"The Advertiser" 4th Nov. 1898.

Homburg could put on the notice-paper such amendments as he desired. He did not want every clerk who went to the bar to have to go through the University course first. He had no animosity towards the University; let it stand on its own merits; but he claimed the liberty which we had enjoyed for 50 years with regard to admission to the bar.

Mr. CALDWELL agreed that students of law should not be forced through the University, although he believed in the standard being kept up. To lower the standard would place our lawyers at a disadvantage with those of the other colonies.

Mr. GRAINGER said at present South Australian solicitors could not practice in Victoria. If any member of the profession, from the Supreme Court judges down to the humblest member of the bar, were to submit himself to the ordinary University examination now he would fail in 90 per cent. of the answers. Nearly everything he learnt at school he had forgotten, thank God, and it was only after he had left school that he awoke to the fact that he was not educated. He then proceeded to educate himself. Hardly a letter appearing in the London *Times* from the pen of a University professor was without some defects in its English. Because a man dropped his "h's" that was no reason why he should be debarred from appearing as an advocate in a court of justice. The fault of the educational system throughout the world was that the tutors were invariably men who after having been taught in the schools had subsequently developed into schoolmasters and maintained the same pedagogic style of teaching to which they had been subjected. They were seldom men of the world in the ordinary sense of the word.

Mr. HUTCHISON said there was no desire in the Bill to injure the University or to depreciate the value of the education imparted there. It seemed absurd that before a young man could enter on the study of the law, no matter how clever he might be, he had to run the risk of passing an examination in which he might be plucked for one subject. He hoped the Attorney-General would stick to the clause as it stood.

Mr. BATCHELOR objected to the bar which was now raised before candidates desirous of entering on the study of the profession. The University fees could easily be lowered. Attendance at University lectures would not hurt law students.

At 6.30 p.m. the sitting of the committee was suspended for one hour.

On resuming,

The clause was passed.

Clause 5. Examinations.

Mr. WOOD moved to strike out the work "only" in the first line because he wanted to add to the subjects "constitutional law."

The ATTORNEY-GENERAL said the hon. member could attain his object by merely adding "constitutional law" after sub-section 8.

Mr. WOOD said he would do so.

Mr. GLYNN said in this clause statute law and law of evidence were substituted for constitutional law. This was not a good thing, because a stupid man with a good memory might easily pass in statute law. Constitutional law was more useful than statute law, but not more so than the law of evidence. Jurisprudence also should be one of the details of examination, and this with constitutional law could not be crammed up. He thought Mr. Wood's amendment should be passed.

The ATTORNEY-GENERAL said the study of constitutional law was an absolute waste of time. It was far more desirable that a lawyer should know the laws under which we live than that he should learn laws on which he would not be consulted twice in his lifetime.

Mr. WOOD said if a man knew South Australian law only he would not be able to practise in the other colonies. If they retained statute law as a subject it should be extended to the laws of the whole of Australia, seeing that federation was so near.

Mr. ARCHIBALD asked Mr. Wood to withdraw his suggested alteration, because the list of subjects covered all that was necessary. International law was quite as useful as constitutional law, but neither would be much good to a lawyer.

The ATTORNEY-GENERAL said he got Mr. Castle to look up the law reports, and he found that only once in seven years had constitutional law been mentioned in any argument in the courts. What use would it be to a solicitor to know what happened in the reign of William the Conqueror, for instance? He would show members what this constitutional law really was. In the University Calendar for 1896 this was the first question set in the subject—"Sketch the civil and ecclesiastical policy of William the Conqueror." Fancy digging up all that musty old stuff before a man could enter a profession to draw up documents or recover debts. Then the next question was equally absurd:—"What are the chief provisions of the constitutions of Clarendon, of 1164?" A little further down came this gem:—"What was the issue in the case of John Bates in 1606, and what was the decision thereon in the Court of Exchequer?" What earthly use was it to go back nearly 300 years to find out the result of a case? That was the sort of thing Mr. Wood wanted poor students to be made to cram up in. Then there was the last question in the list, and he commended it to the notice of hon. members:—"What are the qualifications for members of the South Australian (a) Legislative Council and (b) House of Assembly?" After trotting unfortunate students back to William the Conqueror through a serious of useless questions they wound up in politics of to-day. In the days when he and Sir John Downer were clerks they did not trouble themselves about politics. (Mr. Grainger—"Pity you did not stick to that.") He asked members not to accept the amendment, as he assured them that the proposed addition was absolutely unnecessary.

