace to civilisation if it allowed itself to be outwitted by lawyers in this way. Law should be cheap, quick, good, and of easy application. Let them take even the Divine law: could all their civilisation show anything more beautiful, more simple, and at the same time more comprehensive and concise than that? Certain creeds prescribed certain degrees as necessary before anyone was allowed to practise. He must be ordained, or consecrated, or something of that kind; but still there was nothing in that law which prevented any man, feeling himself possessed of the gift of eloquence or oratory, from advocating and expounding that law; and he (Mr. Hill) held that whatever creed or profession he might be attached to, so long as he was earnest and sincere, he could do naught but good. He had now to move that the Bill be read a second time.

Mr. SWANWICK said that when the matter of this Bill, which had been so ably advocated by the hon. member, was first brought before his (Mr. Swanwick's) notice, he certainly had an intention of voting for it; but having since taken a great deal of time to consider the Bill and its effect, he found it absolutely necessary that he should not support it. Of course, his single vote would have very little effect, and he must say frankly that, if he returned to the practice which he had left for a time in the North, there was no doubt that if this Bill became law it would advantage him to a very considerable extent. But there were other things to be considered besides the question of £200 or £300 a year. His objection to the Bill, to begin with—though this was a matter that could be very easily rectified in committee—was that there were mistakes all through it; and if this was a copy of the Bill which Mr. Walsh introduced some time ago, all he (Mr. Swanwick) could say was that he was sorry for Mr. Walsh, because the person who helped him to draft this Bill knew little or nothing about what he was doing. He would refer hon. members to the extraordinary wording of the first section:—

"From and after the passing of this Act, notwithstanding any statute or rule or order or practice or regulation of court to the contrary, every person now practising"—

He did not know why the words "now practising" should have been used; but perhaps it was the intention to use the word "admitted," because there were barristers in this colony who had been admitted and who did not practise; and if this House passed the Bill, those men who had not begun to practise, for various reasons, would not be able to take advantage of its conditions. Then again, in line 11 there was an error, which was merely verbal, no doubt, although it was a stupid mistake. It referred to "a proctor or solicitor," which, he presumed, was intended for "a proctor and solicitor." Then in line 15 it stated that the "rules and regulations not incompatible with the foregoing." Foregoing what? It stopped there. Was the word "rules" in the margin a mistake? The clause proceeded—

"now practising or who may hereafter be admitted to practise as a barrister in the Supreme Court may also practise as an attorney, proctor, or solicitor thereof

and in all other courts; and every attorney, proctor, and solicitor thereof, or who shall hereafter be duly admitted, may practise also and have full audience in the Supreme Court and all other courts of the colony."

Admission to a title? There was no sense in it. Admission to the title of attorney, or admission to the title of barrister-at-law? What was admission to a title? Nothing at all. Then there was clause 3—

"Notwithstanding anything before enacted to the contrary, any person duly admitted to practise in the law courts of the colony shall be deemed eligible to fill the position of and appointment to discharge the duties pertaining to any office of the Supreme Court."

Now, as it stood there, as soon as this Bill became law, there was nothing whatever to prevent any Government that might happen to be in power from making provision for junior members of the Bar, or members of the other branch of the profession, and appointing any of them to the position of Supreme Court Judge, or District Court Judge, or Crown Prosecutor. He had said that if this Bill became law it would be an advantage to him; but, at the same time, it would bring with it one of the greatest misfortunes that ever befel the clients of this colony. It was very well known that, however well read a man might be in law—and he knew there were a great many lay members of the House who were very well read in law—but, however well read he might be, when once he got into court to expound what he had read, he would be utterly at sea through want of practice. There was no doubt whatever that it took years of painful care, and years of worry and humiliation, for a counsel to be able to take his case through even one of the inferior courts. Everybody who had studied law must know that it took many years and great experience to enable a man to appear even in the inferior courts, and to carry out his case as thoroughly as it could be carried out. However, as it stood, the 3rd section gave power to any Ministry of the day to provide comfortable positions for their friends. Not that he supposed for a moment that the late Attorney-General, the leader of the present Opposition, or the hon. member who was now Attorney-General, would do anything of the kind. Having the love of their profession at heart, they would put into positions of trust and confidence the best men they could get. But, of course, there was the natural leaning of one man towards another; it was natural that a man would appoint his friend, and he did not see why it should not be so. But there was a very wise provision in our District Court Act, unless he was mistaken, to the effect that no professional man could become a judge of the district court unless he had been a practising barrister of five years' standing, or had filled for some two years a professional position—such, for instance, as that of Crown Prosecutor, or unless he had been a solicitor of seven years' standing. The reason was that at the time the Act was passed there was a regulation in Queensland which had since been abrogated, and under which abrogated regulation he (Mr. Swanwick) came, to the effect that anybody wishing to become a barrister of the Supreme Court of Queensland should give three years' preparation—during which he should not have anything to do with outside work—for the particular duties which fell to the lot of a barrister. These three years must be added to the five years before he could become a judge—making, in all, eight years' experience. But this was not the preparation gone through by a man prior to his becoming a solicitor of the Supreme Court. His time would at first be mostly taken up copying in a solicitor's office, where he would be an articled clerk. He might have to learn to write a legal hand, and, in all human probability, how to engross; and would also have to keep the books, copy pleadings, and other documents, and do a good deal of running backwards and forwards on errand work. Towards the latter part of his term he would find that he had wasted a good deal of time, and he would then have to read very hard during the last year. He (Mr. Swanwick) had had considerable experience on the subject, having within the last two or three years prepared for final examination something like ten gentlemen, who were now solicitors of the Supreme Court. Many of them, when they came to him, were quite unprepared for the examination which they would have to undergo within a few months; but they worked hard and passed, and three months after they knew no more than they did when they commenced to study, as some of them admitted. They came to be crammed, and they were crammed; he was paid to cram them, and he crammed them. They had then got to learn their profession; and the law had therefore very wisely said that a man should not be raised to the bench of the district court until he should have had seven years' practice at the profession. The intention of the Bill was no doubt very good, and he had listened with great pleasure to the manly, outspoken speech of the introducer, who certainly had the matter at heart, and who advanced many good points for consideration. There were some things, however, which the hon. member, in the earnestness of his advocacy, utterly ignored. Perhaps it would be safer and kinder to say that the hon. member did not know of them, for he was quite sure the hon. member would not have kept back anything which he felt to be of importance. It had been said—perhaps wisely, from the standpoint of the hon. member—that hon. members of this House were the only persons who could stand between the suffering client and the avaricious lawyer; but the hon. gentleman would hardly wish that the House should deal unjustly with existing rights. Comparatively recently—about the beginning of this year—new rules and regulations had come into force, and now the work of an articled clerk, before he could become a solicitor, was exceedingly hard and onerous. Before becoming an articled clerk a youth must—as far as he (Mr. Swanwick) remembered at the moment—pass an examination in two languages, and in a number of other subjects—an examination which a boy who had recently occupied a good position in a grammar school might be able to pass, provided he had read the prescribed text-books. The old examination through which an intending solicitor had first to pass was a mere matter of formality—a little bit of Latin, some sums of practice or the rule of three, and perhaps a piece of dictation and composition. After that skirmishing examination there was nothing to impede the articled clerk in his work—no bugbear of an examination—until he had spent five years in the profession, when he passed an examination in at least six out of eight subjects, and became a solicitor on paying his fees. Now, however, when half his term had expired, the articled clerk had to take up the four volumes of Blackstone and pass an examination in the Common Law of England, and at the end of his term he had to pass another examination in six to eight subjects. In addition to that he had to pay heavy fees. No solicitor was permitted to take more than two articled clerks, and any leading solicitor taking a youth required a premium. Then the articled clerk had to pay a fee on his first examination, a fee on his second examination, and a fee at the end when he was admitted. All the gentlemen to whom he had referred had lately passed, and they, as well as other solicitors now in Queensland, should be con-

sidered before the Bill were allowed to pass. A young man, therefore, to become a solicitor, had to pay a premium, pass three examinations spreading over five years, and then pay a heavy fee upon admission. He would now ask hon. members to consider the case of a barrister. Of course, he was not now speaking of men who had been failures in other parts of the world, and who, because they had been admitted, were allowed to prowl all over the world interfering with other people. He had never yet seen a barrister coming out from England under such circumstances who could earn salt, and he was prepared to say that Queensland barristers, who had to pass as hard an examination as any young man coming out from England, were perfectly able to hold their own. He would draw the attention of hon. members to some details with reference to barristers of which they might not be aware. A young man who had received some culture at school, and had, perhaps, acquired a taste for reading, and had a certain amount of leisure, made up his mind that he would not go on as a shopman or a clerk any longer, but would have a slap at the Queensland Bar. All he had to do was to give one year's notice, obtain a certificate from two householders that he was a respectable man, and then, at the expiration of the year, pass a classical and mathematical examination—which was certainly not an easy one—and, immediately after, a legal examination. He had then only to pay his fees to be a barrister. It was evident, therefore, that the intending solicitor was much more heavily handicapped than the intending barrister. There was no doubt that the work of a solicitor was hard, and that he had to go through a great deal of mere drudgery; whereas the great work of a barrister was advocacy, and it was very handy for him if—like the hon. member for Enoggera—he had the gift of tongue. He would engage to say that, with the exception of the leader of the Opposition, who passed some time in Mr. Macalister's office, and the hon. member for Moreton, who was himself a solicitor, and the hon. member for Cook, who was upon the solicitor's roll in New Zealand, and Mr. Chubb—if the whole of the Queensland Bar were shut up in a room and told to draw up a cattle mortgage they could not do it, though it was a matter which a solicitor's clerk of four years' standing would think nothing of. He therefore thought that this measure, if passed, would be unfair to the members of the junior Bar, because it would put them into a false position. At the present time, if a solicitor misconducted his case his client had an action against him; and if a barrister virtually became a solicitor he also would be similarly liable. The principle at present recognised seemed to be that, as a barrister could not sue for his fees, he could not be sued for misconducting a case; and that, as a solicitor could sue, he could also be made to pay. Supposing a barrister who had never been inside a solicitor's office except to look for a couple of guineas for conducting a police court case, and whose boast was that he did not know and would not know anything of a solicitor's work—supposing such a barrister suddenly became a solicitor at Aramac, Blackall, Thornborough, Winton, or Thorgomindah, what sort of a position would he be in? He would make such a mess of nine-tenths of the work given to him that he would in six months be involved in enough lawsuits to last him the rest of his natural life. With the exception of the ordinary cases of assault, he would make a mess of everything, as every lawyer knew; and the work of a solicitor in a country place included the drawing up of mortgages, conveyances, wills, and other legal documents. He had heard the other day that a barrister in Brisbane had found it necessary to ask what stamp was necessary to be put upon a man's last will and testament, and whether such a document would have to be registered. To turn such a man as that loose to prey upon society would be perfectly monstrous, and clients would be inclined to say "Save me from my friends," if such were the result of this measure. It was also unfair to the client. For instance, supposing that one of these barristers, who had recently become a solicitor in some country place where he had no one to consult, were called upon to draw up a mortgage in two days. Being young and not overburdened with this world's goods, he would, perhaps, be badly off for books, and he would have to do the best he could according to his lights. In case of an irregularity in that bill of sale and the consequent refusal of the Registrar to pass it, the event which the unfortunate client wished to avoid might happen, and the man be made a pauper. He would naturally turn round and want to go for the barrister who had represented himself as a solicitor, and would start for another town, travelling, perhaps, many miles before he could find another solicitor. That solicitor, when found, would probably require twenty-five or thirty guineas before commencing proceedings, and unless the unfortunate client were sufficiently in funds to pay he would be unable to carry on the case against the man who had virtually let him in. Under the proposed measure there would be nothing to prevent such a case as that; and, therefore, it was unjust to the solicitor, unjust to the barrister, whom it placed in a false position, and most unjust to the client. No doubt, when such men were once turned loose upon society, they would in time acquire experience at the expense of the unfortunate clients who entrusted their cases to their hands. It was extremely likely, as the hon. member for Gregory had stated, that, in the event of the Bill passing, solicitors and barristers would go into partnership. The two branches of the profession required such different training and work, and were so entirely opposed, the one to the other, that it was very difficult to find one individual who could combine the skill of an advocate with the skill of a solicitor, and therefore there would be what the hon. member was pleased to call unholy alliances between the younger barristers and the younger solicitors. He frankly admitted that if the Bill passed he should himself have no cause to complain of its operation; but, having trained so many men for that kind of examination, he felt that the duty was laid upon him of speaking up for them and their interest, and he had done so to the best of his ability. In praise of the Bill the hon. member said it was remarkable for brevity, and if it had contained the soul of wit, that would, no doubt, have been a great advantage; but it was sometimes a mistake to have Acts of Parliament too brief—they might be made so short as to be actually obscure. But with regard to the person who had drawn it up, if he could only have been found in time he ought to have been taken to the Exhibition and shown as a curiosity. No doubt there was a great deal of simplicity about the Bill, but there must have been a great deal more about the man who drafted it. The hon. member had also spoken of the liberality of the measure; but he (Mr. Swanwick) failed to see where the liberality came in, unless the liberality were like that of the man who scattered a handful of stolen money among a crowd of people. Before the House could be liberal it should be just, and he did not think the House would hurriedly pass a Bill which would inflict great injustice upon solicitors. He believed that the passing of the Bill might personally benefit more than one member