Sir JOHN DOWNER said it seemed to be impossible to please the Attorney-General. If they asked him an ancient question he objected to it, or if they came down to recent days and asked a practical question about Parliament he objected also. Constitutional law was a matter of history, and had been the result of evolution. A student of law ought to know something about the history of it. It was childish of the Attorney-General to say that because something happened 200 or 300 years ago they should know nothing about it. They had this little obstructionaryism called law reform brought before them, and as important thing like the Pastoral Bill was put off. The fourth clause slipped through when the House was at half-past 7, and this would slip through too. All the foundation of law was to be wiped out by the clause. Previously the judges had to be satisfied about the academical attainments and the moral character of the candidates. Mr. Justice Gwynne, before whom he went, asked:—"Is this the fellow that went to school with my son Ted?" (Mr. Burgoyne—He was a better judge of what they call a 'hoss.'" Mr. Grainger—"Or what they call an ass.") He understood the Attorney-General was a very bright boy at school, and the judge knowing that would be satisfied by contemplating his front. Although the examination was conducted in a perfunctory way the judge made all the enquiries that were necessary as to the character and attainment of the candidate. Since clause 4 had been passed there was now no necessity for a candidate to be able to read and write. Roman law was the *bete noire* of the Attorney-General, who had an aversion also to Greek, of which he knew nothing. Would the Attorney-General bring down the sort of questions he wanted asked by the examiners? He objected to a gentleman in the position of the Attorney-General systematically throwing mud at learned persons in authority. The safest way would be to reject the clause.

The amendment was negatived, and the clause passed.

Clause 6. Passes.

Mr. WOOD moved to strike out "reasonably" in the third line. There would be much confusion if it were left in.

Mr. GRAINGER supported the amendment. A good deal depended upon who were the examiners. If a candidate came before a board of legal examiners, and it, being an honest man, and still willing to become a lawyer, he said in reply to a question, that he was in favor of law reform he would never get through. What were lawyers? They ranged from the most moral to the least moral persons. What were they when they took them in th lump? Lawyers did not know the law, but only where to find it. He saw no reason to retain the word "reasonably."

Amendment negatived.

Mr. GLYNN said the intention of this clause seemed to be to abolish the University as the examining body. A board of examiners was to be appointed, but because its members had an efficient knowledge it did not follow that they would be successful examiners.

The ATTORNEY-GENERAL said he did not intend to interfere with the examinations at the University, but those who did not wish to avail themselves of that institution would be examined by another board, which it was intended to form.

Mr. GRAINGER thought more words were needed in this clause. The board might consider a candidate possessed of "sufficient knowledge" and yet he might have failed in the subjects mentioned in the previous clause.

The ATTORNEY-GENERAL said Mr. Grainger was hypercritical. Of course the "sufficient knowledge" was of the subjects referred to in clause 5.

Mr. CASTINE asked if "solicitor" covered "a barrister" and "attorney." (The Attorney-General—"Yes.")

Clause passed.

Clause 7. Reciprocal admissions.

Mr. WOOD moved to insert "obtained" after "qualification." Carried.

Mr. WOOD moved to excise "nor on any terms other than those on which South Australian solicitors are so admitted." If this amendment were not made the provision would be anti-federal.

Mr. GRAINGER thought it would be much better to leave the word "obtained" out.

If "or" were substituted for "nor," however, the object of the clause would be better expressed.

Negatived, and clause as amended passed.

Clause 8. Persons already articled.

Mr. GLYNN said it was not likely that candidates would take the University course as five years' articles would be required, so that the upshot of these provisions would be to abolish the University as the examining body.

Clause passed.

Clause 9. Admission of women.

Mr. WOOD asked if a woman doing the same work as a man in a court would receive the same pay? If not the profession would be brought down to a low ebb. There were certain charges in the schedule. (The Attorney-General—"And there is no distinction between men and women.") He was glad of it.

Mr. BATCHELOR pointed out that there was no definition of a woman.

The ATTORNEY-GENERAL said it was not needed.

Clause passed.

Clause 10. Passed.

Clause 11. Summary order for payment of clients' money.

Mr. GLYNN said this clause provided one law for the solicitor and another for the general agent. The clause was equivalent to saying the profession consisted of scoundrels.

The ATTORNEY-GENERAL said the agent had no special privileges, while the solicitor was a trusted officer of the court. The clause showed the desire of the profession to maintain its high standard, and would remedy the scandals which had sometimes occurred without too much delay.

Mr. GLYNN said the clause was unnecessary, as the present law made ample provision on the subject.

The ATTORNEY-GENERAL said the clause left the power in the hands of the judges.

Mr. O'MALLEY said the judges were generally very lenient with lawyers.

Mr. HUTCHISON thought the same remedy should apply against the agent. He moved to add after "solicitor" or "agent."

The ATTORNEY-GENERAL said this question could not be dealt with in the present Bill. Agents were not professional men in the sense of the Bill.

The CHAIRMAN said he could not receive the amendment in a Bill dealing with law reform.

Mr. MILLER would like to see provision made for dealing with the agent.

The clause passed as printed.

Clause 12. Passed.

Clause 13. Extension of jurisdiction of Local Courts.

Mr. PEAKE wished to limit the extended jurisdiction to the Local Court of Adelaide. The clause would lead to such counsel as the Attorney-General and Mr. Symon appearing before the stipendiary magistrates of country courts, and the task would be too severe. The country courts were good, but they had not magistrates like Mr. Russell. He moved to strike out "Local Courts of full jurisdiction" and insert instead "The Local Court of Adelaide of full jurisdiction."