of the legal profession; it might benefit the hon. member for Cook, and perhaps himself. The hon. member said, in the course of his remarks, that he should like to see a system introduced by which professional men might bind themselves by contract to see a case through. As a matter of fact, he believed that system already existed in England, and that a solicitor there could take a certain amount for the conduct of a case. There was no reason why that system should not be introduced here, and he should be glad if it were. He was quite satisfied that it would be a very good thing indeed for the legal profession if there were a definitely fixed scale, as it would put a stop to a great deal of the growling and grumbling that there was now. It seemed that there was an idea in the House that when barristers and solicitors were employed barristers made a very good thing out of it; but he had yet to learn that. There was a case the other day up north—he would not mention names—for a small amount of £5. The solicitor who acted up there—he forgot whether he resided there or not—received about £19, and the unfortunate client gave instructions to another lawyer to go up there and fight for it. But the lawyer said, "If I go up there it will cost you £50, and then you won't get it;" so the client had to pay the amount. It was the solicitors who got the cream; the barristers did not get the cream. He knew of another case the other day, in which he was sure the hon. member for Enoggera (Mr. Rutledge), had he been concerned, would not have been paid more than three guineas, yet in which the solicitor's claim came to twelve guineas. It was not the barristers who got the cream, but the solicitors; and yet it was now proposed to put into the hands of barristers the same power that solicitors had. They were going to turn upon the country, which was perfectly deluged by members of the legal profession—he was sure that Brisbane fairly stank with lawyers—twenty-two more to prey upon the vitals of society—twenty-two more to abolish all etiquette, to do as they liked, and to provoke litigation in every way they possibly could. He had very little more to say on the matter; he had said nearly all he had to say. But as regarded the 3rd section, he might say that what he suggested at the beginning of his remarks had before this been illustrated—when a man who was not fit at the time, whatever he might be now, for the position, was appointed by a late Attorney-General to fill a very important position in the North. That was the Crown Solicitor now at Bowen, who was appointed when he was only an articled clerk, and when he had not passed his examination. The duties of a Crown Solicitor were not light, and they required a considerable amount of experience; and he had no doubt that, if they could dive into the secrets of the Northern Supreme Court, they would find that many mistakes had been made—not because the Crown Solicitor was not now a smart man, but because he had not had that experience that a man appointed to such a responsible position should have. He (Mr. Swanwick) knew that the most humiliating time he ever had, almost in the whole course of his life, was when he went to prosecute on behalf of the Crown for Mr. Pring, the then Attorney-General under Mr. Justice Harding, at Rockhampton. He had had plenty of work in the District Courts, in the Supreme Court, and in the Police Court here and elsewhere; and he was sent out, after two years of a good deal of work, to be a prosecutor for the Crown. He worked nearly all night trying to get the cases up; but there was a new judge, who had had no criminal work, and a new Crown Prosecutor who hated the work, and they could easily imagine the jolly mess they got into. Some hon. members were up there at the time, and they would remember the mess there was. It must be remembered—he was sure the Attorney-General would acquit him of desiring to make any reflections on him or any other Attorney-General—that there might be Attorneys-General who might have one or two hangers-on, and who might appoint one of them to fill a position such as that of Crown Prosecutor. He thought that there might be a great miscarriage of justice in that way; and that while it might be right that it was better for ten guilty men to escape rather than that one innocent man should suffer, yet that no doubt a great many guilty men would escape, and that it would be highly detrimental to the moral and social well-being of the colony. He thought the 3rd clause was either utterly useless or very dangerous, and that it ought to be struck out, because it was giving power where power of that kind should not be given. It was perfectly within the province of the hon. gentleman to appoint anyone, whether from England or belonging to the colony, to the post of Crown Prosecutor. There had been a certain respect for the profession on the part of gentlemen who had occupied the position of Attorney-General which had prevented them filling up positions of that kind with incompetent men; but because incompetent men had not been appointed in the past it did not follow that they would not be in the future.

Mr. TYREL said the hon. member was wandering from the subject before the House.

Mr. SWANWICK said that such power gave considerable latitude to the Attorney-General of the day to find billets for his friends. He certainly thought the Bill was uncalled for, was not wanted, and was unjust; and that it would not assist the very persons that the proposer of the Bill desired to aid—namely, the unfortunate clients, the people of the Colony of Queensland.

Mr. STEVENSON said he would only make a few remarks on the Bill. He congratulated the hon. member for Gregory on the very able manner in which he had introduced the Bill, especially considering that he was a layman. He had also to congratulate the hon. member for Bulimba on the unselfish part he had taken in opposing the Bill, because in his advocacy he had gone altogether against the advancement of the profession which he represented. He (Mr. Stevenson) thought that, if the Bill did not receive any better opposition than it had received from the hon. gentleman who had just sat down, the hon. member for Gregory would not have much difficulty in passing it. He began by opposing the Bill because it was not properly worded; but it could be altered in committee. The hon. member objected to a word in the first clause, where the language was:—"Every person now practising, or who may hereafter be admitted." The hon. member said the word "practising" ought to be "admitted," and that could be very easily done. He (Mr. Stevenson) did not know who was the author of the Bill. He knew that the hon. gentleman who brought in the Bill was very independent as regarded lawyers, and very likely did not ask any lawyer to draft it for him, while, at the same time, he was not as well acquainted with technicalities as the hon. member for Bulimba. The words that the hon. member had referred to might easily be made to read "admitted, or may hereafter be admitted." The hon. member also referred to the work of solicitors, and said that men who had been "crammed" were not fit to practise as barristers in the Supreme Court, because, he said——

Mr. SWANWICK said he had never stated anything of the kind. He spoke of barristers not being able to do the work of solicitors.

Mr. STEVENSON said he had understood the hon. member to say that "crammed" solicitors, though they passed the examination, were not in any way fit to act as barristers. If men were "crammed" to pass as solicitors, there was no reason why they should not be "crammed" in the same way to pass as barristers. The hon. member did not seem to have any consideration for the outside public at all, but he (Mr. Stevenson) thought the House ought to consider the general community in this matter. The hon. member said that the Bill would interfere with existing rights. In every reformation that took place there was an interference with existing rights; but he (Mr. Stevenson) thought that the intention of the hon. member who introduced the Bill was to interfere with existing wrongs. That was the point that the Bill aimed at. There was no doubt that very great wrongs did exist on the part of legal practitioners. The hon. member for Gregory had read a schedule of preliminary expenses in entering an action. He (Mr. Stevenson) quite agreed that those expenses were very high, but he should like to know if the hon. member knew anything of the expenses incurred in connection with the withdrawal of an action. He would find them quite as high. The demands made by the solicitor for consultations with counsel, and other things in connection with withdrawing an action, made it quite as expensive as entering upon one. He had had a little to do with law. He never had anything to do with it without he thought he was being imposed on; but, Scotchman-like, he never liked being imposed upon, and he had sometimes, through sheer obstinacy, gone to law. The result was that, owing to the heavy expenses, he always found that he was being imposed upon more. A great deal, he thought, was done by a collusion between the barrister and the solicitor. In introducing the Bill the hon. member for Gregory alluded to an important speech that had been made by a former member, now Mr. Justice Lilley; and he (Mr. Stevenson) thought that a great deal of stress ought to be laid on the arguments that that gentleman brought forward in this House on the Bill submitted in 1872. He need not quote that speech now, but he had read it last night, and he thought there was a great deal to say in favour of it. The present Attorney-General, once to-night, while the hon. member for Gregory was speaking, interjected a remark that the public differed so much in employing barristers who had proved that they had no ability to advocate causes; but that was not always the case. Sometimes people in outside places went to a solicitor, who employed any barrister he liked, whether he was an able barrister or not. He (Mr. Stevenson) did not think the public had it all their own way in that respect, because people often left the matter in the hands of the solicitor. The hon. member for Bulimba had said a good deal about the education for the different branches of his profession, but that was a matter for the lawyers themselves to consider. It would be very easy to put in a clause in this Bill assimilating the education of both branches of the profession. He thought that this Bill, if passed, would have the effect of cheapening law. That, in the interests of the outside public, should be done, and he hoped that hon. members would look more to the effect that it would have on the outside public than to any technicalities or any educational differences between the two branches of the profession.

The ATTORNEY-GENERAL said the hon. gentleman who had charge of this Bill at one time said that he hoped the Attorney-Genera. would give his assistance during its progress through the House. He could say that if he found that a majority in the House intended to carry this Bill through he would do his best to put it in the best form. He would assist to that extent, but he must say that he was opposed to the Bill altogether, and mainly for this reason: he could not see there was any grievance under which the public were suffering which called for such a remedy as was proposed by the hon. member. If he was suffering under any great difficulty in the conduct of his cases, that was the fault of the law and not of the lawyer. It was competent for any layman to conduct his own suit through right to the very end. He could issue the writ in his own name; he could do all the office work, conduct the pleadings up to taking the verdict; but he (the Attorney-General) was glad to say that very few men undertook such responsibility. They found they were tripped up so easily by the intricate rules—they found that it was impossible to get along by themselves. They therefore went to the lawyer, and was there anything wrong in that? If a man broke his leg, he did not try to mend it himself; he went to a surgeon. If a man got a disease, he did not attempt to cure himself, but he took the matter to a skilled man for cure; and so it was with the lawyer. It was said that the man who was his own lawyer had a fool for his client, and the public believed this. They got the best lawyer they could, and got him to conduct their cases for them. If there was any difficulty in the law—if it was dear and nasty—he could not see how the remedy could be applied by amalgamating the two branches of the profession. How could that benefit society? Would it make law cheaper? He ventured to say not. The functions of an attorney were different altogether from those of the barrister. The attorney heard the client in his office, learnt the facts, and put them into shape, ferreted out the evidence, and took all the preliminary steps. The barrister was a gentleman, learned—or supposed to be learned—in the law. He would take the case before the court. It mattered not to him what long rigmarole had been told to the attorney. He only dealt with what the attorney had put before him. He placed that, to the best of his ability, before the jury, and applied his knowledge of the law generally to the conducting of the case. These two functions—the function of the barrister and the function of the attorney—were entirely different, and he did not know any one good reason why the two branches should be combined together. It was even now competent for attorneys to carry a case from the beginning to the time when an appeal might be made, but he did not know one attorney in Brisbane who did so. There was one, he believed, at one time, but he always lost his cases. In other colonies where the amalgamation of the professions was in force—South Australia, for instance—he did not know of any one gentleman who listened to the whole case from the client and then took it before the court. If the amalgamation took place the result would be that partnerships would arise between barristers and attorneys. It was a highly improper thing to take place, because it would place in the way of both barrister and attorney the temptation to get more out of a client than they could do at present. He thought that amalgamation would place such a temptation in their way, and it was not right that it should be so. The hon. gentleman said that he had such a horror of law. No doubt this arose from a sentimental and not a logical cause. He had been in a law court, no doubt, and had found law a very costly thing. He said now that he would rather suffer any indignity than go to law. But suppose they passed this Bill, would he have any desire to go to law then? He (the Attorney-General) did not see that he would. The desire,

too, on the part of the public—who did not understand the question—to have the two branches amalgamated arose from the deeply rooted antagonism to lawyers which existed. He did not wonder at it. They were not pleasant people. The lawyer on your side contesting your case was a hero to you, but at the same time he was a demon to the other side. There could be no doubt that the public generally disliked lawyers—disliked the men who had to be paid to search through the paths of the law, and who cost them, it might be, hundreds of pounds. The public disliked this, but their indignation should not be directed against the lawyer, but against the system which rendered so much expense and so much trouble necessary in connection with legal proceedings. If anyone said that their laws were too many—that it was too hard to get at the truth of them—that the kernel was too difficult to get at on account of the hard shell, he would say in reply that he was inclined to agree with such a view of the case. But for anyone to say that all this was the fault of the lawyer was wrong. It was not a statement of fact. If anyone was to be blamed let people blame those who made the laws, and not the men who had studied for years to be able to steer them through the cases. The hon. member suggested that, as in this colony they had done many things, and taken many steps of an initiatory character—steps which even England had never thought of—they ought to take this one. The hon. gentleman mentioned the Torrens Act, but it was not wanted in England, where there was no Crown land. The hon. gentleman went on to mention a number of forms—pleas, interpleaders, demurrers, and other things; and asked what use were all these. It was not for him to explain what use they were, because, whether they were useful or not, this Bill, if it passed into law, would not deal with them, or affect any of the costly steps which had to be taken in connection with a suit at law. The whole result of this Bill, if it became law, would be to drive the members of the two branches of the profession to protect themselves. The attorney would say—"I have now the power to conduct a case before the Supreme Court; but, although I have that power, I have no desire to exercise it." The barrister would say—"I have the power to issue a writ and hear what the clients have to say, but I have neither the will or inclination or knowledge to hope to do it successfully." The result would be that these two gentlemen would do what they were able and accustomed to do, because they were unable to do what they were unaccustomed to. And they would amalgamate to do so, and that would not be good for the general public. If the hon. gentleman thought there was any grievance under which the public suffered, it could be amended in no way by this Bill. If it could be, he (the Attorney-General) would support it heartily; but as it was, he must say that the Bill did not in the least meet with his approval, and he could not see how it could be altered or amended so as to meet any grievance under which the public might be suffering. He had not heard, either, that where the two branches of the profession had been amalgamated any cheaper law could be got than here, where they had not been. In fact, he could say that it was not so. If, then, the Bill did not tend to reduce the price of law, what good object could it have? Were the attorneys of the country grumbling because they had not the same status as the members of the Bar? Were the members of the Bar grumbling because they could not issue writs in their own name? He had heard of none at all. It might, perhaps, be that one or two unsuccessful men had suggested a change on the principle that any sort of change might bring good to some people. He might say further that the members of the profession generally did not desire any change whatever, nor could he find that the public desired the alteration to be made. The hon. gentleman had intimated a case in which the client might have a barrister who got drunk, but surely the fact of the barrister having the right to practise as an attorney would not prevent his getting drunk. It would not alter the facts in the slightest degree. The punishment which such a man incurred when he got drunk was that people did not again employ him, and he would very soon find that he had not the money to get drunk with. So with the attorney: if he got drunk and neglected his business he lost his clients. The hon. gentleman said that one of the objects of this Bill was to enable a client to get at the barrister for neglecting a case; but though there was now the power to get at the attorney for neglect, he (the Attorney-General) had never heard of such an action being brought for negligence. The hon. gentleman had attacked the system of refreshers, which he said were abominations. But he (the Attorney-General) could say that it was impossible for any attorney or counsel to say how long a case would last at its commencement. He could not say how many witnesses would have to be called. If, then, they abolished this system of refreshers, all they would have to do would be to increase the fees, and no man would come into court without double the fee on his brief. That would certainly be no improvement to the client, because if the cause broke off during the first day he would lose the extra charge on the brief. The hon. gentleman spoke of contracts for costs in a case; but did anybody ever think of entering into a contract with a surgeon? If a man sent for a surgeon when he was attacked with illness which was likely to last for two, or perhaps three months, did he say to the doctor that he should cure him for ten guineas? Was that done in any part of the world?

Mr. LUMLEY HILL: Yes; in the bush.

The ATTORNEY-GENERAL said they did many strange things in the bush. He was speaking of the course taken by ordinary men, and of an ordinary state of things; and, though he had known many cases, he had never known a case where a bargain was made with a medical man to cure a disease. If, then, it was undesirable in that profession, why should it not be undesirable in that of the law? He confessed he could not see the difference. Then the hon. member seemed to have an idea that the junior Bar was suffering very much indeed under the present state of things, and had instanced a Bill which was introduced by his hon. friend, the member for North Brisbane, when he was Attorney-General, to enable attorneys to practise in the Supreme Court before a single judge.

Mr. GRIFFITH: I did not introduce it.

The ATTORNEY-GENERAL: Then it was when you were Attorney-General.

Mr. GRIFFITH: No; it was before my time.

The ATTORNEY-GENERAL said that he knew the hon. gentleman had something to do with it; in fact, that he had a considerable finger in the pie. The Bill was very well known here. The hon. member for Gregory appeared to think that it was very damaging to the junior Bar. He (the Attorney-General) did not think that it was so, because not a single attorney—with one exception only—had ever availed himself of the Act. If so, how could the junior Bar have been damaged? The hon. gentleman said that the junior Bar was passed over by attorneys. There could be no doubt that they were, but he could tell hon. members that in

England they were far worse off. There the junior barrister who had not some intimate relations who were attorneys usually practised his profession at first by reading his books and sitting still in his chambers, never seeing a brief except in another man's hands. Unless he was married to some attorney's daughter, or had a brother an attorney, and was pushed on, he might sit in his chambers for ten solid years without getting one single farthing. After that, perhaps, attorneys might begin to see that he would work, and at last some one would try him with a small brief, and if he did that well would probably give him another, and after that he would rise, perhaps, fast enough. But here the junior barrister seemed to suppose that he was to get good work immediately. But it was not possible. Here they had twenty-two barristers in Brisbane now, and some of them he knew did not get a very large amount of work. Still he did not think there was one in the town that had not had some work to do.

Mr. GRIFFITH: Crown work.

The ATTORNEY-GENERAL did not understand the allusion, but he could assert that there was not a single barrister in Brisbane who had not had some independent work from a solicitor. He thought he was perfectly safe in saying that; and if the man could do the work, and do it well, he would be employed again. He did not see that there was any disability of which the junior Bar would be relieved by the present Act. Was any member of the junior Bar able to act as a solicitor? He was quite sure that there was not a member of it capable of taking up a case from the beginning and going through with it. They knew and had studied the law, and were able to conduct the case before the court; but as to attorney's work, they knew no more about it than the man in the moon. The hon. member for Gregory wound up his speech—which he must say was a very able one—with a rather unfortunate reference to the Divine law; but no two men could be found to agree as to that law, with all its simplicity, clearness, and preciseness.

Mr. GROOM said the hon. gentleman who had just sat down might have his own opinion with regard to a gentleman sitting in a solitary cell in legal chambers in London, unless he happened to marry a solicitor's daughter; but it would be found that, all over the world, genius combined with ability could not be concealed under a bushel. He did not think the hon. gentleman could give many illustrations in confirmation of his argument. Sir George Jessel, who was precluded by the arbitrary rules of English law from attaining the highest position in his profession, had attained the highest position he could attain under the present law; and would anybody say that he was concealed within his chamber for ten years? Nothing of the kind. Genius would always attain the highest position, no matter what was done or said to prevent it. He should like to know where Lord Brougham would have been had he been concealed in chambers ten years. Where would Lord St. Leonards have been under those circumstances? What position would Lord Chief Justice Campbell have occupied but for his ability, industry, and perseverance? It was not birth which entitled those men to occupy such distinguished positions. They might take the distinguished roll of British judges from 200 years ago up to the present time, and they would find that they were not the great and the noble of the land, but the patient, the diligent, and the persevering. And he hoped it would be the same in this colony. The argument of the hon. gentleman would have a dispiriting influence on the young students attending the grammar schools of this colony and the universities of the sister colonies; and he should not like it to be believed that they would have to spend ten years in solitary cells before obtaining a brief. They had seen enough of briefless barristers, but, as he had said before, genius and ability would force its way forward and could not be concealed under a bushel. Though the hon. member who introduced the Bill had his entire sympathy, he was sorry to think that it would not accomplish the object the hon. member had in view—which was, he took it, the reduction of legal costs as between attorney and client. He gave the hon. member credit for patriotic motives, but did not believe the Bill would accomplish his object. If he thought the Bill would accomplish the object of the hon. member he would give it his support; and no legislator, no Minister of the Crown, and no leading member of the House could find a better subject for his highest study than the reduction of legal expenses as between the public and barristers. The extravagant and extraordinary costs the public were called upon to pay in connection with the most paltry cases was a matter of notoriety. He would give a case in illustration, because, as the straw indicated the course of the current, so very small cases would indicate the line of costs between attorney and client; and the smaller it was from one point of view the larger it might be in other respects. A certain divisional board sued the Acting Surveyor-General (Mr. Tully) for refusing to destroy the Bathurst burr upon a little allotment not exceeding two acres in extent; and the board employed an attorney to conduct their case. The case was heard before the police magistrate, who gave a verdict against the Crown in accordance with the provisions of the Act, but declined to give costs. Not a week ago the bill of costs was sent to the divisional board, and what did it come to? For a most paltry, insignificant case for the destruction of Bathurst burr on two acres of ground, which work could be done for £1, the board were called upon to pay £9 12s. 6d.

An HONOURABLE MEMBER: That is nothing.

Mr. GROOM said he happened to know that the effect would be most detrimental. The hon. member's object in introducing the Bill was a very laudable one, and if he could reduce lawyers' costs he would effect a public good. It was not many weeks since the Chief Justice of Queensland spoke from the Bench in the highest terms of censure a judge could speak, condemning the severe costs insolvents were compelled to pay. And at the present moment the law of libel was very unsatisfactory. He could give a case in which he was personally concerned. Damages were given at one farthing, and he had to pay £188 costs. What his opponent had to pay he did not know. But suppose he had to pay the same, then there was £376 legal costs in a case where the jury gave one farthing damages. Such a state of affairs was absurd on the face of it; and any hon. member who had had to pay a lawyer's bill would understand the necessity for introducing a Bill to reduce costs to a minimum. If they only had a Lord Brougham in the colony to devote himself solely to a law reform by which these law expenses would be reduced, they would never see, as the hon. member for Bulimba told them, twenty-five lawyers sucking the vitals of the colony, and forty-two more aspiring to occupy a similar position. No doubt many of these gentlemen had abilities, and they would then be directed into a different channel. This was no new Bill. A similar Bill was introduced by the Hon. J. M. Thompson, the late member for Ipswich, in 1872, and had been more or less before Parliament from that time to this; and he thought he was justified in stating that he had voted alternately,

sometimes on one side and sometimes on the other. The hon. the Attorney-General just now referred to the Premier of South Australia. He (Mr. Groom) might state that the present Premier of South Australia (Mr. Grey) was the leading member of a firm of solicitors. Would any hon. member presume to say that if a client went to Mr. Grey and placed the whole of the facts before him, and related every circumstance connected with it, he would not be in a better position to go before a court and lay the whole case before it than if he had to employ a middleman? He would give a case in point, which was tried before the Circuit Court at Toowoomba, where the whole of the facts were prepared by a most skilful attorney, Mr. Gustavus Hamilton. This case was tried some years ago, and every minutia was detailed by Mr. Hamilton to the barrister. What was the result? The other side had taken care to monopolise all the legal ability; and what were the other side obliged to do but go to one of those briefless barristers—one of those gentlemen who remained in his cell for ten years without a brief. This gentleman, who had neither brains nor ability, could not comprehend the case the lawyer put before him. There was the barrister on the one side, and the attorney on the other, trying to infuse brains into a brainless thing. The result was that Mr. Hamilton's client lost the case. There were enough of those briefless barristers in the colony who were supposed to be able to conduct cases in the police courts. But some of the gravest cases often came before the police court, and it was highly necessary that they should be conducted with legal ability. The case he had alluded to had always fastened itself on his mind, as showing that where a man had the ability to lay the facts properly before another man, if he had ability as an advocate, he should be the man to lay the case before the court. The system of amalgamating the two branches, as in South Australia and New Zealand, would tend to the best results. They did not hear anything against the system in those colonies, and he did not think there was any ground for complaint. He had mentioned one name as an example of the advantage of the system. He spoke of the hon. gentleman at the head of affairs in South Australia, whose progress he had watched with interest, and who evidently possessed great natural ability. He was not one of those men concealed in a cell for ten years. His light had come out and shone forth brilliantly; and now he conducted his cases with as much ability and skill as distinguished the leader of the Opposition. If he felt that he could support the hon. member who had introduced the Bill, he would do so; but he was sorry to say that barristers were not always the best class of persons to employ as solicitors, and there were some solicitors, he was sure, they would not like to employ as barristers. There were cases which no member of the House, or any of the outside public, would entrust to the hands of a solicitor; and this Bill would only put the members of the profession in the position of exacting higher fees, which would be a grievous injustice to the public. That was one of the chief objections he had to this Bill. After all was said and done, it was better to leave things as they were, and allow them to cure themselves; but it was absolutely necessary for some member of the House —it might be the hon. member for Gregory— to devote his abilities to a Bill having for its object the reduction of legal expenses. It was no use for the Attorney-General to take shelter under a flimsy argument by instancing a case in the medical profession. No person suffering from a dangerous complaint would go to a medical man and say, "What will you contract for?" It was absurd to put a case of that kind in comparison with a legal case. The medical profession also required a long practice to enable its students to become masters of the position and to thoroughly understand the nature of all complaints; and to say that a medical man should stipulate with a patient for a certain sum, whether he should cure or kill him, was altogether absurd on the face of it. As far as the Bill itself was concerned, it was no new stranger which came like a comet upon the scene, but was one of those coruscations which had been before Parliament, and which they had already voted for one way or another. The hon. member had his (Mr. Groom's) entire sympathy in the object he had in view; but he did not think the Bill would accomplish that object. On the contrary, it would have a tendency to increase legal expenses. For instance, one of those police-office attorneys had only to invest himself in the habiliment of a silk gown, and, instead of charging one guinea, he could say, "I did not appear as an attorney, but as a barrister, and you must pay three guineas."