Mr. GRAINGER asked Mr. Peake what was the vanishing point of the intelligence of a country magistrate as regards the sum involved in cases brought before him?

Mr. O'MALLEY considered a layman could try a £20,000 case as well as any lawyer. He had seen big cases decided at Coolgardie by a lay magistrate far better than by a legal one, for that magistrate kept the counsel down to business and stopped all the usual legal bluff.

Mr. ARCHIBALD said the judges of the Supreme Court naturally occupied a different status in the legal world to the country magistrates, just as in England the judge of Common Pleas or High Court of Justice was on a different footing to the County Court judge. The status of the stipendiary magistrate should be raised here. They had the English experience as well as their own to back them up in doing that.

Mr. GLYNN said some persons said the Bill as a piece of reform was a sham. In the Adelaide Local Court of Full Jurisdiction last year the total amount sued for in cases between £200 and £300 was £2,855, and the verdicts recovered totalled £805. With the exception of Gawler and four other places there was hardly a case heard in the country last year in which amounts between £200 and £300 were involved. That being the case what would be the benefit of this part of the Bill to the country? In cases between £300 and £400 in Adelaide £2,717 was sued for last year and only £95 was recovered, while the total amount sued for by all the courts last year was £114,000, under £10,000 being recovered in contentious suits. By the Act of 1886 the Supreme Court judges took all cases over £100, so that Commissioner Russell would not try those suits in any case. Mr. Peake's amendment would be a measure of law reform. He agreed that the Local Court procedure is much cheaper and more free from technicalities than that of the higher courts. When cases came before a judge it meant, and he did not in any way reflect on Commissioner Russell, for whose ability and judgment he had every respect, that the suitors had the advantage of riper experience and wisdom and a greater test of talent. Would anyone dare to say that a magistrate at £300 a year was capable of giving as good an interpretation of the law as a Supreme Court judge? Was it not a fact that a verdict was given in a recent Local Court case which was contrary to every principle of law and justice, yet the magistrate refused the unfortunate suitor the right of appeal? The litigant had since petitioned Parliament to redress the wrong under which he was suffering, and he believed the Crown law officers had expressed the opinion that the man was denied justice by the court. In 1879 Mr. Justice Bundey, whose name would always carry respect because of his ability and sincerity, introduced a Bill, not of the sham class of the one before them, but with the object of forming country districts, which would be presided over by competent magistrates who had special skill and attainments fitting them for the position. Many of the provisions of the Bill which Sir John Bray carried through Parliament afterwards were taken from Mr. Justice Bundey's measure. There had been a considerable improvement in the procedure of the Supreme Court during recent years. In 1888 there were 336 writs issued in the Supreme Court on the civil side, and in 1897 only 90, while the total amount involved in the former year was £52,000 and last year £14,000. It was on the equity side where the great amount of business was done in the Supreme Court, and there, through the simplification of the procedure as regards summonses and petitions, there was an increase in the number of summonses from 27 in 1888 to 36 in 1897 and of petitions from 80 to 110 in the same years. There was not much scope for improvement there because the Bill only dealt with civil cases and not equity and criminal cases. This part of the Bill was a sham—not that the Attorney-General meant it to be, but it seemed to have been rather hastily conceived. It was an afterthought to extend the jurisdiction of the Local Courts. He did not object so much to the extension of the procedure in the Adelaide Local Court, because in the cases under full jurisdiction the judges presided.

The ATTORNEY-GENERAL said the Local Court procedure was simple, speedy, and inexpensive, and he had long vainly tried to apply it to the Supreme Court. (Mr. Glynn—"Let us do it now.") The old cry—"Let us do anything in law reform, but what is proposed." The same objections which were raised against the former extension of the jurisdiction of the Local Courts were being resurrected now. Mr. Bundey had tried to solve the difficulty by providing for higher paid and better qualified magistrates, but the result of course was that the cost was largely increased. Then Sir John Bray, in 1880, passed a Bill for a simple extension of the jurisdiction and for 20 years now in spite of the gloomy predictions of its opponents the scheme had been a thorough success, and the country was well satisfied with the result of the experiment. Now he asked members to extend the jurisdiction still further, as it had worked so well. The figures quoted by Mr. Glynn were of a more startling character as showing the comparative popularity of the Supreme Court and the Local Court—very much to the disadvantage to the former. The fact that only 12 cases were entered in the Supreme Court in 1897 proved that rather than go to that court the public submitted to loss. If they could come to a settlement of any kind they would not go to law if it meant going to the Supreme Court. There had been practically no complaints as to the work of the special magistrates in the Local Courts. As regarded points of law there would be a right of appeal to the Supreme Court, and the small number of appeals taken from the lower courts showed that substantial justice had in nearly all cases been done in them. The lay element was introduced originally into the lower court, so that cases could be decided on questions of substantial justice rather than points of law, and every satisfaction had resulted. Mr. Glynn had said something about a case, a petition relating to which was now on the table, but as it concerned his (the Attorney-General's) private office, he preferred to express no opinion on it. He believed, how-