An HONOURABLE MEMBER: The court fees the attorney.

Mr. GROOM said, so far from reducing the costs as far as the attorney was concerned, the Bill would only increase them; and, under the circumstances, he felt it his duty to give his vote on the other side. Judging from the effect of the system in New Zealand and South Australia, it had undoubtedly accomplished great results—at all events no dissatisfaction had been expressed there by the public, and, therefore, the practice in those colonies had been marked with success. He might tell the hon. member that he should not be in the House to vote against him, and he hoped he should see in *Hansard* that the Bill was carried.

Mr. RUTLEDGE said he should like to commence the few remarks he intended to address to the House by congratulating the hon. member for Gregory upon the very able way in which he handled the subject he undertook to present for the consideration of the House this evening. Certainly, for one who did not profess to be familiar with the routine of the law, the hon. member displayed an amount of clearness which did him very great credit. He had not the slightest doubt whatever that he had assisted many hon. members who came into the House with their minds not made up to arrive at a conclusion on the subject. Before he went into a discussion on the general question itself, he should like to say that, supposing the principle of the Bill to be adopted, it would necessarily follow that one clause would require considerable amendment in committee. Clause 3 was open to the objection that in the event of the Bill becoming law it would entitle a man, immediately after his admission to practise as a barrister or solicitor, to be appointed to the Bench of the Supreme Court. It did not, as was pointed out by the hon. member for Bulimba, necessitate the appointment of such a man in the district court, as the District Court Act made provision for its own judges. The clause was open to that objection, and required a provision to guard against it. He thought that the tendency of public feeling in all the colonies at the present time, as far as could be discerned by anyone who took the trouble to read the newspapers, was in the direction of doing away with the present artificial distinction that remained between the two branches of the legal profession. In two of the colonies of the Australian group, and New Zealand, an amalgamation had been actually accomplished; but he was aware, in touching this question, that there were those who said that that amalgamation had not, either in South Australia or New Zealand, been attended by any beneficial results.

He thought, however, that the amalgamation which had been effected there was of too recent a date to enable anybody to speak authoritatively and say that it was not an improvement on the old system. But he was perfectly convinced in his own mind, from what he had seen both in the newspapers and in the periodical literature of the day, that the tendency of the most disinterested minds was in favour of doing away with a state of things which could not be more properly characterised than as an anachronism. He could not see that the continuance of the division of the profession in the two branches could in any way be justified upon the ground of expediency or upon the ground of public good. The argument had been used by the hon. and learned Attorney-General, that they should do, in regard to legal practitioners, as they did with regard to medical practitioners—that was where the question of fees came in. It was convenient for those gentlemen who advocated the view that the present system should be retained, to make use of the illustration of the medical practitioners when it suited them, and to abandon it as soon as the argument told against them. The hon. gentleman made use of the medical practitioner as being a justification for the existing state of things, with regard to costs, because no man would bargain with a medical practitioner as to what he would charge. But the hon. gentleman did not attempt to adduce the medical practitioner as an illustration of the state of things that should exist between the legal practitioner and his client. If anything overtook him (Mr. Rutledge) in the shape of sickness or accident, he could send for the most eminent medical practitioner in Brisbane; or, if he was not satisfied in his own mind with any that might be found in Brisbane, he could bring up the most eminent practitioner from the other colonies, and he did not require the intervention of an apothecary. He did not see that the present system was to be justified by analogy to the state of things that existed between the medical practitioner and his patient. Before going, however, into the discussion upon the merits of the question, he should like to say that he hoped he should have credit given him, in speaking as he did that evening, for thorough disinterestedness. He had nothing to gain by any view that he might hold upon this subject. He was very well satisfied, as far as he was personally concerned, with his present practice and prospects, even if things remained as they were; and did not expect that he should be materially benefited if the amalgamation proposed by this Bill took place. Therefore he could speak, not as a person who hoped to reap some personal advantage by the passing of this measure, but as one who desired to see the present state of things altered in a way that would result in a much more advantageous state of things for practitioners and for the public than they now enjoyed. He spoke in the interests of a very large class of educated young men who were growing up in this colony, whose education was to a considerable extent being borne by the State, when he said that it would be an advantage for them if something such as was contemplated by this Bill was brought about. They were offering scholarships and providing for the education, in the universities of the other colonies, of the best class of our young men who had been taught in our grammar schools. It stood to reason that a very large proportion of these young men would, after they had completed their university course, enter the ranks of the legal profession; and they knew that in a small community like this it was utterly impossible for a large number of educated young men to group together here in Brisbane and expect to receive a share of the very small amount of legal business done here. Of course it would be said the fittest would survive—that those who were unable by their attainments to secure a practice would come to grief as they deserved. The evil of the thing, however, was this: that, whereas those who might become medical practitioners could go wherever they might choose to settle, and depend upon their merits for support from the public, in the case of barristers they must of necessity be grouped in the metropolis; and let the solicitors be ever so generous—and he could bear testimony to the generosity of the members of the other branch of the profession in Brisbane, who did what they could to encourage the juniors at the Bar—yet there was only a certain amount of business to be done in Brisbane, and, however anxious the solicitors might be to lend a helping hand to junior members of the Bar, there was not sufficient legal business to be done that every man might have even a little. He took it that one of the beneficial results of this measure would be to enable some of these young men to go and settle down in some of the important centres of population in the colony; and he had not the slightest doubt that there they would become more readily known to the public and have a better field for the display of their energies, and would much more easily attain to the distinctions to which their talents would entitle them than if they were to remain in Brisbane. It must be borne in mind that the present artificial distinction introduced an element of injustice, and he did not speak of matters as they were now on any but the broadest possible grounds. It was not as in the medical profession, where the public could choose their own adviser, and a man could say, "I believe in Dr. So-and-so," and another man could say he believed in some other doctor. Every man in the case of medical practitioners had his own belief, and could call to his aid any medical man who had commended himself to his judgment as being an expert in his profession. But when a man wanted to go to law he could not say he would have Mr. So-and-so: he had to go to his solicitor and ask him whom he should employ; and they could not expect things to go on in the future as happily in that respect as they did at present, especially after what they had heard from the hon. Attorney-General, to which he should allude further on. As things were at present the public had no absolute voice in the selection of those who should conduct their cases before the courts. The hon. the Attorney-General spoke of the state of things at present existing in England, and a very lamentable state of things it was. They read lately in the law reports of some motion being made before one of the judges in Chambers respecting a barrister, and an argument used in support of certain action being taken was that a barrister was supposed to have money; but the judge almost rebuked the advocate who used that argument, and stated that he knew many a barrister who had not a great deal of money; and that the fact was that a very large number of barristers in London were actually starving. Was not that a lamentable state of things: that while there were barristers who had any number of briefs—holding half-a-dozen in one hour of the day in half-a-dozen different courts, and were able to take money for work which they never did—other men were vainly longing for a brief in order to try and show what they could do? That was the state of things in England, and the result of it was, as shown by the Attorney-General, that a man had no hope whatever at the Bar in England unless he was wise enough to marry the daughter of a solicitor in good practice. Then what followed was this: that when he married the daughter of a solicitor in good practice it was not merit that would bring him to

the front. It was not the interests of the client that that solicitor would study, but the briefs would be thrust into the hands of the relative of this attorney for family reasons.

The ATTORNEY-GENERAL: I did not say he had no hope whatever.

Mr. RUTLEDGE said the hon. gentleman did not say that exactly, but he said what was marvellously like it when he told them that the great majority of young barristers in these days had to wait in chambers for ten years before they obtained a brief. He (Mr. Rutledge) would very much sooner be snuffed out altogether than have the hope which they were told "springs eternal in the human breast" kept waiting so long as that. They had heard something about partnership. The hon. gentleman who introduced this measure said that, no doubt, one of the arguments that would be used against the passing of this Bill would be that as soon as it came into operation they would have partnerships—or unholy alliances, as they were called, —started between those whose specialty was advocacy, and those who knew all about office routine. Would that be such an unholy alliance as the alliance which the Attorney-General told them men entered into in order that they might get a footing? Was it not far better that two men should lay their heads together and say, "Now we will try whether we cannot win public confidence, whether we cannot do all the business of the public and conduct it on our merits," than that a man should be advanced in his profession simply because he was a connection of a solicitor in good practice? Of all the unholy alliances that could take place, that was about the most undesirable that we should like to see introduced into a young colony like this. An argument had been used by some gentlemen—notoriously by the hon. member for Bulimba, who spoke about the absolute ignorance of barristers on all such matters as mortgages. He (Mr. Rutledge) did not know whether the hon. member was speaking as regarded his own experience; but certainly a barrister did not know all he was required to know, and should know, if he was ignorant of the way in which a mortgage should be drawn. The hon. gentleman ought to know very well that such things as mortgages, leases, partnerships, marriage settlements, and such like were in nine cases out of ten referred to a barrister to settle. The solicitor always drew up these things, but he did not follow that up by handing them to his client, but frequently sent them to the barrister, who was supposed to know something of such matters. Even supposing a barrister knew nothing of such matters as these, was that an argument—because he did not know all the minute details of office routine—was that a justification for shelving a Bill of this description? What was this routine? Any man with a knowledge of legal practice could very soon obtain a sufficient knowledge of legal procedure to enable him to go and make a start. With very little work he would get as fair a knowledge, in proportion, of this routine of procedure, as he could now get a knowledge of the great fundamental principles of the law of England and the law of our own colony. It would not take a man very long to become familiar with all these minor matters; and if he did not know them there were plenty of clerks and plenty of solicitors who had passed their examinations, but who could not obtain a footing in their profession, who could teach him. He would have plenty of men who had passed as solicitors come to him, who were able, and for a small salary were willing, to give barristers the benefit of such knowledge as they possessed. They knew as a fact that there were many practitioners in England who laid themselves out for particular branches of the profession. One man went in for equity, another for criminal law, another man went in as a practitioner in the common law courts, and another took up probate and divorce, another admiralty. All these would be the specialty of one particular branch of the law. They knew very well that there were equity barristers who knew a great deal less about criminal law—barristers outside the domain of advocacy—than barristers who were now practising here knew of office routine and procedure. The mere fact that barristers, by reason of their training, were less familiar with the mere routine work was no argument against their employment as practitioners by the public. As matters were now, solicitors must be employed before barristers could be reached. They knew that there was a large proportion of the solicitors of this colony now practising who were an honour and ornament to the profession; but as matters were, in many country towns, if a barrister was to be reached he had to be reached by any attorney who happened to be on the spot, and the money had to come through that attorney; but whether the money ever got to the barrister or not was a matter with which the client had nothing to do. He knew of cases where there were attorneys in this colony from whom no barrister in Brisbane would accept a brief, even if accompanied by the money. Were people to be denied justice because the attorneys in the place were not in all respects what they ought to be? Was it to be said that a barrister was not to be employed in this place? If they had an Act like this in operation, young barristers would have some inducement to go and settle in the country towns, where they could win their spurs and rise in the profession without waiting a period of ten years. He knew in New South Wales there were barristers who never saw a brief. Well, then, the question was, were they going in advance of the other colonies by making a proposition of this sort? He had read an article stating that Victoria had taken steps in this direction, and, as far as he was able to discover, there was a very strong feeling in favour of doing away with this relic of antiquity. It was an anachronism unsuited to the present condition of things. He had recently read in the *Victorian Review* an article by Archibald Michie—one of the most brilliant advocates that had appeared before the Victorian Bar—and the whole tenor of that gentleman's article went to show the necessity of changing the present state of things; and this was what convinced him, for, until reading that article, though he had no particular leanings, his inclinations were rather the other way. One of the reasons for the continuance of the existing state of things was that the judges were selected from the ranks of the higher branch of the profession. That had been done with very great advantage. He conceived that the most eligible men had been selected for these high offices, and that the appointment of the most eligible had been the feeling which actuated the Government. There was no cause to think that this course would be departed from in the future, but that the men giving evidence of their superiority would receive the positions of distinction. He had not the slightest doubt that, if this Bill were to pass into law, the qualifications required for so important an office as that of Judge of the Supreme Court would be sought for amongst men whom it might be desirable to raise to the dignity of that position. He could not for the life of him see why there should be any fear on this ground. There could be no doubt whatever that the distinction would make it to the common interest of both to say, "We will both rise to the higher

level." Why should there be a higher and a lower branch? It was not the same in the medical profession. The position of a surgeon was simply a matter of degree. It was not the same question as to whether a man belonged to one branch or another. If a system of things were brought about by which there would be only one rank in the profession, then it would be to the common interests of all parties to say that the both branches of the profession should keep one level, and that a high level. The great argument used against it was that it would not cheapen law. That was a mere dictum. In this matter they all had a perfect right to exercise their own judgment. Would it cheapen law? They knew that law was dear enough as it was; and what was the consequence? In Brisbane the number of cases at a Supreme Court sittings could almost be counted on the fingers of one hand, as also could the District Court business. One reason why so little business was done in the courts was, that persons who desired to go into a court of justice were frightened at the prospect of being overwhelmed with costs. It was not the fault of the solicitors, nor of the barristers, but it was the fault of the system under which they lived. If a man went to a solicitor and said he wanted to bring an action against So-and-so, he would say to the solicitor, "I am a man of poor means: what will it cost me?" The solicitor could not tell him, or if he answered at all it would be, "I have no idea what it will cost you;" and for very good reason, because he belonged to only one branch of the profession. There was a barrister to be employed; it might be that the case would necessitate the employment of two or three barristers, and how could the solicitor tell the client the costs, when there were so many parties to be engaged in the transaction? Whereas, if a man wanted to go to law in America, he would go to his solicitor, or barrister, or probably there would be a partnership in which both branches of legal talent were represented. He could go to one or both of the partners and ascertain the costs of the action, or he could contract for the costs involved in the case. This would be better for the lawyers as well. He could not understand their opposition to the Bill. If the costs were lower than they were now, that would be made up by the extra amount of litigation that would arise. It would be better for all parties; better for those persons who, like the hon. member for Normanby, would go to law only they were afraid of the costs; better for him to have an opportunity of redressing his grievance, and better for others situated like him. He (Mr. Rutledge) said that if they had a multiplicity of suits they would have more employment for all lawyers, and give an opportunity to juniors worthy of following in the steps of the leaders. It was said that juniors would have to wait until some genius amongst them shone out transcendently; that then a change would take place, and there would be an opportunity of showing what stuff the juniors were made of. He knew that many barristers were obliged to sit in their chambers week after week, and month after month, without ever seeing a solicitor in their chambers. They had so little law business here that three or four leading lawyers could manage all the law cases there were; and what prospect was there or any of these juniors outside—who were never in these transactions—of developing into high practitioners like his hon. and learned friend who sat at the head of the Opposition? What was the state of things? Something important took place; there were four barristers away at Rockhampton; something occurred in Brisbane which must be attended to at once—who was to attend to this important matter? It had to be dealt with at the junior Bar by the best of the legal talent available; and unless they had some opportunity of gaining experience, how were the interests of the clients to be preserved in the absence of the legal luminaries? Those interests would not be safe during the absence of the leaders of the Bar. He really did not feel any great personal interest in this matter; it was not necessary for him, either in his present or in his prospective interests—not the slightest. He had spoken as the result of his deliberate thought and conviction on the subject; and he believed the present distinction was cumbersome and unnecessary, and could not be justified on any substantial grounds, and the sooner it was swept away the sooner they would have a change of things more suitable to the tendency of the times. It was a shocking thing, to his mind, that they should erect expensive courts of justice, and invite persons to go there to have their wrongs redressed, where no man dared possibly go unless he was possessed of a long purse. The sooner the thing was finally swept away the more credit would it reflect upon their boasted judicial institutions. He would like to say a few words with reference to costs. It had been said—and would be said again—that the proposed change would make very little difference in the matter of costs; that they would still swell up, because clients would have to pay two men instead of one, in the future as in the past. Under the present system an artificial distinction existed between the barrister and the solicitor, and a middle wall raised up between the barrister and the client. A barrister would not speak to a client except through a solicitor, and the consequence was that if a man wanted to get at a barrister it could only be done through a solicitor. It would be better if the matter of costs were placed more largely in the hands of the judges, by giving them certain powers under rules and regulations, in addition to those which they at present possessed. He would give an illustration of the way in which costs might be almost done away with. Under the existing state of things, a man who wanted to go to law must first go to a solicitor and give him certain instructions. If the case was one of any importance, the solicitor, after hearing it, might want to take counsel's opinion upon it, and the case to be sent to the counsel would have to be written out and charged for. Then the counsel charged for his opinion, and there were other charges, all necessary and right as things were at present, but which would amount in the end to a very large sum. Supposing an advocate was in partnership with a man who was an expert in all the duties of a solicitor, they would both occupy one suite of rooms, and if they were anxious to get business, as they naturally would be, each partner would set himself to study the wishes of the public in matters of law. There would have to be no large bills of costs for submitting cases, copying instructions, and sending them up to a barrister, and so on. The barrister himself would receive the client, and give his opinion without the ordinary circumlocution and the charges consequent upon it. Then there were briefs to be made out which cost a large sum in copying, and often there were two sets of briefs to be made out for two counsel, and that multiplied the costs to an enormous extent. Whereas, if an advocate were allowed to see a client in his own proper person, he would be able to make a few notes on a piece of paper which would serve his purpose as effectively as voluminous briefs which, perhaps, he might never read until he went into court. His views on this subject differed from those of several other members of the profession, and he believed that his honour-

able and learned friend, the leader of the Opposition, did not adopt the view which he (Mr. Rutledge) took; but he had formed his opinion after careful thought and study, and as a member of the House he held an individual opinion as to whether the amalgamation of the profession would be beneficial both to the profession itself and to the public, and intended to give his vote accordingly.

Mr. GRIFFITH said he had no idea, until he heard the speech of his hon. friend who had just spoken, that he (Mr. Rutledge) held such Communistic views, for that was what a great part of his speech amounted to. Some members of the Bar had too large a share of professional business, and it ought to be distributed among the more impecunious members of the profession. As the hon. member, who had a fair share of business, was not one of those, he certainly showed extreme disinterestedness in advocating that view. He did not think the House would care to pass a Bill into law to provide an income for gentlemen at the Bar who could not earn an income for themselves. That was, so far as he had heard, the principal argument in favour of the Bill, and seemed to be the principal object of the Bill itself. There were a number of members of the legal profession who did not earn as much money as they would like. They had not been long in the profession, and had not yet attracted public confidence; and they had a notion that by some legislative legerdemain they would be enabled to make an income. All the legislation in the world would not enable a man to earn a living in any profession unless he was worth it, nor would all the legislation in the world prevent him if the case were reversed. That matter was not worthy the consideration of the House for a moment; the only thing to be considered were the interests of the public. He held certain views on the subject, and had never changed them since the first time he spoke about them here some nine years ago, and which he would again briefly lay before the House — reasons which he considered to be conclusive against the change proposed by the Bill. Some hon. members seemed to think that the present system was devised entirely in the interests of the lawyers, but that, he thought, showed a want of historical knowledge. The only justification for the existence of the legal profession, with the rules by which it was surrounded, was the protection of the public. The power of legal practitioners to oppress the public was so enormous that, in the interests of the public, Legislatures had laid down a rule that men entrusted with those privileges should be subjected to most stringent control. Imagine the costs that a man might be put to by an action brought against him by an unprincipled litigant! Imagine the enormous grievance any innocent man might be subjected to by an action brought against him by an unprincipled litigant or an unprincipled attorney! He was not speaking of imaginary grievances, but of such as came under their notice year by year, and almost month by month. Actions were often brought by men without a farthing; they put the defendant to enormous expense, and that was all. A professional man who did a thing of that kind deliberately was amenable to the jurisdiction of the court. There was also the additional safeguard that respectable professional men would not do it. So long as the approach to the profession was fenced, the public was secured to that extent against that grievance, which was not a light one, which had been dealt with in England and some of the colonies by legislation, and which would have to be met in this colony by legislation. It had been asked, why should not a client be allowed to approach a barrister without the intervention of an attorney? There was now no law to prevent it, only barristers did not care to do that kind of business. He himself, practising entirely as a barrister, declined to see a client without the intervention of an attorney. But he could do it if he liked, and if he did not like, the passing of the Bill would not compel him to do otherwise. In some of the other colonies where the profession was amalgamated, if a gentleman acted as a barrister only, he observed the rules of that branch of the profession. The Bill in that respect would not cure any grievance. It was a matter of etiquette which the more respectable members of the profession preferred to follow, and the passing of the Bill would make no difference whatever with regard to that. If a few members of the profession would like to have the sanction of the Legislature to do what they could do now if they wished, all he could say was that it was hardly the proper work for a Legislature. Supposing a man went to a barrister accompanied by a solicitor, the extra cost would not be more than 6s. 8d. or 13s. 4d. Was that a terrible grievance? Was it to avoid that—for the attorney's attendance—that the Bill was to be passed, that the aid of the machinery of Parliament was to be invoked? If a case was submitted in writing, it was because it was important that it should receive careful and mature consideration. If hon. members would pardon a reference to himself as a member of the profession, he would say that, supposing he chose to practise as an amalgamated practitioner, and a case was brought before him requiring serious consideration, would it not be incumbent on him to have the facts down in writing before he considered them for two, or it might be more, days, according to the difficulty of the case? And having taken the matter down in writing, and devoted the time necessary to doing so, and having afterwards devoted time to looking into the case and forming and writing an opinion upon it, why should not he be paid for all those several things? At the present time the people who did those things were paid for what each did. Supposing one man did the whole, should not he be paid? If one man did two men's work he would have to be paid for doing two men's work, and would probably charge more for it. There was really nothing else in the whole thing. The delusion of the advocates amalgamating the two branches of the profession was based on the belief that by some legislative legerdemain they could make one man do two men's work and only get one man's pay. He was sure that no legislation would induce him, or anyone else, to do anything of the kind. What were the grievances that the public at present laboured under, except the one to which he had just referred? It was said, why cannot one man carry through a suit from its beginning to its end? Simply because it was more than one man could do. Why could not one man move two tons on his shoulder? Simply because he was not strong enough. Why could not he do two men's work at one time? Simply because he could not. If, by any legislative interference, a man was made to do five men's work he would get four other men to help him, and would make his client pay those four men, not on the estimate of the value of their labour, as at present, but on the estimate of the value of his own. In New South Wales, in the old time, the profession consisted of only one branch, but it was found to work extremely ill, and the court, with the power vested in them, divided it, and from that time forward it had been divided. There were always people who thought it desirable to go back to the old system, but the objection was generally found to come from people who wanted, in some way or

other, to get a greater share of business. He did not think anything would be gained by this amalgamation. Regarding it from a utilitarian point of view, some hon. members had asked why one man could not do all this work. Simply because one man should not do more than one man's work. What was the work to be done? In a case in the Supreme Court, first of all, there were the facts to be obtained from the client; that took time. Those facts had to be noted in writing, collated, and put in regular order. Of course the client was absorbed in his own case. He could remember all the facts without writing them down; but how was a man with twenty or thirty cases in hand to remember them? It was necessary that they should be written down, and a man engaged in writing them could be engaged in nothing else. If a man was attending to the duties of one branch of the profession, it was quite clear that he could not attend to the duties of the other branch, and it was also quite clear that somebody else would have to do it. Then there were the duties of attending the court. These things had to be done in every case, and no one man, unless he was in limited practice, could do them all. No man with a large practice could do them, and he did not suppose that it was the intention to say that no man should do more than a certain amount of business. He would take a case in a court of law where one counsel alone was unable to do all the work. Two or three counsel were very frequently engaged, on the principle that "in the multitude of counsellors there is wisdom." It was found that there was a lot of work to be done: persons to be instructed to prepare the case for argument, the law of the case to be studied; all these different functions must be performed, and all those who performed them would have to be paid for it. There was not the slightest difference in the other colonies. In South Australia, New Zealand, and Tasmania, the same processes were carried on, except that in those colonies a greater amount of business was concentrated in a few hands. He had very good reason for saying this, because he had made a point of inquiring in the neighbouring colonies. He knew some professional gentlemen in New Zealand. There an advocate went into partnership with a solicitor; clerks were engaged also, and all those persons charged just as much for their services as if they were admitted. Then what was termed the mechanical work of writing instructions, which occupied a great deal of time, had also to be paid for. Take the firm of Smith, Brown, and Jones. The client came and he saw Mr. Jones to give him instructions. Mr. Jones handed him over to the clerk, who reduced the instructions into writing. Then they were submitted by Mr. Jones in written form to his partners, Mr. Smith and Mr. Brown, who had a consultation, and when the bill of costs came in, there were all these persons to be paid; the clerks had to be paid, and it came to precisely the same thing in the end. If Mr. Brown and Mr. Smith had been independent barristers, the bill of costs would have amounted to the same, the only difference being that the distribution would have been different. And in South Australia it was exactly the same, but the result was far from benefiting the public. The principal business of that colony had always been in the hands of two or three large firms, and the weakest must go to the wall. He knew of a firm—the name of which was well known, but unnecessary for him to mention—which had a case, the facts of which were related to him by a solicitor in Melbourne, who had occasion to send a commission to South Australia, and he sent it to an eminent firm in that colony consisting of three members. The junior member was appointed commissioner; the second member of the firm acted as solicitor; and he instructed the third, who acted as counsel. So that when the matter came to a conclusion there were two bills to pay: the bill of the firm, and the bill of the commissioner. So far from the charges being less, the gentleman assured him (Mr. Griffith) that it was the biggest bill of costs for the work done that he ever saw. This was the way it must work. At the present time the man of the greatest eminence got paid for the work that he did. If he and his partners did the work, it would be all paid for in his name and at his charges. He (Mr. Griffith) would venture to say that, if a Bill of this kind were to be passed, the leading members of the profession could double their income without doing as much as they did now, for they could get work done by others and get paid for it at their own rates. He failed to see where the advantage to the public would be. It had been said that there was a want of responsibility in the present system. Did any hon. member think there would be any greater responsibility under this Bill? For his part, he thought the less personal interest that an advocate had in his case, the better justice he could do his client. He had always thought so. The advocate he regarded mainly as an officer of justice, and if his remuneration depended on his success, or if he was intimately bound up with his client, he would not do his work so well. This, he thought, was the reason why the members of one of the most distinguished professions in the world had not adopted that rule. The hon. member (Mr. Groom) gave an instance of what he said was a grievance at Toowoomba, where an attorney who thoroughly understood a case was obliged to engage an incompetent barrister. If that was so it would be a grievance; but that law did not now exist, and now he need not go to a barrister at all unless he liked. The advantages would be nothing to the public under this Bill, but the disadvantages would be very great in many ways. At present men could enter the profession at any period of life, and they might come from the army, the navy, or the church. Lord Chelmsford came from the navy; Lord Erskine came from the army; and there were men from the church, from the solicitors' profession, and from every profession. The reason, he supposed, why the mode of access to the Bar was so different from the mode of access to the profession of a solicitor, was simply the difference between the duties. It was considered necessary in this colony and in other dominions of Great Britain, that if a man desired to be a solicitor he had to serve under binding articles of agreement for a period of five years. It was considered necessary that that time should be devoted to learning the profession. He took it that if they insisted on this mode of admission to the Bar they would exclude many of those men he had indicated from entering. If they were pledged to undergo that routine—that honourable bondage—it would close the door to many of them. But if this Bill became law in its present shape or anything like it, it would be necessary for the protection of the public to make that the only mode of access. Was it desirable to keep any good man out of the profession? He said it would be absolutely necessary in the interests of the public to adhere to the rules which had been observed so long in admission to the profession of a solicitor, and they would thereby exclude many good men from the other profession. As it stood at the present time, he would venture to say that a very great number of the gentlemen admitted to the Bar did not understand the duties of a solicitor. They had no idea of them. It was of no use saying they could learn them quickly. He did not think anyone

would learn them quickly. The matter would, of course, right itself in time. When gentlemen ventured into deeper water than they were able to cope with, they would soon find that they would lose the opportunity of doing so again. And so, in spite of any legislation of this House, the thing would right itself. Men would be paid exactly what they were worth, and no legislation could prevent them from earning a fair day's remuneration for a fair day's work. But, in the meantime, the public would be exposed to the attempts of gentlemen who were not competent; and while those who were competent and those who were not competent were being discovered, the public would have to smart for it. The thing would right itself in time, and then they would have exactly the same state of things as at present. He asked hon. members to consider seriously if it was desirable to insist that no man should be admitted to the profession, for that was what the Bill really meant, until he had had five years' preparation? At present a man could enter after twelve months, and there was this safeguard—that the solicitor, who was supposed to know something about his capabilities, would not employ him unless he could place confidence in his powers. He thought they might as well admit the proposal once made by the hon. member for Northern Downs, and have free trade in this matter. It was not considered desirable that there should be free trade in medicine, because, in the interest of the public, it was thought best that persons should not be permitted to hold themselves out as qualified to do things which, if done wrongly, would entail grievance and hardship, unless they were qualified; and the same reason applied in the case of the legal profession. In New Zealand, where the professions were amalgamated, a much stronger reason had existed than could be found here. There were there five distinct seats of the Supreme Court, and it would be extremely inconvenient in such a case among a sparse population to establish a separate Bar and a separate body of solicitors in each centre. But even in New Zealand there was a provision in the law empowering the Supreme Court, at any time when the circumstances of the colony might render it advisable, to divide the profession into two branches. He stated that on the authority of a speech delivered in the House by the present Chief Justice in 1871, when he strenuously opposed a Bill of this kind. Another serious objection to the Bill at the present time was, that it was the object of many people in this and in other colonies to establish an Australian Bar—an object which was, in his opinion, an extremely desirable one. Moreover, recognition by the English courts was also sought, and would, no doubt, in course of time be obtained. At the present time Queensland solicitors might be admitted in England, and Queensland barristers might be admitted to the Victorian Bar, and would, no doubt, before long be admitted in New South Wales. He had himself the honour of having been admitted to the Victorian Bar as a Queensland barrister. If this Bill were passed, however, Queensland barristers might obtain recognition in South Australia, but they would lose all chance of being admitted in New South Wales or Victoria; and the chance of Queensland solicitors being recognised as solicitors in England would also be entirely destroyed. For no present advantage the colony would actually be forfeiting their claim to what he considered great privileges. At a time when the efforts of the various colonies were being directed towards drawing the profession closer together, this Bill would come to spoil all and leave the profession in Queensland isolated—not recognised in England, Victoria, or New South Wales. The profession in Queensland would stand alone, and the members in this colony of a profession to which he was proud to belong as being the noblest of the professions would be unrecognised everywhere, instead of ranking as members of the profession in the Australian colonies. And what would be the advantage? Without considering the interest of the profession so far as the members were concerned, it was clearly to the interest of the public that the profession should have a certain standing—that the members should be all honourable men, who would serve the interests of the public at far as possible. Everything that tended to give them a better standing was to the interest of the public. Was it worth while to disturb the present arrangement for no other purpose than to enable some to do what they could do at present, or to enable others to obtain work which they would not obtain on their own merits? He failed to see that any advantage would result to the public, but he could see that a very great advantage might result to some members of the profession if they chose to avail themselves of the opportunity.

An HONOURABLE MEMBER: Why don't you advocate it, then?

Mr. GRIFFITH said he did not, because he did not conceive that the interest of the individual was a sufficient ground for attacking the interest of the public. As the hon. member had provoked him, he would say what he did not intend to say—namely, that if the Bill passed he (Mr. Griffith) could, if he chose to take advantage of it, do by deputy a good deal of his work which at the present time he had to do with his own brain. Of course, he should charge just as much, and he might possibly be a great gainer pecuniarily by the alteration; but, considering that the disadvantages to the public would be much greater than the advantages, he conceived it to be his duty to oppose the measure to the best of his ability, as he had always done. If the Bill should by chance get into committee he trusted it would be so amended as to protect the public against unqualified persons—that was to say, persons who were qualified in one branch of the profession but not qualified to act in the other. He wished that some hon. members who had had practical experience of litigation in other colonies would inform the House whether they found that the bills of costs were made out on any different principles from those observed here. He could only speak from hearsay, but he had no doubt there were some hon. members who had had the pleasure of paying such bills of costs, and who had found that they were constructed on much the same principles as bills of costs were here; the only difference in the two cases being that the costs there were heavier.

Mr. ARCHER said he felt placed at a great disadvantage in following a lawyer of such great experience in a discussion of this kind. Nevertheless, he had what perhaps might be called the "cheek" to differ from what the hon. gentleman had said. He still thought that it would be to some public advantage to pass the Bill with the necessary amendments which had been pointed out; no one could expect that twice in one session a Bill could pass without amendment, and they had passed one already. The hon. gentleman said that in his opinion the Bill appeared to have been brought in for the purpose of finding work for the junior members of the Bar. If that were the object of the Bill he should not support it, but he supported it now because he believed that, though the advantage to the public might not be very great at first, it would ultimately benefit those who were unfortunate enough to get into the law courts. A good deal had been said about the change from the old style, but the hon. gentle-

man had not said anything about America, which was the first English-speaking country that introduced the change. In that country the new system had worked remarkably well, and it had bred a class of lawyers who had surpassed almost all their contemporaries in law, and who were able to carry on the business of law infinitely cheaper than it was carried on here. It was only necessary to point out one thing to show that. He might mention that the judges were there elected, and not appointed by the Government, which was probably the one great defect in the American law. Constituencies very often elected a man because he was a jolly good fellow, whereas a Government was under a sense of responsibility, and were likely to appoint a man who was at least to some extent fitted for his post. But in no English-speaking country in the world were the judges so poorly paid as in America; their pay would be looked upon with scorn by even a judge in Queensland; and as they were men of the greatest distinction, that was a proof that their profits at the Bar must have been very small, or they would not have given up their practice. It was certainly much smaller than that of leading counsel in England. It was well known that in England the counsel did not do half the work: the gift of the gab was a very great thing with counsel. If the Bill passed, he believed there would be only a slight change at first, but that ultimately there would be a saving to the public, and as the law became familiar it would go on cheapening as it had in America. There was no doubt that in these cases one man could nearly do two men's work. The hon. gentleman's illustration of the impossibility of raising two tons was perfectly true; but no one who had the slightest acquaintance with the way in which law was carried on through solicitors and barristers could doubt that if the barrister had to go through what the solicitor did he would be saved the trouble of studying his brief. Why should two men have to study the brief, and the barrister do over again what the solicitor had already done? It simply meant that another man was to come in and share the spoil by going through part of the labour over again. One very wonderful argument used by the hon. gentleman against the Bill was that it would force people to study.

Mr. GRIFFITH: No.

Mr. ARCHER said the hon. gentleman had stated that now no severe study was required, and that therefore men from the army, navy, or other professions could enter; but surely it was not an advantage that people should be able to enter the Bar after so little study, whilst the other branch, which had been looked upon as the lower branch, could only be entered by those who went through a long course of preliminary study. When the hon. member for Bulimba spoke about the ignorance of barristers as compared with solicitors, he (Mr. Archer) thought that hon. member was exaggerating very grossly; but now he began to suspect there was something in what the hon. member said. It appeared that a solicitor was a person who had undergone a very severe examination before being allowed to practise; whilst any moderately educated man who could translate a little Latin and other foreign language after a year's study, could, by passing an easy examination, become a barrister. That was certainly not a subject for congratulation, and if it was a fact he was sure that it was only the case in English-speaking countries. In all other countries barristers had to go through as severe a trial as a solicitor had. He had lived in a foreign country where it was necessary for a barrister to get a diploma from a college. He could not pass by means of a few lessons from a crammer, and by translating a few sentences, but had to go through a study of the Roman and Civil law, and candidates were often rejected if they had not good heads. If barristers were to have a monopoly of their profession, the country had a right to demand that they should be thoroughly trained. Doctors had a monopoly of their profession, and were, therefore, required to be well trained, and if one of them practised without having a diploma he was liable to be punished. Why should not similar training be demanded of barristers if they were to have the monopoly of appearing before the highest court of the country? Nothing that had been said by the hon. gentleman (Mr. Griffith) had disproved the fact that the Bill, if passed, would cheapen law. Every argument used went to show that a solicitor was in many cases as well fitted, by training and study, to go before a court and argue out a case as a barrister was; and he (Mr. Archer) thought it more than probable that the solicitor was the more competent man of the two. That was the conclusion he had come to. One of the principal objections to the Bill was that it required amendment. That, of course, everyone would admit. They always amended Bills in committee, and this would not be an exception. An argument had been used by the hon. member for Bulimba that the Bill would interfere with vested rights. Now that was the most extraordinary argument at this time of day that he had ever heard. He never heard of an attempt to abolish some old standing rule that did not bring out a grievance from some one or other. He understood that this Bill was to touch the grievances of the public. He remembered that in 1832 the Reform Bill in England allowed any man to put a shop wherever he liked. Of course there were complaints against it, but it benefited the public immensely; and so it was now stated that the change proposed by this Bill would be very unfair to solicitors. It might be so; he did not care if it was. So long as the public were benefited he was prepared to vote for the Bill. He did not intend to make a long speech on this question, but he was going to refer to the rider appended by Chief Justice Lilley to the Report of the Royal Commission on Civil Procedure Reforms. In that the learned gentleman said—

"The great aim of law reformers ought to be to render the efficient administration of justice as inexpensive as may be. This may be done without any injustice where a monopoly is granted to a particular profession—due regard being had to the costly character of the education required for its exercise, to the desirability of attracting towards it able men by sufficient prizes, and to the precarious and fitful occurrence of the employment it affords. It is upon this principle, in fact, that the courts interfere to fix the remuneration of their officers. Instead of paying men fixed rates for a number of small services, offering a steady temptation to increase them unnecessarily, I would remunerate them for the aggregate of skill and labour they have exercised in the particular transactions, and the difficulty they have had to encounter; and, perhaps, with some proportion of the value of the recovery to their client."

He had made a mistake; that was not the part he wished to call particular attention to. It was this—

"I look upon the second, fourth, and fifth as the chief points of amelioration. With regard to the second, I would abolish the so-called pleadings altogether, and require from the plaintiff only the concise statement of his claim contained in the endorsement on the writ (see appendix A, part 2, with its subsections). From the defendant I would require, in like manner, a concise statement of his defence, counter-claims, or set-off, to be endorsed on his memorandum of appearance. As to the third head, I would abolish the practice of interrogatories, as at once expensive, and generally so framed as to render a straightforward and honest answer almost impossible. Any useful result can be obtained by the practice of requiring admissions, both of documents and facts, before trial."

If some one learned in the law wished to benefit the public—as the hon. and learned member for North Brisbane, who said he opposed the Bill in the interests of the public—he would become a law reformer, and thus have the distinction and honour of doing that which lawyers would not do—reform the law. If he would try and introduce reforms such as those pointed out by the Chief Justice, he would save an enormous amount of money to clients, and he would do a much greater service to the public than even passing this Bill. This would have to be done in spite of the lawyers. He believed that if a clever layman, with great energy and moral courage, would, in spite of the lawyers, devote his life to a reform of law procedure, and to lessening the cost of law, he would confer an immense benefit on the country. He remembered the great influence that was always brought to bear against legal reform. He remembered that Lord Brougham in the House of Lords—he remembered reading it forty years ago—stated to their Lordships that for twenty years in succession he had brought into the House a Bill to establish county courts in England. It had been continually rejected, and Lord Brougham said if he could not pass it that session he would never get it passed at all. It was passed, and it was one of the greatest law reforms that had taken place, and one that had resulted in the greatest advantage. Lord Brougham was said not to be a great lawyer, but he was a great man. Now, there were good lawyers in this House, and if one of them would undertake this law reform he would benefit the country more than this Bill would do. He should vote for the Bill, because he believed it would be a benefit. If it were passed, they would prove to the lawyers that they could sometimes carry things in spite of them, and by-and-bye they might get a reform of the law.

Mr. DE SATGE said that on a previous occasion he expressed an opinion on a Bill of this kind. He stated then that he thought it would be of considerable advantage to the outside public, and that an amalgamation of the professions would simplify and cheapen law. He had seen no occasion to alter his opinion during the last seven or eight years. There were many anomalies in the legal profession as it stood now, and it might be that by a Bill of this kind they would be able to do what the hon. member for North Brisbane so greatly insisted upon—benefit the public. There were certain anomalies which he might point out to the House. At present the Crown Prosecutor was the grand juror who had to pronounce on the advisability of filing a bill in certain important cases in the district to which he was attached. But, at the same time, in many cases he was the only barrister travelling the district, and when a case was coming on he was rushed at on all sides for his services; whereas, if solicitors were legally qualified, they would be able to take up the cases, and cheapen the law to their clients very much. He was speaking more particularly of the district with which he was connected. Certain matters had taken place in outside districts that could not possibly have come to the ears of the legal profession of this city. They knew very well that the members of the legal profession congregated principally where the population existed—that was, in Brisbane—and that in the outside districts there was a great want of legal talent. In this way the Crown Prosecutor, who, in the first place, was the grand juror, was rushed upon as the only barrister in the district to take up either one side or the other. Some years ago one of the Crown prosecutors in a district he resided in was found to be guilty of, he might almost say, felony, and was afterwards removed; he had been receiving bribes to induce him not to file bills. That man was the only barrister in the circuit. With regard to the general principles of the Bill, he agreed with the hon. gentleman who brought it in, that merit would find its way anywhere; therefore, though the Attorney-General and the hon. member for North Brisbane opposed the Bill, it was perfectly certain that if they had the merit they would always command the favour of the public. He did not think their emoluments were likely to be affected by this Bill at all. The leaders of the profession would always get the support of the public, and would always be run after in the same way that a good doctor or a first-class engineer was always in demand. There were certain judges in high station whose decisions were the laughing-stock of the whole community, and the sooner that the young and able members of the profession, who now wasted their time in the outside districts, were allowed to fight fairly for the honours of the profession the better it would be for the whole community. He should support the Bill, because he thought it was thoroughly adapted to the district which he represented, of which there were so many in the colony. He did not think it would, as had been said by members of the Bar, interfere with their status at all; for wherever the man was found with the talent and the virtue of work, it would be recognised in him. It had been recognised in that House, and this Bill was not likely to take it away from them.

Mr. FEEZ said that, after the able manner in which the leader of the Opposition had discussed this question, it would be presumption on his part to attempt to oppose the arguments he had put forward. He was of opinion that if the discussion had led to nothing else than to show the invidious position in which the two branches of the profession stood in this colony, much good would be gained. He had always been under the impression that the Bar was the higher branch of the profession, but one learned gentleman had told them that the person in the position of a solicitor had to undergo a greater amount of work and study than the barrister, which he (Mr. Feez) considered incorrect altogether. Let them look at the position of any young man who arrived at the profession of a solicitor. They would find the position to be this: On attaining the age of fifteen or sixteen years a lad, with a moderate amount of education, would apply to be articled to a solicitor. He would have to pass a slight examination, and could then enter the service of the solicitor. There he would have to serve for five years, and for the first part of his time he would be simply occupied in doing trifling work. It had been stated that he had to pay a high premium to enter his profession, which was, however, rarely the case; on the contrary, in this colony he would obtain payment which would be increased according to his usefulness. At the end of the five years he had to pass an examination, and that was all. What had a young man to do who wished to be admitted to the Bar? They were told that a schoolmaster, or a man who had been in the army or navy, could go up for examination for admission to the Bar; but he (Mr. Feez) found that he would have to undergo a classical examination, which was tantamount to requiring from him a university education. Therefore, he (Mr. Feez) said that a higher qualification was required from those who held the position of barrister. The Bill, it was said, was introduced on behalf of members of the Bar. It was, he thought, very painful for the country to be placed in this position. The barristers were increasing in number, and there was no outlet for them. The fault lay in the system—in our system of the administration of justice. They had to be concentrated in the city, where the Supreme

Court was established, but in the outside districts they had no standing. It was only in travelling from one place to another to attend the circuit or district courts that they could get briefs at all. How did it stand with regard to these briefs? A barrister went up to Rockhampton, Maryborough, or some other such places; two litigants appeared before the court, and one of the attorneys employed had engaged a barrister. The other solicitor, wishing to save his client expense, had gone into court with the intention of appearing himself, but when he saw what had been done by the other side he found it was two heads against one, and he said that he also must engage a barrister to appear with him. This barrister received his brief about a few hours before the time the case was to come on, and knew about half as much about it as the solicitor himself and probably lost the case. He (Mr. Feez) called this a miscarriage of justice. It would be much better for the solicitor himself to have gone on with the case, and then the thing would have been gained; but this would be contrary to professional rules. He said that it was a painful thing to see barristers standing in this position. He wished to see amalgamation, but not on the grounds laid down by the leader of the Opposition. He wanted to see the law concentrated in one person, but not into a partnership. He did not want to see two men at work on the same thing, but he wanted to see the solicitor or barrister in the outlying district able to take up a matter and be able to carry it through himself without troubling anybody else, and to be able to tell the client what would be the cost of it. What was their position now in the country? They had to employ a solicitor, and not only him, but his agent in Brisbane; and then the agent had to get the opinion of a barrister; so they had to pay the fee to the solicitor in the one place, and to the solicitor in Brisbane, and to the barrister also; and this made an accumulation and an amount of money that those who were pushed into law, as he could say from his own experience, had to pay very dearly for it. He could say himself that he had lost thousands of pounds rather than to go to law under the present expensive system. He did not believe there was any other country in the world where litigation was made so expensive and cumbrous as it was in Queensland. They knew the system was unsatisfactory, so why should they not try this other system, which, if it did not prove to be better, could not be worse than that they had known? He should support an amalgamation so as to enable one person to undertake the work of both branches of the profession; and he should, therefore, support the Bill now before the House.

Mr. SIMPSON said he should support the second reading of the Bill in the hope that very important amendments would be made in it in committee. He did not approve of it as it now stood, and if he thought it was going to pass into law in its present form he should record his vote against it. He should vote for the second reading with the intention of holding himself perfectly free to vote against it in committee or any later stage.

Mr. MACDONALD-PATERSON said that, though it might sound anomalous, he would state that he agreed with a great deal that had fallen from both sides of the House on this question; but he held that this Bill was most incomplete, and, in this respect, that any amalgamation of this kind should be accompanied by some provision for a joint system of education for both branches of the profession. That was the great omission that had struck him in this Bill. It was a very meagre paper, and it should contain many other matters, as affecting the amalgamation of the professions. It might be supposed, from what had fallen from several speakers in discussing the question, that it was an attempt to alleviate, and otherwise benefit, the junior members of the Bar, who suffered at the present time. That was not the fault of the talents of those gentlemen, but it was the fault of their having a very small population in Queensland. They had the population of a British parish, and had not a field here for a large number, either of solicitors or barristers; and he was quite sure that the legal business was more likely to be developed by the course intimated by the hon. member for Enoggera, than diminished, and that would be a great disadvantage to the public. He believed some remarks had been made derogatory to the position of solicitors, but he thought that many of them had shown a strong disposition to limit litigation; and many hon. gentlemen present had experienced results of that kind, he knew. He quite agreed with what fell from the hon. Attorney-General when he stated that no member of the Bar desired to act as a solicitor. That was amply corroborated by the present law in England as respecting the solicitors of the Supreme Court there. He wished to point out how they regarded barristers who sought to be admitted as solicitors of the courts in England. These were the conditions:—

"To entitle a person to such admission and enrolment it is required—1st. That he shall have *served as a clerk* for five years, having first been duly bound by contract in writing, with some practising attorney or solicitor in England or Wales."

And then this part, to which he wished to direct particular attention:—

"But a service of *three* years will suffice if he shall have taken a degree (after examination and under such circumstances as in the Act mentioned) at Oxford, Cambridge, Dublin, Durham, or London, or at the Queen's University in Ireland, or in any of the universities in Scotland; or if he shall have been a barrister, or have been for the term of ten years a clerk to some practising attorney, solicitor, or proctor; or if he shall have been admitted and enrolled as a writer to the Signet, or as a solicitor in the Supreme Courts of Scotland, or as a prosecutor before any of the Sheriff's Courts; and, 2ndly, it is required that, in addition and subsequently to such service, he shall have been *examined* touching his articles and service, and also as to his general fitness and capacity to practise."

Now, they saw by this that in England the position of a barrister, no matter of what standing, whether one year or twenty years, he was not regarded as a fit person to be admitted as a solicitor until he had served a term of three years. He thought this was a very proper decision. It was not merely office formula that was so learnt. That was to be found in mercantile offices as much as in solicitors'. He would read them what Professor Amos said with regard to the functions of solicitors:—

"The functions of solicitors are (1) to inform such persons as may apply to them as to the nature of their rights and duties, and to obtain for their clients from counsel such opinions on special points of law as they do not feel competent to advise upon without such help."

So that, beyond the forms and formula of office work, he was supposed to put the finer points of law before counsel.

"(2.) To do a number of legal acts of the simpler sort, such as preparing wills, leases, contracts of sale, mortgages, and the like; (3) to conduct litigation on behalf of their clients, to appear for them in the courts in which it is permitted, or (if necessary) to employ and instruct counsel for this purpose."

In Queensland, solicitors might enter any court except the full court: it was only in appeal cases that a solicitor was debarred from appearing in all respects in the same way as a barrister. And lastly—

"To do a number of acts on behalf of their clients, in which the presence and direct interposition of the clients are either onerous, disagreeable, or impossible."

He was in favour of some such measure as this, the principle of which was good; but something that had been suggested in respect to the medical profession ought to be the basis of a measure dealing with the legal profession. In the medical profession a student of three years might become a surgeon, by courtesy termed a doctor; but if he wished to be admitted as a physician he could not do it under five years. The higher degree of medicine was attained after a longer term of study. But the converse of this obtained in this colony. He might observe that a recent writer, in speaking on this subject, stated that the Bar was only termed the higher profession by courtesy. As he just remarked, the converse obtained in this colony, where a year's cramming of the mere technical parts of law, and the acquirement of general principles, enabled a man to pass as a barrister. It was an anomalous state of things, as was remarked by the hon. member for Leichhardt (Mr. Feez), that it was not a difficult matter to become a barrister. There were numbers admitted to the Bar who had never attained a university degree, and it was hard that the public should be led by Act of Parliament, as it were, to believe that the one man was as competent in all the details of law as the other. As the Attorney-General pointed out, he was nothing of the kind. The duties of the two were diametrically opposite. There certainly was a relationship running through them, but they were as distinct as the work of the draftsman from that of the mechanic. Something of the kind which obtained in the old country should obtain in the colony. If a solicitor wished to become a barrister, let him go through the necessary formula. He could do so in Queensland, under one of the Acts of Parliament, after he had been in practice three years and passed a certain examination. On the other hand, a barrister desiring to become a solicitor should have to perform the same service as in the old country. What he had quoted as the law of the old land showed that there they did not think so highly of the junior members of the Bar as in this colony. It was not a good thing to rush hastily into this matter. The Bill was deficient in some respects, especially in not providing for a uniform system of education for students of either branch. There should ultimately be only one branch, whatever it was designated—whether advocate, solicitor, barrister, or whatever they liked to call it; but all the students should enter one gate—pass through the same education, and through the same system. If they liked to have degrees, the term of service of one could be shortened, and those who were able and willing to go to the higher degree should perform the longer service. This was only one of the numerous phases of thought that would arise to those who understood the question. Many laymen were quite unaware that barristers were specially privileged in their practice, having no civil responsibility in respect to their clients whatever. It was also well known to the profession that no action could be brought against them for negligence or misconduct in the cases they were engaged on. On the other hand, they were disabled from suing for their fees. It was the converse with solicitors, whose fees were fixed by authority, and who were responsible to their clients for the proper conduct of the case. Suppose this amalgamation of the profession took place, what was to become of the law in this respect? Were solicitors to be freed from their responsibility and disabled from suing; or were barristers to take on their shoulders the responsibility of the solicitors, and be permitted to sue? There should be some uniformity of law in regard to fees and responsibility. If the Bill passed without these details they would have one set of practitioners, under no responsibility to the public, unable to sue, and another set with responsibility and able to sue. That was one of the few points known only to those who technically understood the circumstances of the profession. He would not take up the time of the House longer. The hon. member for Blackall touched the right chord when he said that the system of law should be without such heavy expenses. If they could diminish the formal steps to be taken and reduce the length of documents, they would bring about a more satisfactory state of things.

Mr. MACFARLANE said that several hon. members had discussed the matter as concerning the junior members of the Bar, and others had discussed it as concerning the senior members of the Bar; but they, as members of the House, should not concern themselves about either senior or junior, but about the public. One hon. member—he thought the hon. member for Enoggera—said it would be better for the litigants and the lawyers that the two branches should be amalgamated, but he (Mr. Macfarlane) was not so sure about this. In reference to lawyers, he did not think it was better for the public generally that their particular business should be a grand success. It was better for the public to indulge in as little law as possible, just as it was better for the health to go to the doctors as little as possible. The hon. the leader of the Opposition said they ought to be concerned about the public, and asked what was the grievance they complained of. Whether there was a legitimate grievance or not, there was a feeling abroad that law was too dear, and that if there was an amalgamation of the branches of the profession the expenses would be lessened; and the public would not be satisfied until some attempt was made to amalgamate them. He was of opinion that law would be cheapened ultimately, for competition cheapened articles; and if there was competition amongst the lawyers, as suggested by the hon. member for Enoggera, law would most likely become cheaper. The work would be done for a lump sum, instead of so much being paid for this and so much for that. As he said before, law would ultimately be cheapened, whether it were cheapened by this Bill or not, and, taking this view of the matter, he intended to support the Bill.

Mr. REA intended to support the Bill in all its stages. He had the advantage of speaking from a standpoint different from that occupied by other hon. members. He had tested the question by an experience of forty years, during which time he had been under the necessity of entering into law occasionally. He could, however, count on his finger ends the cases to which he had been a party. He found the law in New Zealand in the same state as was proposed by this Bill. He found the same in the United States, and had a knowledge of the Philadelphia law, which was as good as the law he found in Queensland; but when he came to these colonies, he found among the laity such a dread of law, and law charges, and law courts, as he never found in any of those places where the professions were amalgamated, and for the reason that in these places a man was brought directly in connection with the person who was to conduct his case. In these colonies, where the profession was divided, they could not get at the real merits of a case, because it was in the first instance taken to a solicitor, and afterwards to a barrister. He had not found in his experience that it was the most insignficant man who took cases directly from the client and brought them into court, because he remembered that his adviser on one case was a gentleman who afterwards became a Chief Justice (Sir Richard Hanson). He found, after he returned to the colonies, that in South Australia this gentleman was regarded as the ablest

man that ever was there, but he never thought it beneath his dignity to come into immediate contact with his client. He found the same thing in America: men who had a world-wide celebrity as public men thought it no indignity to be brought into immediate connection with the clients whose cases they took up; in fact, they made it a point to see the man whose case they were going to take up, considering that the best means of obtaining accurate information. But when he came to the colonies, where the legal profession was divided, he found every mysticism and degree of dread, and an artificial grandeur about the barrister that was perfectly laughable. He remembered a very laughable case: A friend of his had been engaged by a gentleman whose name was well known in the colonies, and he wanted to see the barrister who was engaged to conduct his case, and these were the very words of that solicitor—"Good God, you might as well ask a woman to go to bed with you." That was what was said by the solicitor to keep the man at a distance from the man who was going to conduct his case in court. He remembered a case in Victoria where a servant had taken property that he ought not to have taken, and he had prosecuted him; but when they got into court he found that the barrister had never read his brief, but trusted only to the information he got from statements made in the witness-box, and turned the whole matter upside down and lost the case. It appeared to him that the distinction was this: that, in those countries where the profession was not divided, two gentlemen undertook the conduct of a case as mentioned by the hon. member for North Brisbane, where one man took charge of the details of the case, and the other relieved him and took the case when it came before court and was able to get at all the details and the merits of it in ten minutes' conversation. In those colonies where the profession was divided, it seemed to him that one profession was at the foot of a big ladder and the other was at the very top of it, and most of the charges were made for running up and down that ladder, not for doing any good to the case, but to see that it was properly put on paper; and volumes of foolscap were produced in court. That appeared to him to be the case, and, under these circumstances, he asked if any business man would not rather submit to any injustice than risk the chance of a lawsuit. If they thought the law was on their side they should not have any dread of going into court and expecting a moderate bill of costs. He had again and again refused to have anything to do with law in consequence of those charges and absurdities. He believed that what the hon. member for Enoggera said was perfectly correct—that if the Bill passed it would be better for solicitors, better for the barristers, and better for the public; because if the Bill passed he, for instance, would have no hesitation then in taking a case before court if he thought he was right. In the present state of things he would rather suffer any injustice than go into court.

Question—That the Bill be read a second time—put, and the House divided:—

AYES, 33.

Sir Arthur Palmer, Messrs. Lumley Hill, F. A. Cooper, Foote, Rutledge, Francis, Meston, Scott, Aland, Stevenson, Stevens, Lalor, H. W. Palmer, Low, Rea, Macrossan, Bailey, Kates, Garrick, Norton, Fraser, Grimes, Perkins, Macfarlane, Simpson, Sheaffe, McIlwraith, Hamilton, Weld-Blundell, De Satgé, Horwitz, Persse, and Archer.

NOES, 8.

Messrs. Pope Cooper, Griffith, Dickson, McLean, Miles, Beattie, Swanwick, and Macdonald-Paterson.

Question, therefore, resolved in the affirmative.

On the motion of Mr. LUMLEY HILL, the committal of the Bill was made an Order of the Day for Thursday, September 1st.

PHARMACY BILL.

On the motion of Mr. GRIFFITH, the House, in Committee, affirmed the desirableness of introducing a Bill to establish a Board of Pharmacy in Queensland, and to make better provision for the registering of pharmaceutical chemists, and for other purposes.

The CHAIRMAN left the chair, reported the resolution to the House, and the resolution was adopted.

BURR DESTRUCTION BILL.

On the motion of Mr. NORTON, the House went into Committee, and affirmed the desirableness of introducing a Bill to provide for the more effectual destruction of Bathurst burr and thistles, and other noxious plants; also, that an address be presented to the Governor, praying that His Excellency would be pleased to recommend the necessary appropriation to give effect to such Bill.

ADJOURNMENT.

The PREMIER said, before moving the adjournment of the House he wished to intimate that it was not the intention of the Government to go on with any Government business next week. At the same time, it would be desirable to meet on Tuesday in order to adopt an address of welcome to our Royal visitors. He understood that on Wednesday a number of members—especially country members—intended to visit the Show at Toowoomba, and he had to request as many members of the other side as could make it convenient to attend on Tuesday, so as to form a quorum and pass the business, which would be almost formal. He would not like to risk the chance of not being able to form a House from members on the Government side, as a good many members required to be present officially at the Toowoomba Show; but it would be quite easy to form a House if several members from the other side were in their places. He might also state that he hoped to be able to place the Estimates on the table on next Tuesday. He moved that this House now adjourn.

The COLONIAL SECRETARY moved, as an amendment, until Tuesday next.

Mr. GRIFFITH was understood to say that he would be quite willing to make a House on Tuesday next. He asked if hon. members would be favoured with copies of the address of welcome which it was intended to move, as no notice would be given.

The PREMIER: Yes.

The House adjourned at twenty minutes to 10 o'clock till the usual hour on Tuesday next.